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Edited by

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Hydroelectric Dams Sale by EDP - A Case Study on Taxation, Governance, and Sustainable Development

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Purpose: The tax burden on citizens and businesses increases 1.1% between 2021 and 2022, reaching 36.4% of the GNP in 2022. During this period, revenue from direct taxes, particularly those levied on the income of individuals (IRS), and companies (IRC) grew, respectively, 12.8% and 59.6% (INE, 2023). About revenue from indirect taxes, especially those arising from value-added tax (IVA), real state transfers tax (IMT), municipal property tax (IMI) and stamp tax (Imposto de Selo), it increases by 18.1%, 26.3%, 0.8% and 6.6% respectively. Indeed, the property taxes - real estate transfer tax, municipal property tax and stamp tax - represented 4.5%, 4.4% and 5% of the 2022 total indirect taxes (INE, 2023). Portugal is the fifteenth country with the highest tax burden among OECD member countries (OECD, 2023).

Given this tax evidence, it is no wonder that Energias de Portugal's (EDP) sale of six hydroelectric facilities to a French Consortium has generated so much controversy. Far from being a straightforward business deal, this sale has sparked a multifaceted discourse, probing the financial dimensions and the consequential ramifications for tax policies, ethical business conduct, corporate oversight, and the broader socio-economic and sustainable development agenda (European Parliament, 2020; Reuters, 2021). The transaction in question not only represents a significant shift in the ownership and control of critical energy infrastructure but also serves as a focal point for examining the challenges and opportunities presented by corporate strategies in the context of global taxation frameworks, ethical considerations, and governance standards (Luttmer, 2014; David & Gallego, 2019). The sale has spotlighted the intricate dance between leveraging legal tax minimisation strategies and the ethical considerations these strategies invoke, especially when viewed against the backdrop of securing vital revenue streams for economies. Moreover, it raises pertinent questions about the role of corporate governance in overseeing transactions that have profound economic, social, and environmental implications (European Parliament, 2020; Reuters, 2021).

In this study, we intend to describe the deal that involved, in 2020, the EDP's sale of six dams located on the Douro River to a French consortium for two billion Euros. Specifically, we describe the commercial manoeuvres pursued that gave rise to fiscal, legal and ethical controversies.

Methodology: This research has an exploratory and descriptive character. We rely on secondary data from news reports, which at the time were widely disseminated

throughout the media. We use these data to address the intricacies of corporate expansion and cross-border capital movements and its ramifications for tax policies, ethical business conduct, corporate oversight, and the broader socio-economic and sustainable development agenda.

Results: We find that the transactional manoeuvres that involved EDP and Engie resulted in aggressive tax planning that cost the Portuguese State the revenues due in terms of IRC, IMI, IMT and stamp taxes. The EDP transaction underscores the critical importance of taxation as a tool for securing revenue for economies. It brings to the fore the complex interplay between corporate tax strategies and national tax policies. By examining the mechanisms employed by EDP and the French consortium, we gain insight into how corporations navigate the global tax landscape, using strategies that, while legally permissible, may not always align with the spirit of national tax laws intended to secure essential revenue for public services and infrastructure development. A profound ethical and governance difficulty is at the heart of the EDP case. The sale raises questions about the responsibilities of corporations to not only their shareholders but also to the broader stakeholder community, including the societies within which they operate. This scenario prompts a reevaluation of corporate governance practices, urging companies to adopt frameworks prioritising ethical considerations, transparency, and accountability. It calls for a reassessment of how decisions are made at the highest levels of corporate leadership, advocating for (Dedeke, 2019) and promoting long-term societal well-being. The multifaceted nature of the EDP sale illustrates the intertwined legal, economic, social, and ethical dimensions of such transactions. Legally, the deal navigates a complex regulatory landscape, challenging existing frameworks governing cross-border sales, tax avoidance, and environmental stewardship. Economically, it spotlights the impact of corporate tax strategies on national economies and the global economic order. Socially and ethically, the transaction tests the commitment of corporations to social responsibility and environmental sustainability, emphasising the need for practices that support rather than undermine societal goals. This discussion underscores the need for robust tax programs that encourage compliance, deter fraud, and ensure that corporations contribute their fair share to the economic systems that enable their success (European Parliament, 2020; Dias & Dinis, 2021).

Finally, the EDP sale highlights the pivotal role of taxation in fostering economic, social, and environmental development. It exemplifies how corporate transactions and the accompanying tax strategies can have far-reaching implications for development goals. Taxation emerges not merely as a fiscal instrument but as a critical lever for promoting sustainable development, requiring policies that align corporate actions with global aspirations for sustainable, inclusive growth (Spulbar *et al.*, 2021; Liou *et al.*, 2023).

The present paper seeks to capture the complexity of these themes, thus offering the opportunity for political decision-makers to navigate the challenges and opportunities presented by such transactions in the search for a more equitable and sustainable global economy.

Originality: The commercial transaction portrayed here serves as a critical lens through which to examine the effectiveness of tax programs, the challenges of tax fraud, and the importance of tax compliance. It provides a concrete example of how tax planning strategies can be used to navigate or, in some interpretations, circumvent tax obligations by large companies. The case study here presented has the merit of reminding and drawing the attention of civil society to the ease with which large companies manage to evade taxes, strengthening the income inequality that exists in the country. It also has the merit of not letting to forget a situation that has done great damage to the Portuguese state and, as such, to Portuguese society as a whole.

Keywords: Hydroelectric dams; Real estate transfer taxes; Stamp taxes, Municipal property tax; Corporate transactions.

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