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OECD AND DEOFFSHORIZATION OF MICROSTATES OF EUROPE

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The article is devoted to studying the issue of the formation of the international legal regulation of the activities of so-called offshore zones – special jurisdictions that specialize in providing financial services to non-residents in conditions of low or zero taxation, stability and confidentiality. Since the late 1990s, the most successful anti-offshore policy has been conducted (in close cooperation with the G20 states) by the Organization for Economic Cooperation and Development (OECD), which has begun to actively use both organizational and international legal methods in its activities. The most successful examples include the OECD adopting the International Standards for the Exchange of Tax Information (Tax Information Exchange Agreements) in 2009, the Base Erosion and Profit Shifting Program in 2013 (which has become its most significant and successful initiative), the Multilateral Competent Authority Agreement in 2014, as well as the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting in 2016, and others.

However, in Europe the OECD was forced to face a situation where not only member states or specific territories that are in one form or another directly dependent on said states served as offshore zones, but also small (micro) sovereign states that were not its members. The microstates of Europe ended up resisting the OECD's anti-offshore activities for quite a while, since the high profitability of the offshore business made these states accustomed to getting "easy" money, and their population – to the high standard of living, which was largely provided for by these funds. The conducted research allowed the author to draw the conclusion that multiple stages can be singled out in this confrontation, during which the microstates of Europe, somewhat successful at first, were eventually forced to cooperate with the OECD and officially accept the rules the latter, as well as the mechanisms of interstate tax control it introduced. To a large extent, this stemmed from the fact that the microstates feared the G20 countries would levy sanctions against them, as well as because some of the microstates of Europe, in light of the instability of the world financial and economic system, were looking for ways to access the European market by obtaining the status of associated EU members. Nonetheless, while formally adhering to the OECD requirements, the microstates of Europe are still attempting to provide offshore services to nonresidents by transforming and significantly complicating the financial schemes used for such purposes.
General scientific methods, the technic method, the concrete-historical and the historical-genetic methods, as well as the formal-dogmatic and the systemic approaches were used within the framework of the study.

Offshores and the settlement of cross-border tax relations is one of the most vital economic problems of our time, yet no fundamental scientific research on the international relations of the OECD and the microstates of Europe has yet been carried out.

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1. Introduction

Offshore tax evasion schemes are not strictly a modern phenomenon. We know that as far back as Ancient Greece, when Athens introduced a 2% import/export tax, Greek and Phoenician merchants used the neighboring islands as tax havens (by shifting their trade activities there) since in those places there were no laws (and therefore taxes) at all. And even later on in history, similar tax havens were not a rare occurrence [1: 2-3].

The first attempts by states to jointly counteract individual companies evading tax payments at the cross-border level were made back in the 19th century. These attempts were not always successful, so at the start of the 20th century several bright minds across the globe came to the realization that if states were not willing to take charge of the tax evasion practices of non-resident companies (i.e. ones that carry out their commercial activities in states other than their own), they should at least support and profit off of them. As a result, starting from the 1920s, in Switzerland, Luxembourg and Liechtenstein in Europe, as well as Panama in Latin America, such companies received unexpected support in the form of the first ever offshore zones[1] (appearing as the result of the official financial policies of these states), a term currently used to refer to states (or territories) that specialize in providing financial services, stability and strict confidentiality guarantees to non-residents (individuals and/or legal entities) in conditions of low or no taxation, thereby helping them to avoid higher taxes in the state where they actually carry out their economic activities [2: 6]. Due to the great financial efficiency of such methods, other jurisdictions followed suit.

This polite close and distant neighbor robbery policy would hardly be acceptable to states that saw significant budget inflow slip away as a result of the former. At the same time, the world saw the first conscious steps towards international cooperation aimed at combating such financial policies, mainly within the framework of the League of Nations. Though it should be noted that "these few examples exposed not the specific steps, but rather the direction countries needed to move in" [3: 45-46].

The early 1950s saw offshore services, due to a number of reasons (primarily their high profitability and the absence of any liability), become a widespread business that reached an incredibly high level in the 1980-90s thanks to the acceleration of globalization processes [4]. Due to the ever-increasing number and popularity of offshore companies, they were gradually becoming a serious threat to stability not only for the economy of individual states, but for the global financial system as a whole [5: 66–71; 6: 54–55], at times even turning into a political problem for international relations [7].

Unsurprisingly, offshore zones are attracting increasing attention, with states and even international organizations and a number of informal bodies, which include the International Monetary Fund, the Financial Stability Board, the Financial Action Task Force on Money Laundering (FATF), as well as informal institutions, such as the G7 and especially the G20. Yet it is the Organization for Economic Cooperation and Development (OECD) that is gradually turning into the spearhead of the anti-offshore crusade[2]. Originally, it was essentially an international organization of European states, but over time it broadened its scope to encompass the entire world (not without help of the G20 states).

Still, its main focus remained the European region, one of the characteristic features of the offshore business of which was that the bulk of offshore zones here were located either on the territory of states that are members of the OECD (Luxembourg, Belgium, Switzerland, Austria, etc.) or

[1] It is often the case that this term is replaced with "offshore jurisdictions", "tax havens", "offshore financial centers", etc. Its exact definition may slightly differ, and this is the case for both official documents and academic sectors.

[2] Allow us to clarify that the activities of the OECD are aimed not only at combating tax evasion, but also at countering money laundering, corruption and bribery, as well as at analyzing and developing recommendations for its members on various economic issues, but in this study we will limit ourselves to only one of these areas - the fight against tax evasion at the cross-border level.

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on territories that were under the control of the latter (like the British Overseas Territory of Gibraltar, the Crown Lands of Great Britain - the islands of Guernsey, Jersey, Maine, etc.).

There was one exception to this general rule: among the active offshore zones in Europe there were several small (they are often called micro- or even dwarf) sovereign states[3] that were not (and still are not) members of this organization[4]. Up until the early 1960s, the economies of these countries were underdeveloped (with the possible exception of Monaco), and Malta was even still a regular British colony. They faced a dire financial situation (what with the chronic budget deficit and all), the standard of living for their citizens (subjects) was very low, with the states themselves, due to their so-called "special relations" with some of their neighbors[5], being regarded as protectorates [8: 328]. In light of these circumstances, it would not be an exaggeration to say that they were in the furthest outskirts of not just global but also European economic and political life.

However, from the mid-1960s, the economic situation in these states began to rapidly change for the better: they started gradually transforming into offshore zones, a sort of tax haven for foreign residents that carry out their business activities in another (usually European) country/countries, but do not want to pay the high taxes those states have in place[6]. The ever-increasing influx of "easy" money led these states to prosperity they had never seen before. Budget deficits, debts and low living standards became a thing of the past. They began to erect gorgeous buildings, lay down high-quality roads, improve their social, transport, and economic infrastructure. This all helped them overcome a well-entrenched perception of them as just "associated" members and proclaim themselves as full-fledged members of the UN and other international organizations [9].

Obviously, confrontation between the microstates of Europe and the OECD was bound to arise, since losing income from their offshore endeavors (that they have grown accustomed to) would inevitably constitute a powerful blow to their economy, significantly lower public (and private) revenues, as well as force the government to stop supporting social programs and launching new ones - in other words, entail a significant drop in the standard of living. And not only did this confrontation erupt, it lasted for a very long time, among which, in our opinion, several key stages can be singled out. These stages somewhat coincide with the general stages of the OECD becoming more capable in this particular area, but differ from the perception that has formed in academic circles regarding the historical stages of the formation and development of the offshore business as a whole [10]. One of the reasons for this is that there is practically no fundamental scientific research regarding the interaction between the European microstates and the OECD.

2. The first stage of confrontation between the OECD and the microstates of Europe.

Certain issues of combating tax evasion at the cross-border level attracted the attention of the "predecessor" of the OECD - the Organization for European Economic Cooperation (OEEC)[7]. In 1956 a special Committee on Fiscal Issues was even created, which, in particular, was tasked with drafting a bilateral tax agreement model for member states. This Model Double Taxation

[3] All of them are members of the United Nations, a possibility only open to sovereign states.

[4] European microstates (or dwarf states) is a term that usually applies to states of this region that are smaller in terms of territory and population than the Grand Duchy of Luxembourg. Five states currently meet these requirements: the Principality of Monaco, the Most Serene Republic of San Marino, the Principality of Liechtenstein, the Republic of Malta and the Principality of Andorra.

[5] Andorra - with Spain and France, Liechtenstein - with Switzerland, San Marino - with Italy, Monaco - with France, and Malta, for a long time after gaining independence, maintained unique relations with its former parent state - Great Britain.

[6] And many people were eager to take advantage of such services. Suffice it to say that in certain years the number of offshore organizations registered in Liechtenstein exceeded the country's population.

[7] The Convention that transformed the OEEC into the OECD was signed in December 1960.

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Convention on Income and Capital[8] was developed and then (in 1963) published.

However, the first attempts to combat offshore companies by the OECD specifically (or, in other words, deoffshorization) were made only in the late 1980s.

For example, in April 1987 the OECD published its International Tax Avoidance and Evasion Report, in which offshore financial centers were indicated as one of the fundamental international economic problems[9]. Pushing this approach further, in 1988, the OECD (together with the Council of Europe) developed the legally-binding Convention on Mutual Administrative Assistance in Tax Matters[10], the main purpose of which was to prevent tax evasion of all types (except customs duties). Admittedly, this Convention dealt a tangible blow to the concept of banking secrecy - one of the pillars of offshores providing services to non-residents and the fundamental basis of the impunity of the offshore zones themselves.

The OECD's continued efforts in this direction resulted in another Report (published in 1998) titled "Harmful Tax Competition. An emerging global issue"[11]. In it, among other things, the organization outlined the criteria for offshore zones, which helped identify the latter and brand them as what they were [11: 332; 12: 48-49], and an attempt was also made to generalize the already existing experience of using improper tax practices on a global scale, grouped into three areas: 1) improving national tax legislation; 2) issuing recommendations on creating conditions and striking deals to avoid double taxation; 3) intensifying international cooperation and information exchange [12: 49-50; 13: 37].

Despite its format, this Report included not just recommendations but also legally binding (though only for OECD members) provisions[12] requiring adjustments of national legislation norms, tax agreements and appropriate forms of international cooperation [2: 39]. Finally, this Report also engendered the term "harmful tax competition" widely used today.

The main drawback of this Report was that it did not contain a specific list of territories and states that acted as offshores. But in 2000, the OECD rectified this mistake and published the next Report prepared by the Committee on Financial Affairs entitled "Towards Global Tax Cooperation: Progress in Identifying and Eliminating Harmful Tax Practices"[13], which contained a defined blacklist of 35 jurisdictions that were found to "meet the tax haven criteria set out in the 1998 Report"[14], i.e. qualified as offshore zones. This list included 3 European microstates – Andorra, Liechtenstein and Monaco. However, Malta and San Marino at that time somehow managed to avoid the scrutinizing gaze of the OECD, despite technically fitting all the same criteria.

This report recommended all these jurisdictions change their national legislation and provide the OECD with appropriate written cooperation commitments. It also issued a direct warning regarding the organization resorting to some kind of defensive measures, should the countries fail to comply with these recommendations. However, the vital crevice

[8] Organization for Economic Cooperation and Development. Model Double Taxation Convention on Income and on Capital. OECD. – Paris. 1977. – P. 16.

[9] International Tax Avoidance and Evasion. Issues in International Taxation. OECD – Paris 1987. – P.8. (P. 112)

[10] Convention on Mutual Administrative Assistance in Tax Matters. OECD. URL: http://www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm (date of access: 22.02.2022).

[11] Harmful Tax Competition. An emerging global issue // Organisation for Economic Cooperation and Development (OECD). 1998. URL: http://www.oecd.org/tax/transparency/44430243.pdf (date of access: 22.02.2022).

[12] Luxembourg, Switzerland, Belgium and Portugal opposed these provisions.

[13] Towards Global Tax Co-operation. Report to the 2000 ministerial council meeting and recommendations by the committee on fiscal affairs. Progress in Identifying and Eliminating Harmful Tax Practices. – P. 17. URL: https://www.oecd.org/ctp/harm-ful/2090192.pdf. (date of access: 22.02.2022).

[14] Ibid.

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running across these recommendation was that the majority of countries included in the blacklist were not only non-European states, but also (just like the European microstates) were not even members of the OECD, making the latter's recommendations legally non-binding and therefore not entailing any sort of coercive measures. Moreover, for whatever reason, the OECD's European members somehow avoided being included in the list, which allowed the states that *were* to accuse the organization of being biased.

Numerous protests followed, containing among other things accusations of discrimination, that forced the OECD to back down and accept the non-binding nature of their recommendations as well as cancel their plans for applying punitive measures to states that refuse to follow the latter [14].

This retreat had its consequences.

First of all, the microstates of Europe (that were not members of the OECD) saw this minor victory as enough reason to brand the OECD's anti-offshore efforts as failed, evidencing the organization's helplessness, and became intoxicated with their apparent impunity. Hence why they did not meet any of the recommendations and decided to simply ignore the existing gradual negative changes of the situation around offshore zones.

It is no coincidence that the OECD Report "On Harmful Tax Practices", published in 2004, listed only these 3 microstates in its European blacklist (along with 2 states from other regions) and qualified them as "tax havens that still refuse to cooperate with the organization"[15]. Here we can not help but notice that all the other countries that found themselves in the previous blacklist actually took the necessary measures to ensure that the OECD removed them from it. Looking ahead, we note that these three microstates, in their unwillingness to become OECD partners, held on like grim death and only in 2009, when the situation changed radically, were forced to agree to cooperate with the organization.

Second, the OECD itself drew the necessary lessons from what happened. For example, its members saw a need to create an independent body that would not only take over the resolution of claims and disputes related to the OECD's anti-offshore activities, but also, due to its autonomy, could include countries from all regions, not just OECD member states. That is why in 2000 the Global Forum on Transparency and Exchange of Information for Tax Purpose[16] (hereinafter referred to as the Global Forum) was established, which gradually became responsible not just for resolving disputes with offshore companies, but also managing all matters relating to tax control over them. Initially, the forum included only OECD members, but almost immediately, due to the policies pursued by the OECD and the Global Forum itself, other states that had agreed to adhere to international taxation transparency and information exchange standards began to join. Gradually, the Global Forum grew out further and transformed into the main coordination platform for all states and territories when it comes to implementing these standards and exchanging information. Currently it incorporates 162 states (including the Russian Federation).

3. The second stage in the development of relations between the OECD and the microstates of Europe.

The beginning of this stage is closely connected with the 2008-2009 global financial and economic crisis, which forced the OECD to take a tougher stance on offshore zones (tax havens). Similar to the OECD, the crisis also forced "many states to realize the need for global changes in the tax sphere ... a qualitatively new stage of cooperation to combat a harmful phenomenon that distorts the structure of the world economy" [15: 295].

As a result, at the London summit of the G20 (April 1, 2009) offshore zones were deemed one of the key factors responsible for destabilizing the world financial system, with G20 leaders agreeing to

[15] Projet de l'OCDE sur les pratiques fiscales dommageables: rapport d'etape 2004. Partie III, 27. URL: https://www.oecd.org/fr/ctp/dommageables/30901107.pdf (date of access: 22.02.2022).

[16] The Global Forum on Transparency and Exchange of Information for Tax Purposes.

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intensify the fight against them [13]. Moreover, the Declaration on Strengthening the Financial System adopted at said summit not only called for giving up banking secrecy, but also directly provided for the possibility of applying economic sanctions against states that refused to cooperate[17]. But the matter was not settled there - the G20 also instructed the OECD to compile a new list of states that have refused to comply with international standards in the field of tax information exchange and to cooperate with the organization. It was clear that relations between the G20 members and offshore states would not improve any time soon. On the contrary, the prospect of the G20 resorting to painful sanctions to prove a point was quite high[18].

Nevertheless, this new "black list" would have included (besides just 4 countries from other regions: Costa Rica, Malaysia, the Philippines and Uruguay) the same European microstates, still very much antagonistic. But in these new conditions they seem to had finally realized the possible consequences in store for them and started to make efforts to normalize the sharply aggravated economic (and political) relations between them and the most developed states of Europe and other regions, as well as with the EU as a whole and the OECD, since the latter acted as a sort of spokesperson for states with common interests to combat offshore practices. What made the situation even more complicated is the fact that states that have long had so-called “special relations” with the European microstates were all OECD members and essentially (with the debatable exception of Switzerland) approved of the demands put forward to them, albeit only formally.

Faced with mounting tensions, the European microstates quickly came to the conclusion that there was no more time to stall and did everything in their power to avoid having even more problems. While in early 2008 these states were ready to defend their de-facto role as offshores, as soon as in early 2009 they not only agreed to cooperate with the OECD, but announced their commitment to the organization’s goals, and also assumed the corresponding obligations by including them in their declarations[19]. As a result, on May 27, 2009 they were removed from the OECD’s list of non-cooperating tax havens[20].

And so, only the previously mentioned Costa Rica, Malaysia, the Philippines and Uruguay found themselves on the aforementioned blacklist but even they (incredibly quickly for international relations) within just five days assumed “the obligation to exchange information in accordance with OECD standards”[21] and were removed from it. This all led to the list being literally empty by the time a decision had to be carried out regarding its adoption.

There was another circumstance that played a role in some European microstates changing their

[17] G20 Communique: London Summit – Leaders’ Statement. Declaration on Strengthening the Financial System, April 2. URL: https://www.imf.org/external/np/sec/pr/2009/pdf/g20_04-0209.pdf (date of access: 22.02.2022).

[18] Just to clarify, the European microstates were not the only ones on the receiving end of such sanctions. The G20 pulled no punches when dealing with other countries [For more details, see: 16: 68-88.]. We believe this situation constitutes a rather curious example of the process of creating norms of general international (tax) law and harmonizing the wills of states.

[19] See: The Liechtenstein Declaration. OECD. URL: https://www.oecd.org/countries/liechtenstein/42340216.pdf (date of access: 22.02.2022.); Declaration of the Principality of Andorra. OECD. URL: https://www.oecd.org/countries/andorra/42826270.pdf (date of access: 22.02.2022); Letter of commitment. 2009. URL: http://www.oecd.org/countries/monaco/42826253.pdf (date of access: 22.02.2022).

[20] Andorra, Liechtenstein and Monaco removed from OECD List of Unco-operative Tax Havens. URL: https://www.oecd.org/countries/andorra/andorraliechtensteinandmonacoremovedfromoe-cdlistofunco-operativetaxhavens.htm (date of access: 25.06.2021).

[21] A progress report on the jurisdictions surveyed by the OECD Global Forum in implementing the internationally agreed tax standard // OECD. 2009. URL: https://www.oecd.org/ctp/42497950.pdf (date of access: 22.02.2022).

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economic policies. Whatever the case, the fight against offshore zones in Europe initiated at the end of the 19th century and the global economic crisis led to a significant deterioration in the economic situation of these zones and, as a result, stimulated their desire to alleviate the situation. This required, first of all, to enter the EU market as an equal partner. Of course, as far as Malta is concerned, it simply joined the EU in 2004 and made its way into the Eurozone four years later. Liechtenstein while did not become an EU member, entered the European Economic Area in 1995[22] and, thus, by the beginning of the new millennium was already part of the EU single market. But Andorra, San Marino and Monaco initiated (joint and individual) negotiations with the EU on concluding an associate membership agreement (since this would allow them to enter the EU market, while to a large extent retaining independent legal regulation of their economic relations). Their direct interest in resolving this issue turned into a tool the EU could use to influence the national economic and tax policies pursued by each microstate [9].

When talking about significant breakthroughs in improving tax transparency at this period, we can not do without mentioning the OECD adopting its International Exchange of Information on Request Standards[23] that were later on approved by the G20 members[24]. With regard to monitoring compliance with these international standards, the Global Forum had implemented a two-stage review process for member states: the first stage was checking whether a given country had established the necessary regulatory framework for tax information, while the second was assessing how fully were said regulations being implemented (if at all) and whether the country was following the recommendations issued to it following the report after the first stage.

As a result, this (second) stage creates a unique situation in which the non-OECD-member microstates of Europe were not only forced to work closely with this organization in the banking area and prevent tax evasion by non-resident organizations, but also to provide it with all the necessary information that would allow the OECD to publish regular reports on the state of their economies and their implementation of the relevant recommendations set forth by this organization.

4. The third stage in the development of relations between the OECD and the European microstates.

The transition to the third stage was marked by the OECD adopting the Base Erosion and Profit Shifting Program in 2013, which became the most significant (and successful) global economic regulation initiative “in the history of international taxation” [19]. This Program included two documents: the Base Erosion and Profit Shifting (BEPS) Report[25] [26] and the global Action Plan to Counter Base Erosion and Profit Shifting[27].

These documents provided an analysis of the main illegal schemes used by taxpayers to transfer their tax bases to offshore zones, as well as measures to counter them and recommendations for the appropriate unification of the tax legislation of states [2: 43]. Additionally, this Action Plan contained a number of measures, the implementation of which was designed to help states combat so-called aggressive tax planning [21: 268], contractual trade under double taxation agreements [22], and using offshores to erode tax bases [23].

[22] European Economic Area Agreement. URL: https://www.efta.int/eea/eeaagreement (date of access: 22.02.2022).

[23] Exchange of Information on Request — EOIR

[24] Terms of reference. OECD. 2010. URL: http://www.oecd.org/ctp/44824681.pdf (date of access: 22.02.2022).

[25] Base erosion and profit shifting are a set of tax planning strategies that allow companies to declare their profits for tax purposes in countries where they haven’t actually conducted the economic activities that generated those profits, and where income tax rates are relatively low (or non-existent) [See: 20].

[26] Base erosion and profit shifting. OECD. URL: http://www.oecd.org/tax/beps/ (date of access: 22.02.2022).

[27] Action plan on base erosion and profit shifting. OECD. 2013. URL: https://www.oecd.org/ctp/BEPSActionPlan.pdf (date of access: 22.02.2022).

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By 2015 fifteen such measures had been agreed on and ranked according to their importance [For more details, see: 15: 295-301; 24: 180-181]. Among them, four measures were considered mandatory. The implementation of these measures required serious resources and time, so the initial time frame for their implementation (from one to two years) was later switched (for a period of five to six years).

The BEPS Plan was not an international treaty, so, strictly speaking, it was not a legally binding document. Despite this, all states were forced to make the necessary changes to their legislation under the threat of the other countries limiting their interaction with them (including the G20 countries) and applying a number of indirect international instruments to them, up to political pressure. The adoption on November 24, 2016 of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting[28] essentially eradicated this drawback of the BEPS Plan.

This convention contained concepts and terms, as well as "specific legal mechanisms for addressing the issues of applying hybrid schemes to reduce the tax burden, preventing abuse of the provisions of agreements, and improving the dispute resolution procedure" [21: 265–271].

The BEPS activities were also reflected in the OECD Model Convention on Taxes on Income and Capital[29].

At the same time, we should note that despite their indisputable importance for the international regulatory settlement of transnational tax relations, neither the BEPS Plan nor these conventions were without a number of shortcomings [25: 29–47; 26: 223–240; 27: 517–586], but analyzing them in detail would exceed the scope of this article.

There was another major event during this period: October 29, 2014 saw the adoption of the Multilateral Agreement Between Relevant Authorities on the Automatic Exchange of Financial Information[30]. The main goal of this agreement was to switch over to automatic exchanges of relevant information between states, as opposed to the previously existing practice of providing the necessary information only in response to specific requests, which essentially served as the final nail in the coffin of banking secrecy, a practice offshore zones have been abusing for a long time. In 2016, the Multilateral Relevant Authorities Agreement on Automatic Exchange of Country Reports[31] made amendments to these principled approaches.

As for the microstates of Europe, at this stage they were eager to showcase their willingness to cooperate with the OECD. In pursuit of that, they all became members of the Global Forum, each implemented tax standards to a noticeable degree, all became parties to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting of November 24, 2016 and the Multilateral Competent Authority Agreement of October 29, 2014. Their assessment by the Global Forum is also indicative. For example, the Report on Andorra it published on September 12, 2011 directly noted that this "jurisdiction is taking steps towards full tax transparency"[32]. According to the 2013 Global Forum rankings, Malta

[28] Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS. OECD. URL: http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-toprevent-beps.htm (date of access: 22.02.2022).

[29] See: Model Tax Convention on Income and Capital: Condensed Version 2017. Published on December 18, 2017. OECD. URL: http://www.oecd.org/ctp/model-tax-convention-on-income-and-on-capital-condensedversion-20-745419.htm/ (date of access: 22.02.2022).

[30] Multilateral Agreement Between Relevant Authorities on the Automatic Exchange of Financial Information dated 29.10.2014. URL : http://www.consultant.ru/law/podborki/mno-gostoronnee_soglashenie_kompetentnyh_organov_ob_avtomaticheskom_obmene_finansovoj_informacie j_ot_29.10.2014/ (date of access: 22.02.2022).

[31] Multilateral Relevant Authorities Agreement on Automatic Exchange of Country Reports dated 29.01.2016. URL: https://base.garant.ru/71722490/ (date of access: 22.02.2022).

[32] Tax: Jurisdictions move towards full tax transparency. URL: https://www.oecd.-org/countries/andorra/taxjurisdictionsmovetowardsfulltaxtransparency.htm (date of access: 22.02.2022).

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and Monaco received an overall “B” rating (making them “largely compliant” with regards to transparency and information sharing for tax purposes), while Switzerland, for example, found itself in the list of states that are not eligible to proceed to the 2nd review stage until they take action on the recommendations aimed at improving their regulatory framework[33]. According to the ratings for 2015, Liechtenstein and San Marino were also issued a “B” rating. In 2017, two microstates - Monaco and San Marino - even managed to attain the highest rating possible - “A” (“fully compliant”)[34].

Admittedly, the role of offshores as a tool of international tax optimization has sharply diminished, but their presence is still noticeable[35]. Many offshore jurisdictions are gradually adapting to the mechanisms of interstate control, complicating old offshore schemes and coming up with new ones [28:128; 29: 21-22; 30: 50-52] that often are quite original[36]. To a large extent, this also applies to the microstates of Europe, which, having noticed the pressure on offshore businesses on the part of developed countries (primarily the United States) begin to wane starting 2014, carried on looking for possible ways to return to their “golden decades” while formally complying with the OECD’s requirements. It is no coincidence that the list of offshore jurisdictions of the Federal Tax Service of the Russian Federation as of March 22, 2022 includes all the microstates of Europe, except for Malta[37].

But Malta’s no angel either. For example, in September 2020 the Global Forum Report on Malta’s compliance with the requirements and recommendations for the exchange of tax information was released. The Report claimed that although this state had managed to implement some of the recommendations of the First Round of Review (2013), “many indicators ... have been downgraded”. Two indicators had been reduced from "Largely Compliant" to "Partly Compliant" and two more from "Compliant" to "Partly Compliant". The overall result was a downgrade of Malta's rating from "Largely Compliant" to "Partially Compliant".[38] Although the Maltese government stated that it "respectfully disagrees" with the downgrade, since, in its opinion, not all factors affecting the assessment of Malta's actions were taken into account by OECD experts, the fact stands that Malta had been downgraded to one of the lowest ratings ever received by a EU Member State [For more details, see: 32].

However, no conflict erupted, with Malta in an attempt to ease tensions joining the Multilateral Competent Authority Agreement on the Exchange of CbC Reports.

5. Conclusions.

Thus, the confrontation between the microstates of Europe and the OECD over the international fight against tax evasion can be divided into 3 stages. At the first stage (late 1990s - early 2000s) these states, which were not OECD members and acted at the time as offshore zones, took a (generally) negative stance regarding the organization intensifying its anti-offshore efforts.

33 Switzerland received a "B" rating only in 2016.

34 See: Global Forum on Transparency and Exchange of Information for Tax Purposes. URL: https://ru.xcv.wiki/wiki/Global_Forum_on_Transparency_and_Exchange_of_Informati-on_for_-Tax_Purposes#2013_Ratings- (date of access: 22.02.2022).

35 Some authors go so far as to claim that “There will always be an offshore sector. We are the ball bearings in the machine of the world’s financial markets” See: [31: 175].

36 See, for example: A. Aivazov. How offshore companies work in 2020 – Modulbank case. September 21, 2020. URL: https://delo.modulbank.ru/all/offshore (date of access: 22.02.2021).

37 List of offshore jurisdictions of the Federal Tax Service of Russia. URL: https://www.nalog.gov.ru/rn77/related_activities/megdunarodnoe/spisok_ofshor/ (date of access: 22.02.2021).

38 Peer Review Report on the Exchange of Information on Request. Malta. second Round, 2020. p. 11-15 and 16-20. URL: https://www.oecd.org/countries/malta/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-malta-2020-second-round-d92a4f90-en.htm (date of access: 22.02.2022).

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During the second stage (2008–2013), with developed countries (especially the G20) becoming increasingly hostile to offshore zones (given the global financial crisis), these states were forced, despite not being OECD members, to not only assume obligations to comply with OECD-set standards for banking activities and the prevention of tax evasion by non-resident organizations, but also provide it with all the necessary information to monitor how well these obligations were being fulfilled. An additional incentive in this matter for Monaco, Andorra and San Marino were their negotiations with the EU on the conclusion of agreements on associated membership. At the third stage (from the adoption of the BEPS Program in 2013 to the present day) the European microstates opt for absolute cooperation with the OECD, accepting and supporting its most important anti-offshore activities. At the same time, while formally complying with the requirements of the OECD, the European microstates are constantly looking for loopholes that would allow them to return to their offshore glory days. However, so far, these occasional relapses on their part don't really affect the bigger picture.

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