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Corporate tax avoidance: a crime of globalization

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Abstract This article approaches tax avoidance as a crime of globalization. Tax avoidance is not just a problem originating in the corporation. Corporate tax avoidance is a practice that involves different corporations and different territories simultaneously and, as such, it has global consequences because these corporations do not pay their fair tax in the countries in which they operate. As it is seen here, the free-market creates opportunities for tax avoidance when nations and territories strive to attract international investment by changing their tax rules in favor of powerful corporations. Tax regulations have been re-written by tax authorities, financial controls have been removed, and secrecy has been guaranteed to provide a favorable atmosphere for investors. However, tax authorities only give total exemptions to foreign and non-domiciled corporations while taking taxes from their own citizens and national corporations. In all, the tax incentives offered are not the result of less state intervention in the economy but are instead the product of more state intervention in rewriting the rules of the economy in favor of the powerful.

Introduction

On 23 October 2015, the European Parliament presented a blacklist of corporate tax avoiders in Europe, which includes Amazon, Apple, Anheuser-Busch, Barclays, Coca-Cola, Facebook, Fiat, HSBC, IKEA, McDonald's, Philip Morris, Starbucks, Wal-Mart, and Walt Disney [1]. The European Parliament, for example, singled out how Amazon designed a complex commercial structure as it sells through websites located in the United Kingdom, Italy, Spain, France, and the Netherlands but issues invoices to their customers from Luxembourg, a low tax jurisdiction. As this happens, taxes are not paid in the place of consumption. In the

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case of Starbucks, the European Parliament found that this American coffee house is incorporated in the Netherlands as Starbuck Mfg but uses the Swiss subsidiary Starbuck Coffee Trading SarL to artificially inflate the internal price of the roasted coffee beans. This scheme allows the company to extract all potential profits from high tax jurisdictions and transfer them to the Netherlands, a low tax jurisdiction. The Fiat Chrysler Group, a car manufacturer incorporated in Italy, uses intra-group loans to reduce tax liabilities in various European territories. In particular, loans are allocated at high interest rates by the Luxembourg subsidiary Fiat Finance and Trade Ltd. to the European subsidiaries located in Italy, England, and Spain.

At the time of writing this article, the European Commissioner for Competition–Margrethe Vestager, had produced two tax ruling decisions regarding Starbucks and Fiat. In the rulings, the Commissioner argues that these companies received *state aid*. According to the Commissioner, individual tax rulings approved by the Dutch national tax authority (*Belastingdienst*) and the Luxembourg national tax authority (*Administration des contributions directes*) endorsed artificial methods to establish taxable profits for Starbucks and Fiat, respectively. The Commissioner further claims:

> Tax rulings cannot use methodologies, no matter how complex, to establish transfer prices with no economic justification and which unduly shift profits to reduce the taxes paid by the company. It would give that company an unfair competitive advantage over other companies (typically SMEs [small and medium enterprises]) that are taxed on their actual profits because they pay market prices for the goods and services they use.
>
> Therefore, the Commission has ordered Luxembourg and the Netherlands to recover the unpaid tax from Fiat and Starbucks, respectively, in order to remove the unfair competitive advantage they have enjoyed and to restore equal treatment with other companies in similar situations. The amounts to recover are €20–€30 million for each company (2, p. 1).

The ruling of the Commissioner contains various elements of criminological interest. Starbucks and Fiat were only charged with fines because their cases were treated by an administrative agency. Neither the various forms of tax avoidance adapted by these corporations nor the decisions of the national tax authorities were classified as illegal. These issues are examples of what Sutherland [3] noted when introducing the concept of white-collar crime in his presidential speech to the American Sociological Association back in 1939. The ruling of the Commissioner maintains that the improper tax decisions have created economic harm to other small competitors (SMEs), which in the ruling is referred to as state aid. The problem, as critical criminologists would suggest, is that the state has acted as the *initiator* of tax avoidance and that corporate tax avoidance creates social harm.

Tax avoidance is not a new topic of study in criminology, and this practice was first studied by Sutherland [4] as tax evasion (the difference between tax avoidance and tax evasion is discussed in the second section of this article). Since then, the topic has only received marginal criminological attention, although with some remarkable exceptions [5, 6]. Professor Gregg Barak introduces the *Handbook of the Crimes of the Powerful* with an example that is relevant to this study. He argues that tax accounting schemes that were classified as illegal in the US during a large part of the twentieth century became “normalized” with the expansion of multinational companies and the decriminalization of tax-avoidance or tax-dodging under the Clinton and Bush II administrations. Barak notes that if hidden capital were to be properly recorded and taxed, global tax revenues would grow by more than US$ 200 billion a year. He further argues that:

> The prevailing tax-evasive practices deepen wealth inequality as well as weaken consumer buying power. These tax-avoiding schemes also skew economic statistics, hamper public and private sectors from managing the economy or making social policy, erode respect for the law, discourage job creation, foster corruption, and accumulate private capital by rewarding individuals and corporation for sheltering money overseas rather than investing it domestically in infrastructure and economic development (5, p. 2).

Tax avoidance in the form of state aid, as the European Commissioner for Competition suggested, cannot exist without the state. State intervention is needed to de-criminalize tax avoidance and to create incentives and programs that help corporations to reduce their corporate tax liabilities. Tax avoidance is not just a problem originating in the corporation. Corporate tax avoidance is a practice that involves different corporations and different government simultaneously and, as such, it has global consequences because companies do not pay their fair tax in the countries in which they operate (as wisely noted by Barack above). The purpose of this article is to study the state-corporate interactions that facilitate corporate tax avoidance as a crime of globalization (this concept is defined in the next section). As it is seen here, corporate tax avoiders seek total de-regulation, no governmental oversight, and secrecy while making use of international financial centers located in highly competitive tax territories. The tax incentives offered by governments are not the result of less state intervention in the economy but are the product of more state intervention to rewrite the rules of the economy for the benefit of the powerful. The assumption is that tax avoidance emerges in a free market context because ‘globalization is more about rewriting the rules of the economy than about trade’ as Stiglitz (7 p. 184) maintains.

This study looks at tax avoidance by IKEA, a former Swedish multinational company that became a Dutch foundation in 1982 by relocating and transforming its legal character and operations scheme for tax purposes. IKEA is one of the companies that were included in the blacklist of corporate tax avoiders presented by the European Parliament in 2015. The analysis of IKEA’s tax avoidance follows Rothe and Friedrichs’ integrated theoretical framework for understanding crimes of globalization. Before proceeding, it is necessary to make it explicit that ‘the relationship between crimes of globalization and state-corporate crimes are heavily intertwined, yet rarely are these connections made in the state-corporate crime literature’ (8, p. 31). Thus, this article attempts to make a criminological contribution to the crimes that occur at the intersection of business and government.

The remainder of this manuscript is structured as follows. The first section addresses terminology issues and presents the theoretical underpinnings of the study.

Section two discusses the principal research on tax avoidance and lays out the research questions that will be examined in this study. It should be noted that the studies included in this section are taken mostly from the field of accounting and finance. However, accounting and financial procedures are intentionally excluded to ensure the relevance of the point at issue. Section three presents the case study on IKEA's tax avoidance. The ownership structure and the operation of IKEA are described in detail here, as are the mechanisms of tax avoidance used by this company (profit shifting, payment for intangibles, intercompany loans, hybrid entities, conduits, and a corporate foundation scheme). Section four discusses how the forces of globalization have promoted tax avoidance. The argument develops around a discussion on state-corporate crime and crimes of globalization. The last section contains the conclusions of this analysis.

Theory and central concepts

The following three concepts need to be clarified before discussing the theoretical approach used in this study: crime, state-corporate crime, and crimes of globalization.

Crime is a much-contested concept in criminology. Most criminologists would agree to adopt a juridical meaning of the term crime as 'an act in violation of the criminal law'. However, critical criminologists would consider this definition problematic because crime cannot be limited to acts defined through a political process. Sutherland [3] and Chambliss [9] advanced the field on this issue. On the one hand, Sutherland used the term *white-collar crime* to denote the 'crime committed by a person of respectability and high social status in the course of his occupation' (3, p. 1). On the other hand, Chambliss introduced the term *state-organized crime* to describe those 'acts defined by law as criminal and committed by state officials in the pursuit of their job as representatives of the state' (9, p. 300). These fundamental definitions have contributed to the criminological understanding of crime and have provided the basis for further developments. For example, some scholars have associated crime with the violation of 'conduct norms' accepted by social groups, but the problem with this definition is that it is difficult to discern when the violation of norms constitutes wrongdoing different than the ones stated in legal statues. Other scholars have proposed classifying wrongdoing as harm and crime as violation of the law. In the last few years, the debate on the definition of crime has been advanced by state-crime criminologists. This group of scholars introduced the term *harm* to identify crime with wrongdoing that can originate through both legal and illegal actions. In this regard, Ruggiero claims that 'the concept of harm appears to rescue the debate, in that it allows us to identify a continuum linking administrative and criminal violations, *mala in se* and *mala prohibita*, ultimately: legality and illegality' (10, p. 16).

State-corporate crime is a concept that has been used to examine the interaction between government and business. Introduced by Michalowski and Kramer, state-corporate crime focuses on examining social injuries or violations of the law that emerge from the collaboration between government and business within a free-market. The main assumption is that crimes do not occur as a single action of institutional actors or in response of particular organizational goals but through interactions aided by ideological processes [11]. State-corporate crime seeks for direct capital accumulation or the promotion of capital accumulation. The particular role of the state is not to accumulate capital, which is the task of the corporation, but to promote capital accumulation [12]. The state can facilitate crime when governmental agencies fail to restrain deviant business activities, and the state can initiate crime when corporations engage in deviant behavior with the tacit or explicit approval of the government [13].

Crimes of globalization is a concept introduced by Rothe and Friedrichs to study harmful policies and practices of institutions 'that are specifically a product of the forces of globalization, and that by their very nature occur within a global context' (8, p. 26). This definition associates crime with harm and not necessarily with illegality. Rothe and Friedrichs claim that social harm emerges from ongoing systematic relations of the powerful rather than by criminal wrongdoing. The key issue here is how the forces of globalization have promoted an environment (in the form of policies and institutional practices) where harm can emerge from the interaction between corporations and states. It is within the free market and under particular conditions of the neoliberal political economy where the forces of globalization mediate the relation between corporations and the state that result in different crimes of globalization. Rothe and Friedrichs [8] distinguished crimes of globalization from previous concepts dealing with criminality in the global context. In particular, crimes of globalization differ from transnational crimes and international crimes because these practices involve primarily illegal behaviors. Transnational crime makes reference to conventional criminal activities carried out across borders, while international crime denotes the violations of international law (8, p. 28–30).

The study of crimes of international financial institutions have dominated the research agenda on the crimes of globalization. Friedrichs and Friedrichs [14] introduced the study on crimes of globalization by examining the culture of loans approval at the World Bank (WB) that endorsed (*initiated*) the construction of the Pak Mumn Dam in Thailand. The dam demanded more economic resources than budgeted but produced less electricity than forecasted, created irreversible environmental damages, and destroyed local communities that were forced to resettle. Other studies on the crimes of globalization have, for example, examined the imposition of Structural Adjustment Programs (SAPs) by the International Monitory Fund (IMF) and the WB that led to budget cuts that *facilitated* the collapse of the Le Joola ferry in Senegal [15]; the insensitive SAPs in the health sector imposed by the IMF, the WB, and the World Trade Organization (WTO) that *facilitated* the spreading of the HIV/AIDS pandemic in sub-Saharan Africa [16]; the unwillingness of the IMF, the WB, and the WTO to address governmental corruption that *facilitated* the illegal expropriation of gold and diamonds in the Democratic Republic of Congo [17]; and the reluctance of the WB to scrutinize aid funds granted to the Suharto regime in Indonesia that *facilitated* the use of such funds in the campaign that terrorized civilians from Timor-Leste who were seeking their independence [18].

Rothe and Friedrichs [8] proposed an integrated theory to study the crimes of globalization. They suggested that the integration of macro theories of power with organizational and individual theories of crime bring together the complexities of the environment and the circumstances in which this form of crime occurs. *At the individual level*, the theory of crimes of globalization includes a rational choice theory that recognizes the emergence of opportunities for crime in the absence of external controls; theories on the techniques of neutralization that facilitate the denial of responsibility, injury, and the existence of victims; and learning theories that assume that individuals can be shaped in certain environments and conditions. *At the organizational level*, Rothe and Friedrichs suggested incorporating the following approaches: the anomie theory that considers the restrictions imposed by norms at the individual level and the strain that occurs when organizations seek to achieve unattainable goals; the organizational theory that recognizes that the appetite for profit shapes the behavior of the organization; and the system criminality theory that considers how interactions between corporations and institutions are made and governed. *At the macro level*, the crimes of globalization theory integrates the Foucauldian perspective of power and the regimes of truth. With this approach, the key issue is to examine how truth is constructed by the systems of power through the use of political economy theories that recognize not only that political forces shape the economy but also how both political and economic forces interact when decision are made.

Previous research

Despite the great deal of research on taxation that has been published internationally, research on tax avoidance is still a young field [19]. The main limitation that scholars confront when approaching this topic is how to define and identify this phenomenon because tax avoidance is neither registered in the financial statements of the corporations nor reported as such by tax authorities. Lawyers and economists tend to associate *tax avoidance* with legal tax planning and *tax evasion* as illegal tax planning. However, tax avoidance is not a problem of statutory interpretation. Tax avoidance is about the use of incentives in the tax law and accounting standards that result in a reduction/omission of the tax base [20]. This has direct implications on the way tax avoidance is operationalized. Hanlon and Heitzman [19] surveyed the literature and reported that accounting and finance scholars use different proxies to capture this phenomenon. They acknowledged the existence of at least four proxies of tax avoidance: the effective tax rate which is used to estimate tax liability before taxable profits; the discretionary tax avoidance which captures the difference between the effective and statutory tax rates; the book tax difference which describes discrepancies in the reported tax; and the unrecognized tax benefit which indicates the uncertainties of the firm's tax position.

Scholars have used these proxies in different ways. In the pioneering contribution of Slemrod [21], the study of tax avoidance focused on the use of incentives that promote the adoption of this practice at the corporate level. Using a standard principal-agency model, Slemrod suggested that shareholders give incentives to managers to achieve profit maximization. Empirical studies that take this approach have examined, for example, the use of annual accounting-base incentives, which is an after-tax incentive based on paid tax [22]. Philips reported that after-tax incentive bonuses have a significant impact on tax avoidance when they are given to business-unit managers but not to CEOs. Desai and Dharmapala [23] collected data on stock-compensation to top-five executives and found that managerial compensations increase tax sheltering only in the case of well-governed firms. Wilson [24] examined tax sheltering in relation to the salaries of the CEOs and found that sheltering is associated with firm size, the existence of foreign operations, and a strong corporate governance characterized by high rent extraction (salaries). Minnick and Noga [25] collected hard data on long-run compensation contracts to CEOs and found that the use of this kind of incentive had a great impact on tax avoidance. The four type of incentives examined in the literature (bonus, salaries, stock-options, and compensation contracts) suggest a problem of agency between the leadership of the corporation and the shareholders. CEOs are not prepared to engage in this activity in the short run unless they receive a significant long-term incentive that guarantees a sustained income source.

The agency approach has also been used to explore the impact that ownership structure has on tax avoidance. Chen et al. [26] compared family-owned and non-family-owned firms and found that family-owned firms tend not to adopt tax avoidance because family owners are concerned with the damage to their reputation that might be caused by tax fines or tax-related lawsuits. In the case of publically listed companies, Hanlon and Heitzman [19] found that scandals on tax avoidance reported in the media led to severe share price reduction only in the retail sector where customers have a hostile reaction towards tax avoidance, while in sectors of intensive capital share prices increased because tax avoidance was seen as a signal that the company was trying to provide better results for its shareholders. A similar response was noted by Frischmann et al. [27] when examining the reaction of shareholders to tax fines. These findings suggest that non-family companies and publically listed companies engage more often in tax avoidance because shareholders see this as a positive practice that results in higher profits. Studies on ownership structure have also considered the role of institutional shareholders on tax avoidance. Using data on institutional ownership, Khurana and Mosser [28] found that shareholders with long-term investment horizons are likely to discourage tax avoidance activities because they reduce transparency and encourages managerial opportunism, which is an indication that firms are poorly governed. Another group of studies examined the case of family and non-family firms where shareholders participate in various holdings. In this case, the results showed that family owners with participation in multiple holdings use very complex structures to hide rent extraction [29].

The findings reported above suggest that it is not possible to associate tax avoidance with a particular ownership structure or to assume that CEOs engage in tax avoidance on their own. The available studies have looked inside of the corporations to find factors that can be used to explain tax avoidance, but scholars have ignored the context in which tax avoidance emerges. As noted above, tax avoidance is the result of rewriting the rules of the economy in favor of the powerful, and it would be naïve to put all of the responsibility of tax avoidance on the shoulders of CEOs and shareholders. Criminologists have studied how crimes of globalization emerge as a consequence of the neoliberal doctrine, and we have been informed on how inconsequential planning, budget restrictions, lack of controls, and contracts with corrupt service providers have been put in place. These studies have enhanced our understanding of the impact that neoliberalism can bring to bear on various humanitarian and environmental catastrophes. However, the neoliberal doctrine takes other contours when it comes to tax avoidance in which the state practice of non-intervention among private actors is transformed into state aid as noted by the European Commissioner. As a consequence, sovereign states have created a parallel market exclusively for the powerful where tax rules are written for the benefit of a few. Here I propose to explore this issue by answering the following research question.

> Research question 1: How can the ownership of a corporation engage in tax avoidance without agency intermediation?

Much of the literature relevant to this study is related to the financial and operational structures and mechanisms used by corporate tax avoiders. Scholars have revealed a number of different practices used by corporate tax avoiders. For example, Bartelsman and Beetsma [30] studied the use of price transferring between OECD countries. They argue that such intra-industry trade increased as a consequence of economic integration and has led to high levels of income shifting in the amount of about 65 % of the income tax base of OECD countries. Dharmapala and Riedel [31] constrained the analysis of price shifting to European multinationals operating in European territories and found similar results to a certain extent. They reported that subsidiaries are often established in low tax rate countries, which encourages parent companies to shift profits to those territories. However, they observed that only 2 % of the income tax base is reduced through this mechanism. The use of foreign debt has also been studied as a mechanism of tax avoidance. In the particular case of UK firms, Walsh and Ryan [32] found that parent companies often take loans from their subsidiaries to obtain a UK deduction of the interest paid. In turn, the subsidiary in, for example, the Netherlands is exempt of withholding tax on interests paid by foreign companies thanks to a favourable double taxation treaty. As a result, taxes are avoided both in the UK and the Netherlands. Royalties are another source of taxable income that are used to reduce tax liabilities, and they operate similarly to internal loans. Scholars have also looked at the incorporation of subsidiaries in tax havens as a strategy to reduce corporate tax liabilities (Dharmapala and Hines [33]). According to Taylor and Richardson [34], corporations involved in tax avoidance often combine more than one of these practices. For example, in the case of Australian firms, they reported that tax havens are often combined with inter-company loans and transfer pricing to maximize international tax avoidance opportunities.

The existing studies indicate that the asymmetries in national tax laws and accounting systems are used by corporations to adapt their international tax avoidance schemes. The specific mechanisms used depend on the country of incorporation and those countries where the company seeks expansion. This suggests that tax authorities interact with multinational companies to realize tax avoidance. The availability of different incentives in various countries is the result of explicit governmental policies. In fact, the tax rulings of the Dutch and the Luxembourg tax authorities in favor of Starbucks and Fiat, respectively, were considered state aid, demonstrates that certain states create advantages in the rules of game for the powerful. The available research gives an understanding of the different mechanisms of tax avoidance, but there are no studies that examine how are they put together in practice. As mentioned above, Taylor and Richardson [34] studied the case of Australian firms, but they failed to describe the entire tax avoidance operation of a corporation. State aid that promotes tax avoidance is an issue of interest for criminologists. We need to advance our understanding of how neoliberalism has transformed state-corporate interactions and rewritten the rules of the market in favor of the powerful, and this leads to the second research question:

> Research question 2: How does state aid promote tax avoidance and transform the corporation?

Method and data

In this inquiry, a qualitative case study method was used to examine IKEA's corporate tax avoidance as a crime of globalization. In particular, a constructivist approach was taken because this allows the researcher to select a 'crucial case' from which to make generalizations [35]. Under this methodological approach, the research process starts with the selection of the object of study, known as the crucial case, and a relevant theory. The analytical strategy used in constructivist case studies follows the congruence method, which is a method that examines empirical evidence through a deductive process that focuses on comparing or complementing the theory.

This article is part of an extended research project that examines the problem of corporate tax avoidance in Sweden. This has a direct implication in the selection of the units of study because I was limited to studying local corporations. Despite the fact that there is not much research on the topic in Sweden, I was able to identify IKEA as a potential candidate for conducting the case study because local and international media reports have associated this company with tax avoidance. Without knowing much about IKEA's practices of tax avoidance, I held informal conversations with Swedish tax lawyers and prosecutors responsible for investigating economic crimes in Sweden to explore whether IKEA could represent a crucial case. I was told on a number of occasions that IKEA was involved in tax avoidance and how this happened with the help of Professor Göran Grosskopf, a professor in tax law who is known in Swedish academic and legal circles for having introduced different tax avoidance schemes in large multinational companies. It seems, therefore, that IKEA was a relevant case. Just after starting this project back in 2014, the Luxembourg leaks scandal on tax avoidance emerged in the international media (as described below). One of the companies involved in this scandal was IKEA, which helped me validate the selection of this company as a crucial case to understand tax avoidance as a global phenomenon. Shortly after this, I understood that I was working not only with an important case but maybe with the most emblematic case of tax avoidance ever discovered. As mentioned above, IKEA transformed its legal character and location simply to be able to adopt a very stringent practice of tax avoidance in its global operations.

The data used in this particular study came from a variety of sources. Data on tax avoidance were taken from the 2015 parliamentary inquiries and reports published by the Greens/EFA Group at the European Parliament, the 2015–2016 decisions of the European Commission regarding corporate tax avoidance, and the 2009–2011 tax rulings of the Luxembourg tax authority. Information on IKEA was taken from annual financial reports and other corporate documents such as the history of the company. It should be noted that the central piece of information used in this analysis was the tax ruling decision of the Luxembourg tax authority published as part of the Luxembourg leaks. These documents are available to the public on the website of the International Consortium of Investigative Journalism (ICIJ). The so-called Luxembourg leaks is a database that comprises 548 tax rulings of the Luxembourg tax authority regarding tax agreements with 350 multinational corporations incorporated in this territory. The information was originally recorded in 2012 by an anonymous whistleblower who gave it to the French journalist Edouard Perrin of France 4-French Television, who shared it with the ICIJ, who finally made it available to the public at the end of 2014. A typical dossier of a corporation included in the Luxembourg leaks contains a detailed description of the holding operation and its ownership, as well as the financial structure of the entire conglomerate.

IKEA—the company and the charity foundation

IKEA was founded by Ingvar Kamprad in 1943. The name IKEA derives from the initial letters of the name and birthplace of the founder, who was born on the farm of Elmtaryd in the village of Agunnaryd in the south of Sweden. IKEA initiated activities as a mail-order business of pencils and postcards and other miscellany, which later on included the sale of local furniture. In 1958, IKEA opened its first store in Älmhults, a rural area in the south of Sweden, where people could see and test IKEA's products. In 1982, Mr. Kamprad donated his Swedish company to the Stichting INGKA Foundation, a Dutch foundation domiciled in Amsterdam. According to Mr. Kamprad, this was the best alternative to expand his company internationally and to protect his growing business and the IKEA brand. Today there are 361 IKEA stores located in 49 countries [36].

IKEA's ownership structure

The Stichting INGKA Foundation is the umbrella organization of the group. This foundation is in turn the parent of three other foundations and one holding company (Fig. 1). The Stichting IKEA Foundation is the philanthropic arm of the group. It was established in 1982 and is located in Leiden, the Netherlands. INGKA Holding B.V. is the parent of the IKEA Group, and both are headquartered in Leiden, the Netherlands. The IKEA Group is responsible for the whole chain of value (strategy, design and production, distribution, and retail) as well as for the Group's legal issues, human resources, IT, compliance, and sustainability. The IKEA Group is in turn the parent of IKEA Koncernen, which is a company that administers the IKEA franchises around the world [36].

The Interogo Foundation was established in 1989 in Liechtenstein. This foundation owns the Inter IKEA Holding S.A. with headquarters in Luxembourg, which in turn controls the intellectual property rights of the products and stores and controls the finances of the entire conglomerate. In particular, Inter IKEA Systems B.V. (Delft, the Netherlands) is the company that holds the intellectual property rights to the IKEA products and the IKEA brand. Vastint Holding B.V. (Amsterdam, Netherlands) owns the intellectual property rights to the IKEA stores and is responsible for the management of portfolio properties and the development of commercial real estate. Inter IKEA Finance S.A. (Luxembourg) is responsible for guaranteeing liquidity to Inter IKEA Holding S.A. and the IKEA Group by means of intercompany loans. According to Mr. Kamprad, this scheme was created 'to support individual IKEA retailers experiencing financial difficulties and for philanthropic purposes' and because 'I did not want IKEA to be become dependent on financial institutions' [38].

IKEA's structure and operations for tax purposes

Mr. Kamprad has argued that

> [IKEA's] operations comply with all relevant laws and regulations and thus pay taxes accordingly. However, we have always viewed taxes as a cost, equal to any other cost of doing business. An optimized tax structure allows us the flexibility to use funds that have already been taxed in one market in new markets for further business development without the additional burden of double taxation [38].

The quotation above describes how IKEA has optimized its tax structure while complying with laws and regulations. IKEA uses different strategies to minimize

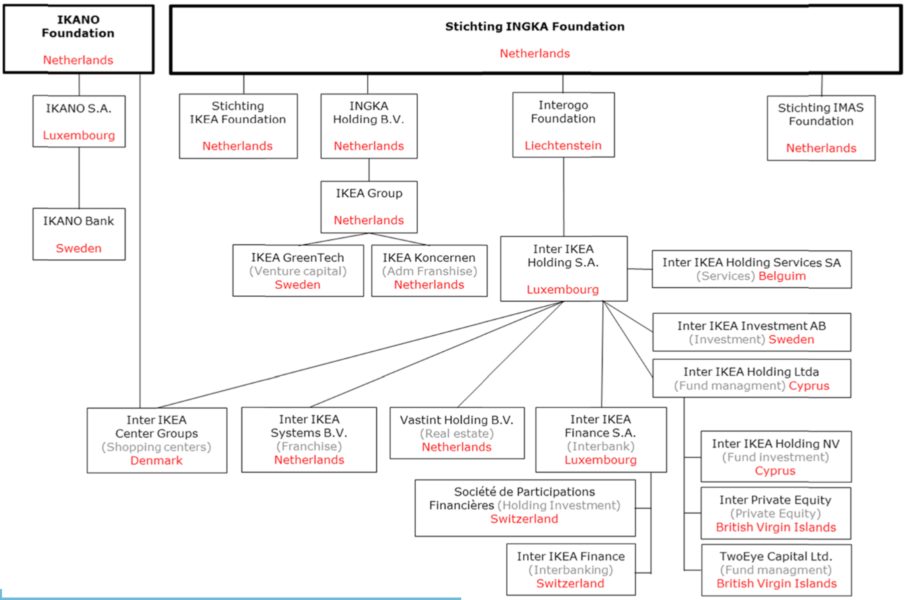

Fig. 1 IKEA's ownership structure. Source: Figure adapted from Administration des contributions directes [37]

taxation on the ownership, the retail operation, and the investment of profits, thus the issue is not about double taxation, as Mr. Kamprad argued, but about achieving double non-taxation.

A group structure almost free of tax

IKEA's transformation from company to foundation and relocation from Sweden to the Netherlands/Liechtenstein had three purposes. First, it was an attempt to avoid corporate income tax in Sweden. In 1982 the corporate income tax rate in Sweden was 57.8 %, while in the Netherlands, foundations are exempt from corporate income tax. Second, IKEA's incorporation in the Netherland also sought to avoid paying inheritance tax in Sweden. In 1982 the Swedish inheritance tax for family firms was 65 % to direct descendants in contrast to a 0 % inheritance tax rate in the Netherlands. Third, in Liechtenstein foundations are charged with a capital tax rate of 1 % of total assets. However, the franchise operation of IKEA implies that the company does not have ownership of the stores, so the total assets are minimal. In sum, the overall transformation and relocation of IKEA in 1982 aimed to avoid paying taxes in Sweden and to minimize the tax paid in the new countries of incorporation.

An operation almost free of tax

An examination of the financial structure of a franchise illustrates how IKEA extracts rents from its retail operation to minimize taxes in the country of origin of the income. According to Chenoweth [39], IKEA Pty Ltd., which owns the franchise of the IKEA stores located in Perth and Adelaide, made transfers to Luxembourg and the Netherlands to reduce the total payable tax in Australia. Between 2002 and 2013, IKEA Pty Ltd. reported a turnover of AU$ 4.76 billion, but only listed a pre-tax profit for AU$ 103 million after the following payments: IKEA Pty Ltd. paid to Inter IKEA Finance S.A. in Luxembourg AU$ 532 million, of which AU$ 259 million was in risk agreement fees, AU$ 114 million was in interest, and AU$ 159 million was in franchise fees. Additionally, IKEA Pty Ltd. paid to the IKEA Group in the Netherlands AU$ 3.042 billion, of which AU$ 2.67 billion was to cover the costs of the products and AU$ 372 million was for manufacturing profit. IKEA Pty Ltd. made another payment of AU$ 1.01 billion, but Chenoweth could not find information on the type of expenditure or the identity of the recipient.

Based on this information, it is possible to identify that IKEA reduced tax liabilities by engaging in

Profit shifting This is a mechanism used to deliver to the headquarters of multinational companies profits without their being taxed in the source country of the income [40]. In the case of IKEA, the franchisee in Australia was obligated to pay a fee regarding manufacturing profit and risk agreement to Inter IKEA Finance S.A. in Luxembourg. As a result of these payments, the taxable income in Australia was substantially reduced.

Paying for intangibles This is a practice used to reduce corporate tax liabilities in subsidiaries by demanding payments for the use of intellectual property rights, licenses, know-how, brands, and patents [40]. In the example presented here, IKEA's Australian franchisee paid a franchise fee to Inter IKEA Finance S.A. in Luxembourg, which was used to reduce taxable income in Australia.

Using intercompany loans This is a method used to reduce the taxable income of a subsidiary by granting intercompany loans that are payable on the terms of the parent company [40]. IKEA uses this mechanism of tax avoidance in two ways. On the one hand, IKEA reduces the base for taxable income in the subsidiary by increasing the local costs of the operation with payments on loans and borrowing interest to Inter IKEA Finance S.A. in Luxembourg. As a result, the taxable income of subsidiaries is minimized. On the other hand, IKEA is able to demonstrate the charitable character of the foundation by giving intercompany loans to IKEA franchisees that are having financial difficulties. This guarantees that the company can maintain its legal form as a charitable foundation in the Netherlands.

A financial scheme almost free of tax

From the financial structure of Inter IKEA Holding S.A. (Luxembourg), it is possible to determine that IKEA also uses hybrid entities and conduits to invest excess liquidity in certain territories and minimize the tax paid on dividends and capital earnings, as described below.

Hybrid entities for investment IKEA uses a legal maneuver to create investment companies as subsidiaries in low-tax or zero-tax jurisdictions [40]. IKEA's incorporation in the British Virgin Islands as Inter Private Equity and TwoEye Capital Ltd. seeks to obtain total exemption on corporate income tax, capital gains tax, branch tax, and withholding tax. IKEA's incorporation in Switzerland as Inter IKEA Finance and Société de Participations Financières has guaranteed tax exemption on dividends and capital earnings. As a result of the favorable tax regulation for investors in the British Virgin Islands and Switzerland, IKEA administers a global investment portfolio free of tax.

Using conduits This is a practice used to allocate investments in certain territories where tax treaties between countries guarantee tax exemptions on dividends and capital gains [40]. The difference from the previous mechanism is that no subsidiaries are required. This means that certain countries grant tax benefits if investments are made toward certain destinations. Cyprus is usually used as a conduit country for investing in Russia. In this case Inter IKEA Holding NV (Cyprus) uses this benefit when investing in Russian companies such as Shelton Petroleum and Alpcot Agro. These investments are exempt from dividends and capital earnings.

Based on the operational and financial structures described above, it is possible to estimate that for each euro that IKEA retailers transfer to the Netherlands, €4.4 go to Luxembourg almost totally exempt from tax. If we consider that in 2014 the IKEA Group reported taxes of €801 million in the Netherlands, then a conservative estimation of the amount of tax avoided in Luxembourg is €3.524 billion for the fiscal year 2014. This is a considerable amount of money that could be used by the state to fund, for example, schools, hospitals, elderly care, housing, and other social services. Because

IKEA has been involved in tax avoidance for more than three decades, the losses to society are incalculable, in particular for Swedish society and the countries where IKEA stores operate.

Explaining tax avoidance in IKEA as a crime of globalization

Studying tax avoidance as a crime of globalization is a complex task. The challenge is even greater when the schemes and practices are as diverse as in the case of IKEA (a foundation ownership structure, a franchise scheme that facilitates profit shifting, payment of intangibles, intercompany loans, and a financial investment scheme through hybrid entities and conduits). Following Rothe and Friedrichs [8] integrated theory, the analysis of tax avoidance as a crime of globalization is made at the individual, the organizational, and the macro levels.

At the individual level, the decision to transform and relocate IKEA was made by Mr. Kamprad to avoid paying taxes in Sweden. However, Mr. Kamprad uses IKEA's Swedish roots to sell its products to customers who are attracted by the Scandinavian design. Even after the transformation in 1982, IKEA included the colors of the Swedish flag (blue and yellow) in the registered brand and stores. Mr. Kamprad uses disclaimers to assert that IKEA complies with laws and regulations as a technique of neutralization. For example, a 'foundation' is not the best legal mechanism with which to internationalize a company or protect a brand, 'taxes' are not costs that can be worked out, and 'charity' is not the same as giving intercompany loans to IKEA stores with 'financial difficulties' or donating money to open the IKANO bank for Mr. Kamprad's sons. Mr. Kamprad follows the advice of the best experts in the field, and after retirement Mr. Kamprad put the direction of the various foundations of the group in the hands of a professor in tax law. This reveals Mr. Kamprad's view of social responsibility as individual and entrepreneurial. In other words, Mr. Kamprad has shown a limited interest in society at large. This clearly can be represented in the stone, the symbol of the company, which not only represents the simplicity of Scandinavian design but also IKEA's hardness against society.

At the organizational level, IKEA is a company driven by profit. The transformation of IKEA into two separate structures (ownership and operation) has the clear intention of extracting benefits from those countries where IKEA stores are located and relocating the capital obtained to the new countries where the ownership is incorporated. Because Mr. Kamprad sees taxes as costs that should be minimized, it is expected that IKEA's transformation was designed to address this purpose. Mr. Kamprad did not need to give incentives to the top executives of the company to achieve tax avoidance, and in IKEA there was no agency intermediation as existing studies suggest [22–25]. This family firm turned the ownership and the operational structure into a complex tax avoidance conglomerate structure. Shame or reputation damage due to tax-related lawsuits were no constraint for this family firm, as other studies have suggested [26, 41]. IKEA is a 'well- structured' company that uses diverse tax incentives in the territories of incorporation. The literature has previously reported on ownership dispersion between different corporations for tax purposes [29, 34], but in the case of IKEA the dispersion of the ownership is in term of administrative functions (see Fig. 1). The particular benefit of zero tax to foundations as well as the intellectual property regime in the Netherlands facilitated the extraction of rents through royalty payments. IKEA's incorporation in Luxembourg, Switzerland, the British Virgin Island, and Cyprus has the purpose of avoiding paying taxes on capital. The incorporation in Liechtenstein is for secrecy, for which IKEA was willing to pay a 1 % capital tax rate. In sum, the no tax on rent extraction, no tax on capital, and secrecy were the motives behind IKEA's structural change.

At the macro level, the case of IKEA clearly suggests that tax avoidance emerges from the opportunities created by incongruities in the neoliberal political economy. Tax avoidance is a market-driven phenomenon that should be understood as a result of the interaction of corporations and sovereign states. Countries compete with each other for incorporating the subsidiaries of multinational companies, and there is a race for the bottom where no tax, no regulation, and no control are the conditions being offered. Frankenberg [42] suggests that tax avoidance has reshaped not only the hosting legal system but the global legal system by allowing corporate transfers of constitutional character. However, the problem of tax avoidance is not limited to the legal configuration of the local law. The essential function of state control is also perverted. Secrecy, lack of transparency, and lack of accountability appear with tax avoidance [43]. It is difficult to make IKEA accountable for not paying taxes when the tax authorities have created and legalized this practice. IKEA will always maintain that they follow the tax law. The point is to demonstrate that the law has been perverted. In this sense the decision of the European Commissioner to stop state aid might be the way to fight tax avoidance. Supranational bodies can put an end to this practice or at least hold accountable those that remove rents from society with the help of the state.

Concluding remarks

This manuscript examined tax avoidance as a crime of globalization. While existing studies have investigated the problem of tax avoidance as an agency problem between the ownership and the leadership of the corporations, this inquiry took the analysis to a macro level where the political economy of the neoliberal ideology was considered the main causal factor. Other relevant factors were also considered at individual and organizational levels, but they seem to be less determinant, although still influential, when making the decision to engage in corporate tax avoidance.

The free-market provided opportunities for corporations to achieve tax avoidance globally, and tax avoidance has been promoted by nations and territories that strive to attract international investment by changing the tax rules in favor of powerful corporations. Tax regulations have been re-written by tax authorities, financial controls have been removed, and secrecy has been guaranteed so as to provide a favorable atmosphere for investors [7]. However, tax authorities only give total exemptions to foreign and non-domiciled corporations while taking taxes from their own citizens and national corporations. Tax authorities have their own interpretation of fair free-market competition, which raises skepticism about their real intentions. The autonomy of national states has been used to distort the global economic system at the expense of other territories and in favor of the powerful. In brief, tax avoidance creates competitive advantages in favor of the powerful, which is contrary to the spirit of the market.

In relation to the first research question, it is mistaken to believe that tax avoidance emerges only when the ownership gives incentives to the leadership to adopt this practice. Tax avoidance can emerge without agency intermediation by the leadership because the state is the one that creates the incentives given to corporations. The state redefines tax regulations in favor of those who want to make use of its generous benefits. To put it simply, the state has become an *initiator* of tax avoidance. This does not mean that the state is involved in illegal actions, but rather in actions than create social harm. It is important to recall that tax avoidance is not about statutory interpretations, but it is related to the use of tax incentives. In this type of crime of globalization, deceitful governments collude with opportunistic and devious corporations. This is often the case in other forms of state-corporate crime.

The direct interference of the state in the market is contrary to the neoliberal political economy that calls for less state interference in the economy. The recent ruling of the European Commission [2] condemned Luxembourg and the Netherlands because their tax ruling decisions affect other competitors in the market. This suggests that in the market economy there is no space for state aid given to companies by means of, for example, tax incentives. However, the competition between states for offering state aid to corporations has created more tax avoidance within the corporations because they can go global and select those territories that better suit their tax needs. Tax avoidance is not a single practice in a determined territory but is the accumulation of multiple tax benefits that can be achieved in different places simultaneously, as the cases of IKEA, Amazon, Starbucks, and Fiat have demonstrated. However, the dramatic competition between state aid schemes of tax avoidance has created more incentives for the corporations to maximize their profits at the expense of the competition between states. This is a contradiction that works in favor of the corporation, and this makes the approach to the second research question even more challenging. The results of the study of IKEA's transformation suggest that state aid atomized even more the structural transformations of the corporations. The more atomization by different tax avoidance schemes, the more profit that can be extracted. The complex operative and financial structure of IKEA and other companies suggests that the capitalistic interests of the corporations come before any other functionalist consideration.

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Compliance with ethical standards

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