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Op-Ed

Mr. Juncker will make the European Union less fair

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Monsieur Juncker va rendre l'Union Européenne moins juste !

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Résumé : Le premier novembre 2014, Jean-Claude Juncker a pris la présidence de la Commission Européenne. La carrière de cet homme, particulièrement son engagement à faire du Luxembourg un des plus importants paradis fiscaux au monde, nous permet aisément de prédire que sa présidence sera résolument placée sous le sceau d'inégalités accrues.

Mots-clés : Juncker, Luxembourg, Paradis fiscal.

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Abstract : On November 1, 2014, Jean-Claude Juncker took office as the 12th President of the European Commission. Jean-Claude Juncker's career, especially his past commitment to transform Luxembourg into one of the most important tax havens in the world, enables us to predict that his presidency will place the European Union under the seal of increased inequalities.

Key words : Juncker, Luxembourg, Tax haven.

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PARIS – On November 1, 2014, Jean-Claude Juncker took office as the 12th President of the European Commission. Let us introduce you to a man who is likely to continue making the European Union (EU)'s society less fair.

Mr. Juncker served as Luxembourg's Prime Minister from 1995 to 2013 and as its Minister of Finance from 1989 to 2009. Under his reign, with the duchy's heavy industry vanishing in the early 1990s, the tiny country reinvented itself as one of the most important tax havens in the world.

According to the *Financial Times* (FT), the duchy's finance industry has grown from almost non-existent in the 1980s to € 3 trillion today. The Tax Justice Network (TJN) estimates that the country currently holds a 12% market share in global offshore financial services. In 2011, the 140 banks established in Luxembourg managed around $ 800 billion in assets. Investment funds based in the duchy have more than $ 2.5 trillion in assets under management, which makes the country the world's number two in the fund management industry, only losing out to the United States of America (USA).

Luxembourg has been an aggressive defender of financial secrecy and operates an influential lobbying network, which aims to suppress any criticism of the country's role as a tax haven. Due to its active fight against information-sharing mechanisms, TJN director John Christensen describes the duchy as the "Death Star" of tax havens inside Europe.

[1] This open editorial was finished on the very day the International Consortium of Investigative Journalists, together with media partners from all around the world, released information on secret tax deals between the duchy and more than 300 international companies such as FedEx, IKEA and Pepsi. In this context, more than 500 leaked tax rulings, which had been negotiated by PwC, were made available to the public. See http://www.icij.org/project/luxembourg-leaks/leaked-documents-expose-global-companies-secret-tax-deals-luxembourg [accessed on 06/11/2014]. "Luxembourg Leaks" finally brought Luxembourg's role as a tax haven to wide public attention.

According to Richard Murphy, director of UK-based advocacy group Tax Research, Mr. Juncker was at the forefront of the fight against tax reforms and clampdowns on tax evasion during his 18-year premiership. For instance, he blocked EU legislation that was supposed to force member States to exchange information about foreigners holding taxable assets in their jurisdiction. Mr. Juncker only temporarily surrendered after getting under fierce pressure from the US, which has launched an aggressive combat against tax evasion. However, before leaving office, he achieved to thwart the EU initiative once again. Finally, the tax transparency measures could only be passed after Luxembourg's new government took office.

In addition to the more "traditional" offshore financial services, Luxembourg also developed another lucrative business line under Mr. Juncker's reign. The duchy actively helped transnational corporations to set up very beneficial transfer pricing schemes by providing them a series of tax loopholes. Given that Luxembourg is a beneficiary of the free movement of capital within the EU, Richard Brooks, the author of *The Great Tax Robbery*, says that the country is much more dangerous to the well-being of Europe than Caribbean offshore centers like the Cayman Islands. Even worse, the duchy incites other member States like Ireland or the Netherlands to join a race to the bottom over tax rates.

Under the lead of its previous Commissioner for Competition Joaquín Almunia, the European Commission has finally started to investigate the provision of such tax advantages and has opened a formal probe on a series of alleged sweetheart tax deals between large companies and governments. Here, yet again, Luxembourg has decided to live up to its role as an active advocate of financial secrecy. In addition to the formal investigation into the tax treatment of Fiat's financial arm, the duchy is now also facing a probe on its arrangement with Amazon, which was officially opened last month. But in contrast to Ireland and the Netherlands that decided to co-operate with the Commission regarding the scrutiny of their tax deals with Apple and Starbucks, Luxembourg does not back down that quickly. Regulators were obliged to launch infringement proceedings to obtain the requested information from the country.

As the new President of the European Commission, Mr. Juncker is now in charge of supervising investigations over tax deals that he fought to keep secret when he was Prime Minister of Luxembourg. In addition, as the FT put it, "*Mr. Juncker could be faced with the embarrassment of continuing with infringement proceedings against his own country over tax* *rules introduced during his premiership*.” As a matter of fact, he is supposed to lead a Commission that investigates the tax regime he set up, *i.e.* the Luxembourg he built.

Honest government will therefore most likely not stand at the core of Mr. Juncker’s presidency. Unfortunately, we must also live with the fact that the EU’s permissive rules do not oblige him to declare any conflict of interest, no matter how massive it might be. The Commission has no mechanisms in place that would prohibit former heads of government to run investigations into national laws that were passed during their own term of office. While the Commission’s code of conduct deals with conflicts arising from personal or financial interests, it turns a blind eye to the fact that problems regarding an office holder’s independence could also result from his or her prior political positions.

The start of Mr. Juncker’s presidency marks the arrival of tax havens at the very heart of Europe. As long as the former Prime Minister of Luxembourg leads the Commission, and in the absence of evidence to the contrary, member States suffering significantly from tax evasion like Greece or Portugal should not expect that effective measures will be taken to fight the issue.

We must face the fact that, with Mr. Juncker, a man is now in charge of the EU’s top job who has dedicated his political life to making societies less fair. He has made sure that very wealthy companies and individuals are able to avoid taxes that “normal” people and smaller businesses have to pay. Chances are that the lives of these normal people will not get easier during the next five years and that Mr. Juncker will find new discreet ways to continue defending the interests of his home country and its tax haven clients.

References

Brooks, Richard (2013), *The Great Tax Robbery: How Britain Became a Tax Haven for Fat Cats and Big Business,* Oneworld publication, 272 pages.

Wayne Leslie, Carr Kelly, Walker Guevara Marina, Cabra Mar, Hudson Michael, “Leaked documents expose global companies’ secret tax deals in Luxembourg”, *The International Consortium of Investigative Journalists,* November 5, 2014, http://www.icij.org/project/luxembourg-leaks/leaked-documents-expose-global-companies-secret-tax-deals-luxembourg [accessed on 06/11/2014].