



Tax Reform in tension between efficiency and equity
Luxembourg: Quo Vadis

Theo Keijzer

Luxembourg
3 December, 2015

Agenda:

1. Introduction
2. Global tax landscape
3. G20/OECD BEPS: what can we expect?
4. Parties to watch: UN, China, USA, EU, WorldBank/IMF
5. Positioning of Luxembourg: strength and weakness
6. Outline for a “fresh” start
7. How to get buy-in?
8. Conclusion/work-to-do

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	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Korea	3.03	2.67	2.80	3.47	3.13	3.59	3.37	3.73	3.93	3.41	3.23	3.72	3.69	3.39
Luxembourg	6.63	7.03	7.78	7.34	5.70	5.89	5.04	5.50	5.34	5.75	5.87	5.07	5.15	4.89
Netherlands	3.73	3.69	3.12	2.65	2.88	3.58	3.12	3.05	2.96	1.88	2.02	1.93	1.85	..
New Zealand	4.07	3.67	4.18	4.54	5.34	6.10	5.64	4.88	4.40	3.41	3.79	4.06	4.65	4.44
Norway	8.92	8.87	8.13	7.99	9.80	11.66	12.76	11.02	12.14	9.02	10.01	10.89	10.49	8.54
OECD - Average	3.36	3.08	3.02	3.01	3.17	3.47	3.65	3.66	3.37	2.74	2.81	2.91	2.88	..
Poland	2.42	1.86	2.04	1.80	2.21	2.48	2.38	2.73	2.71	2.26	1.97	2.04	2.10	..
Portugal	3.69	3.22	3.25	2.73	2.81	2.60	2.83	3.46	3.51	2.75	2.73	3.14	2.73	3.22
Slovak Republic	2.57	2.56	2.48	2.70	2.54	2.67	2.85	2.92	3.06	2.47	2.47	2.42	2.37	2.55
Slovenia	1.14	1.23	1.54	1.70	1.89	2.72	2.92	3.18	2.46	1.80	1.84	1.66	1.24	1.24
Spain	2.99	2.72	3.02	3.03	3.38	3.77	4.04	4.54	2.70	2.15	1.75	1.70	2.04	2.02
Sweden	3.73	2.70	2.17	2.31	2.86	3.51	3.46	3.52	2.82	2.83	3.29	3.09	2.57	2.58
Switzerland	2.44	2.71	2.38	2.25	2.17	2.24	2.74	2.81	2.97	2.85	2.71	2.84	2.84	2.85
Turkey	1.76	1.78	1.76	2.07	1.75	1.73	1.47	1.63	1.78	1.88	1.88	2.08	2.05	1.85

Perspectives

Total

% of GDP

Countries

Highlighted Countries (2)

Time

yearly

quarterly

monthly

Source: OECD (2015), Tax revenue (indicator)



The EU's fight against tax avoidance & evasion – Highlights

EU pioneers automatic exchange of information for savings income



EC launches Action Plan to combat tax fraud and evasion



EU negotiates stronger tax agreements with non-EU neighbours



EC opens 'tax rulings' investigations



EU agrees to widest automatic exchange of information for financial accounts



EC proposes automatic exchange of information on tax rulings



EC to launch Action Plan on Corporate Taxation



A huge problem

[> A huge problem](#) [> Role of the EU](#) [> Acting together](#) [> Acting globally](#) [> Further reading](#)

Tax fraud and tax evasion represents a huge problem and affects each and every European citizen. The problem knows no borders and can only be solved effectively with concerted, joint effort.



How big is the tax fraud and tax evasion problem ?

Huge sums are being lost due to tax evasion and avoidance. Estimates go up to € 1 trillion.

How does tax fraud and tax evasion happen ?

This money is lost in a number of ways including:

- Tax fraud and evasion which illegally deprive public budgets of money.
- Tax havens which facilitate tax evaders and avoiders by storing money offshore, often unreported and untaxed.
- Aggressive tax planning by big businesses or individuals, which exploits the limits of the law with the aim of minimising taxes paid.

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Global Tax Landscape

1. League of Nations changes ICC Tax Commission proposal 1923
2. OECD Report: “Harmful Tax Competition: an Emerging Global Issue” 1998
3. EU Code of Conduct Group 1999 (incl. Simmons and Simmons study - 29.10.2015)
4. Launch of Tax Justice Network 2003
5. Sarbanes Oxley 2004
6. Seoul declaration 2006; Cape Town report 2008
7. Economic and financial crisis 2008 – to date
8. Germany – France tax proposals 2011 for CCCTB
9. UK – PAC hearing – Starbucks 2012
10. G20 call for action on tax planning 2012/2013
11. UK Core Conflict: (i) make Britain “great” vs. (ii) stop tax avoidance; G7/8 reaction?
12. September 2013: G20 Petersburg Summit agrees OECD BEPS proposal
13. November 2014: ICIJ publishes LuxLeaks
14. March + June 2015: Two EU Action Plans
15. June 2015: UNCTAD World Investment Report
16. November 2015: G20 endorses BEPS Package



Country contacts

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Enterprise Zones in England

There are 24 Government-designated Enterprise Zones in England covering over 140 sites which offer incentives designed to support both new and expanding businesses. [More](#)

UK map for investors

Our interactive map highlights areas of excellence across the UK in a range of business and research activities. [More](#)

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UNHAPPY MEAL

€1 Billion in Tax Avoidance on the Menu at McDonald's



I Give Up - Pay Anything... ⓘ

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🌐 FACEBOOK

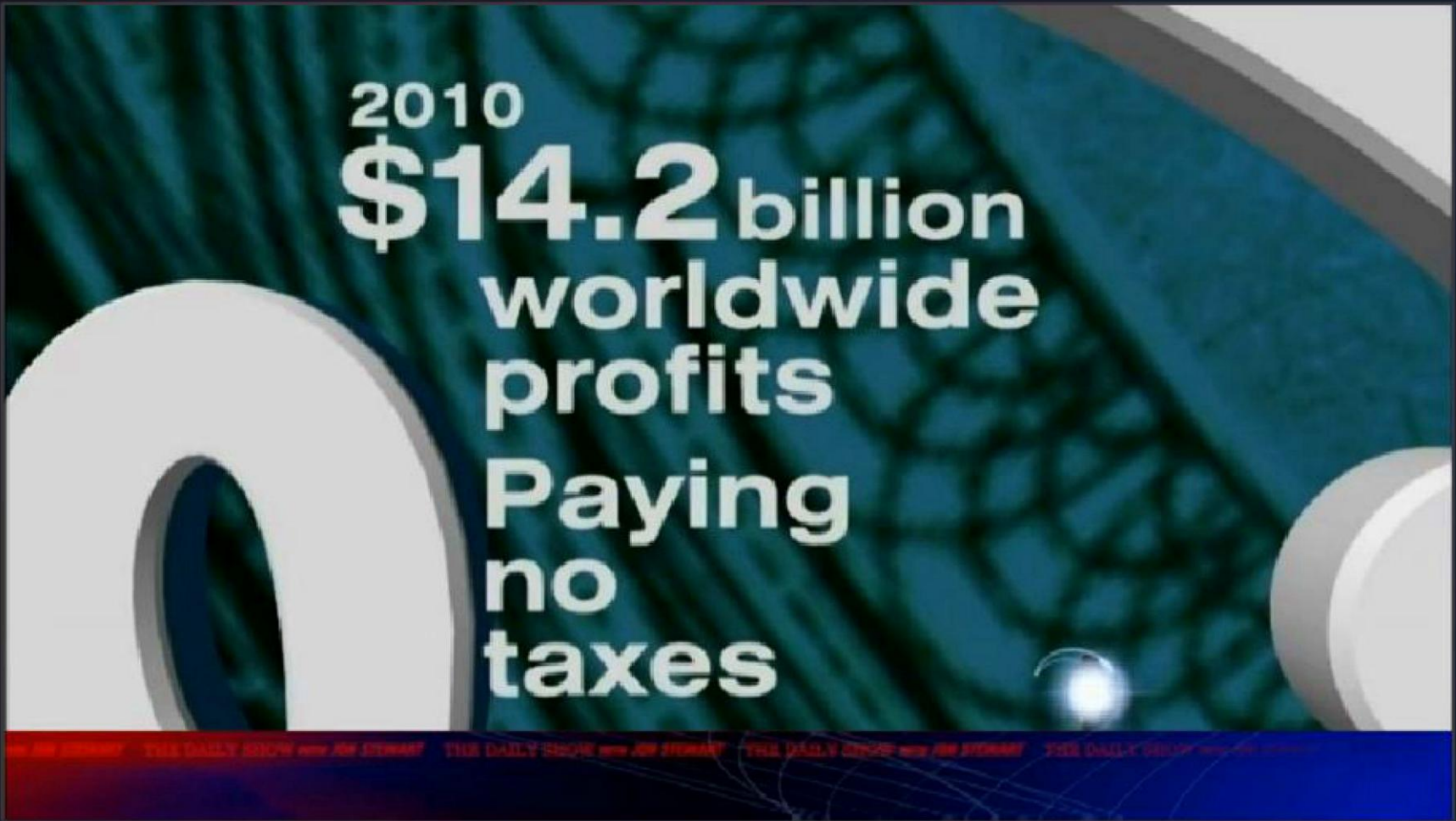
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G20 endorsed BEPS package on November 16, 2015 in Antalya.

Quotes from the Communique (para. 15):

- Widespread and consistent implementation will be critical in the effectiveness of the project, ...
- We, therefore, strongly urge the timely implementation of the project and encourage all countries and jurisdictions, including developing ones, to participate.
- We are progressing towards enhancing the transparency of our tax systems and we reaffirm our previous commitments to information exchange on-request as well as to automatic exchange of information by 2017 or end-2018.
- We acknowledge that interested non-G20 developing countries' timing of implementation may differ from other countries ...

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Addis Ababa – 3rd Financing for Development Conference – July 2015

Quotes from para 28, 29 of Outcome Document:

- We stress that efforts in international tax cooperation should be universal in approach and scope and should fully take into account the different needs and capacities of all countries, in particular least developed countries, landlocked developing countries, small island developing States and African countries
- ... we will increase the frequency of its meetings to two sessions per year, with a duration of four working days each.
- We will increase the engagement of the Committee with the Economic and Social Council through the Special Meeting on International Cooperation on Tax Matters, with a view to enhancing intergovernmental consideration of tax issues.

UNCTAD World Investment Report 2015 – Chapter V

- ... any measures aimed at limiting the role of offshore hubs in order to counter tax avoidance and profit shifting should consider the potential impact on global investment.
- Policy action aimed at reducing the use of offshore locations as investment hubs by MNEs must start from the basic questions of what makes offshore hubs attractive and what drives their outsized role in global investment.
- Some of the uses of offshore investment hubs and offshore vehicles by international investors are not motivated primarily by tax considerations. For example, in mergers or joint ventures between partners from different countries with different legal and tax systems, offshore hubs may provide an attractive neutral location for the entity.

Google 2014 Form K-10, p. 80/81

“We have not provided U.S. income taxes and foreign withholding taxes on the undistributed earnings of foreign subsidiaries as of December 31, 2014 because we intend to permanently reinvest such earnings outside the U.S. If these foreign earnings were to be repatriated in the future, the related U.S. tax liability may be reduced by any foreign income taxes previously paid on these earnings. As of December 31, 2014, the cumulative amount of earnings upon which U.S. income taxes have not been provided is approximately \$47.4 billion. Determination of the amount of unrecognized deferred tax liability related to these earnings is not practicable.”



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Fact Sheet: Additional Treasury Actions to Rein in Corporate Tax Inversions

11/19/2015

What is a corporate inversion?

A corporate inversion is a transaction in which a U.S. based multinational restructures so that the U.S. parent is reformed into a foreign parent, in order to avoid U.S. taxes. Current law subjects many inversions that appear to be based primarily on tax considerations to certain potentially adverse tax consequences. However, the continued occurrence of these transactions is significant because for many corporations these consequences are acceptable in light of the potential tax benefits.


Under current law, an inverted company is subject to potential adverse tax consequences if, after the transaction: (1) less than 50 percent of the new multinational entity's business activity is in the home country of the new foreign parent, and (2) the company is a U.S. based multinational.

Bloomberg 24 November, 2015:

Pfizer's Viagra Tax Dollars Head to Dublin as U.S. Loses Again

Pfizer and Allergan on Monday announced plans to combine in a record \$160 billion deal, creating a giant with products ranging from Viagra to Botox and a low-cost tax base on the edge of Western Europe. Dublin-based Allergan is buying its much larger partner, paving the way for the new company to reside in Ireland for tax purposes. Irish gross domestic product last year was about \$200 billion. At yesterday's closing prices, the combined market valuation of the two companies is \$312 billion, data compiled by Bloomberg show.

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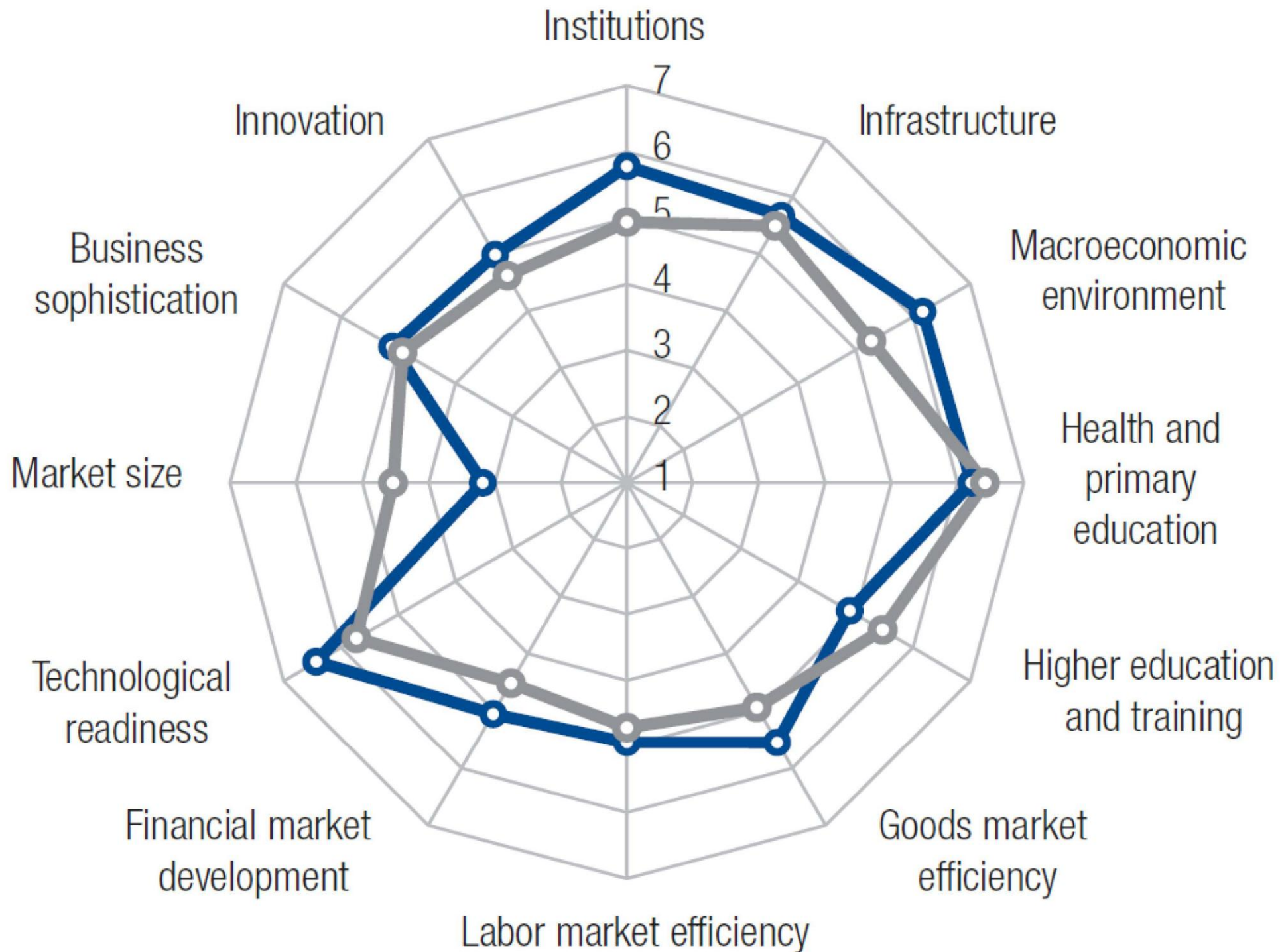
The Global Competitiveness Index 2015–2016 Rankings

	Economy	Score ¹	Prev. ²	Trend ³
1	Switzerland	5.76	1	
2	Singapore	5.68	2	
3	United States	5.61	3	
4	Germany	5.53	5	
5	Netherlands	5.50	8	
6	Japan	5.47	6	
7	Hong Kong SAR	5.46	7	
8	Finland	5.45	4	
9	Sweden	5.43	10	
10	United Kingdom	5.43	9	
11	Norway	5.41	11	
12	Denmark	5.33	13	
13	Canada	5.31	15	
14	Qatar	5.30	16	
15	Taiwan, China	5.28	14	
16	New Zealand	5.25	17	
17	United Arab Emirates	5.24	12	
18	Malaysia	5.23	20	
19	Belgium	5.20	18	
20	Luxembourg	5.20	19	
21	Australia	5.15	22	
22	France	5.13	23	
23	Austria	5.12	21	
24	Ireland	5.11	25	
25	Saudi Arabia	5.07	24	

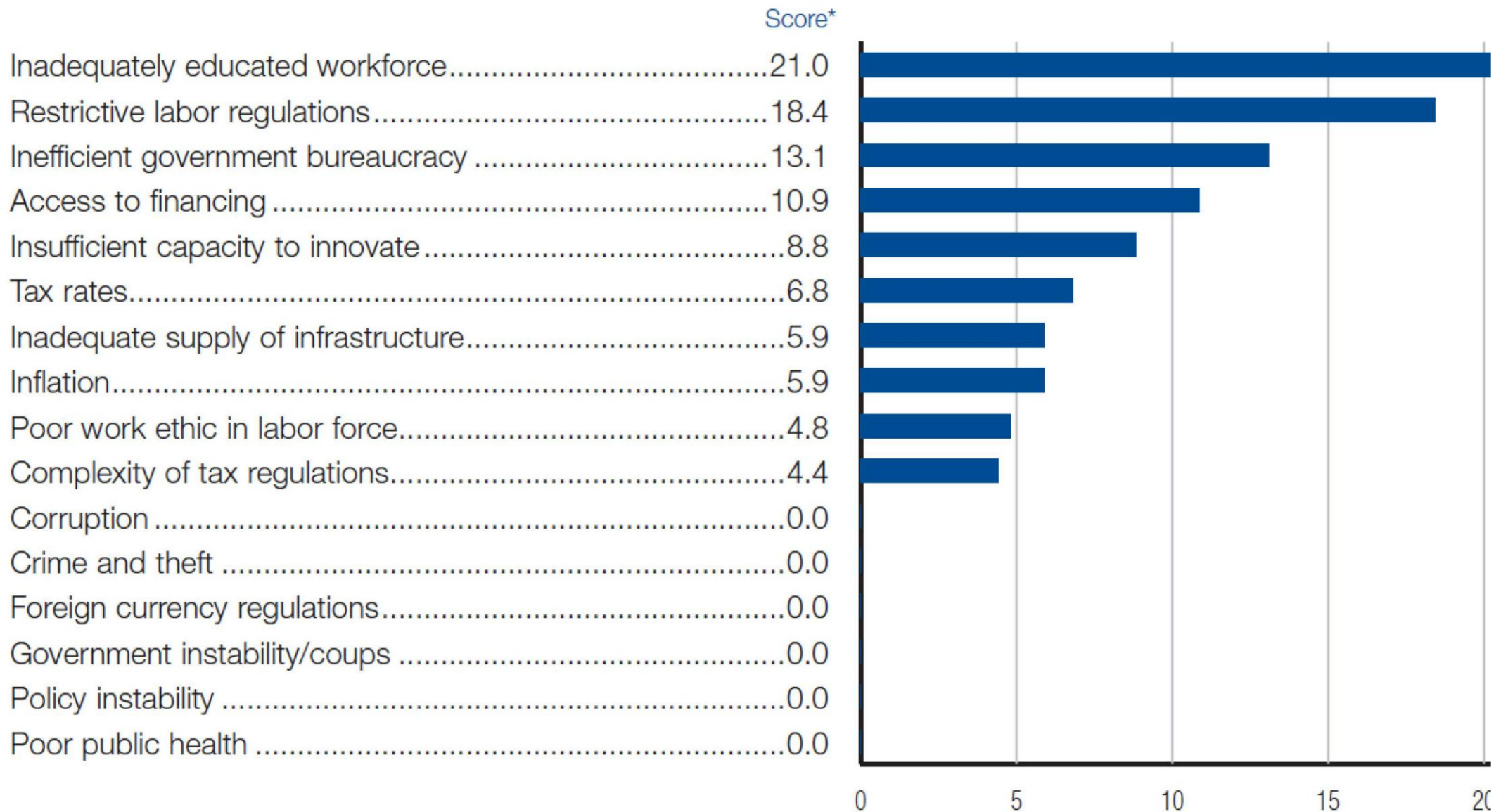
	Economy	Score ¹	Prev. ²	Trend ³
48	Malta	4.39	47	
49	South Africa	4.39	56	
50	Panama	4.38	48	
51	Turkey	4.37	45	
52	Costa Rica	4.33	51	
53	Romania	4.32	59	
54	Bulgaria	4.32	54	
55	India	4.31	71	
56	Vietnam	4.30	68	
57	Mexico	4.29	61	
58	Rwanda	4.29	62	
59	Slovenia	4.28	70	
60	Macedonia, FYR	4.28	63	
61	Colombia	4.28	66	
62	Oman	4.25	46	
63	Hungary	4.25	60	
64	Jordan	4.23	64	
65	Cyprus	4.23	58	
66	Georgia	4.22	69	
67	Slovak Republic	4.22	75	
68	Sri Lanka	4.21	73	
69	Peru	4.21	65	
70	Montenegro	4.20	67	
71	Botswana	4.19	74	
72	Morocco	4.17	72	

	Economy	Score ¹	Prev. ²	Trend ³
95	El Salvador	3.87	84	
96	Zambia	3.87	96	
97	Seychelles	3.86	92	
98	Dominican Republic	3.86	101	
99	Kenya	3.85	90	
100	Nepal	3.85	102	
101	Lebanon	3.84	113	
102	Kyrgyz Republic	3.83	108	
103	Gabon	3.83	106	
104	Mongolia	3.81	98	
105	Bhutan	3.80	103	
106	Argentina	3.79	104	
107	Bangladesh	3.76	109	
108	Nicaragua	3.75	99	
109	Ethiopia	3.75	118	
110	Senegal	3.73	112	
111	Bosnia & Herzegovina	3.71	n/a	
112	Cape Verde	3.70	114	
113	Lesotho	3.70	107	
114	Cameroon	3.69	116	
115	Uganda	3.66	122	
116	Egypt	3.66	119	
117	Bolivia	3.60	105	
118	Paraguay	3.60	120	
119	Chad	3.58	111	

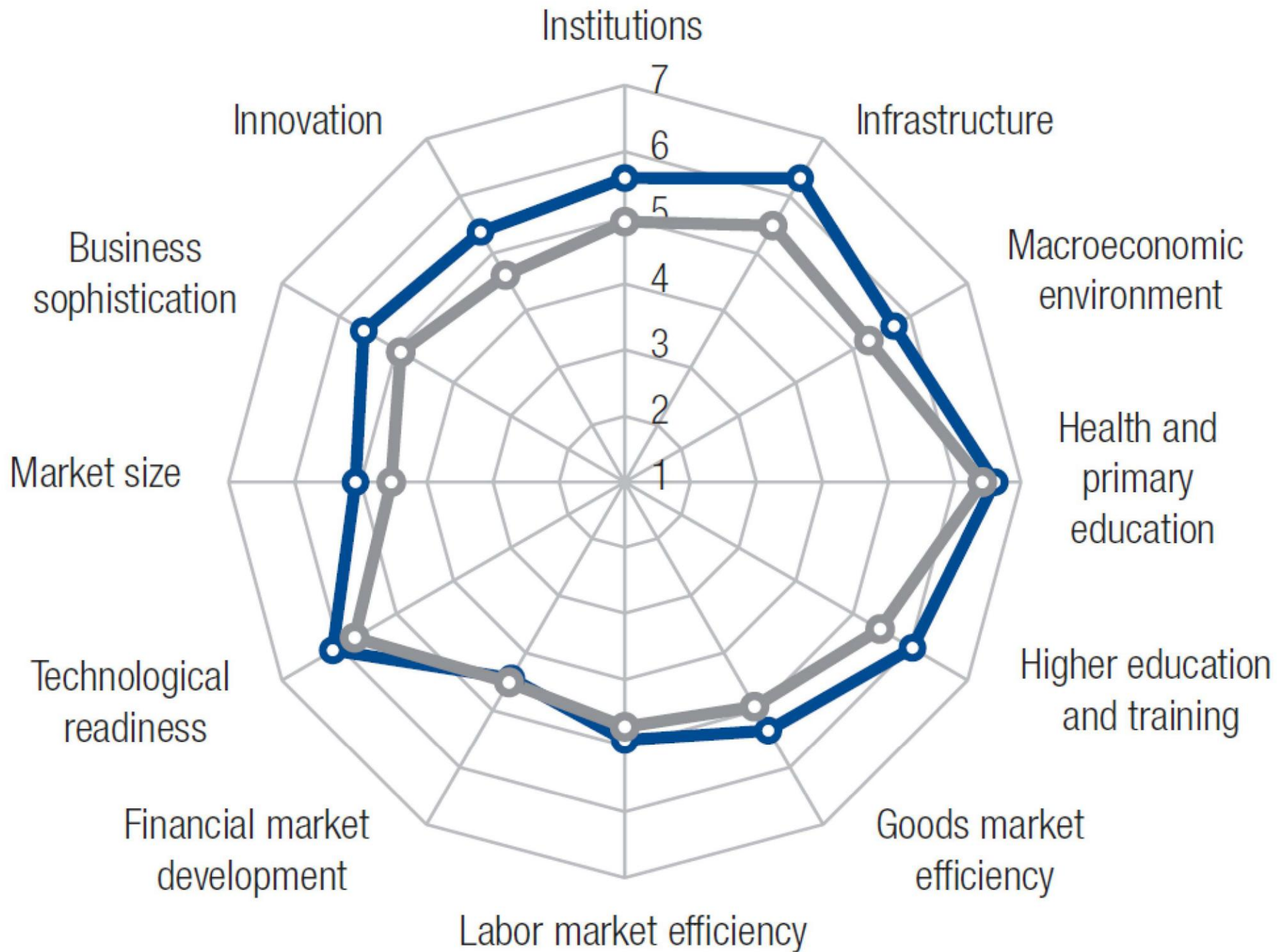
Source: Luxembourg 2015 WEF p.240

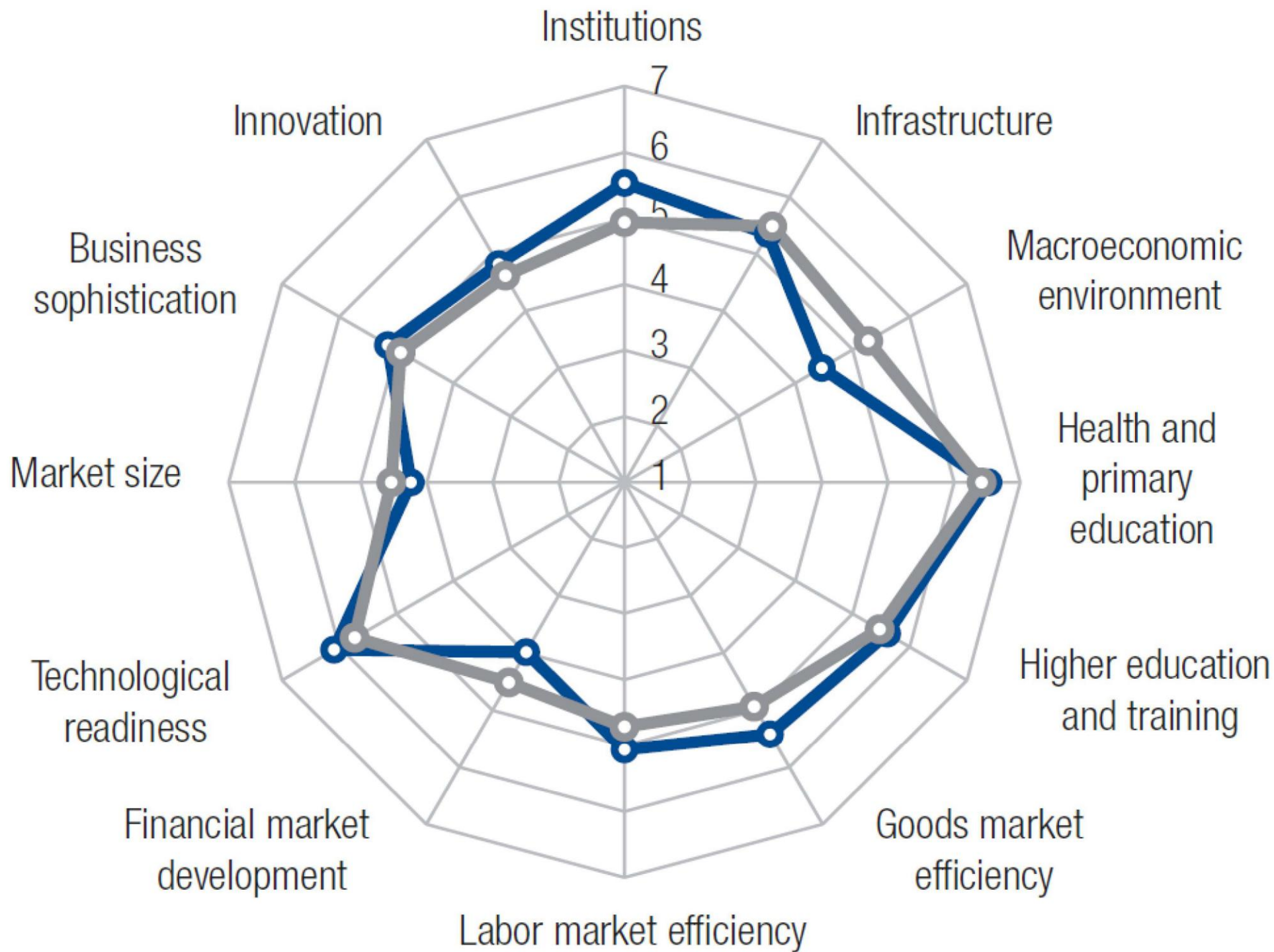


The most problematic factors for doing business



Source: The Netherlands 2015 WEF p.276






Relevant but not mentioned in WEF report 2015:

- LuxLeaks
- State Aid investigations
- Media coverage regarding tax
- NGO's attention
- BEPS – Trust sector business model
- BEPS – Hybrids/financing arrangements IG

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Factors to determine outline of a new approach post G20/OECD BEPS:


Background factors

- EU consensus on how to respond?
- “Widespread and consistent implementation” ?
- Signals that \$100-250 billion are indeed recovered around the world?
- Signals from other countries?

Action factors

- Wait and see approach: don't change first, however,
- Recognize the Global tax landscape has changed for good and bad reasons.
- Show the world, Luxembourg is considering a new era with:
 - Continued competition on tax matters (WEF shows trade-off is ok)
 - Follower of BEPS rules just like others (?), including major nations like France, Germany, UK, USA and China.
 - Government and business action to rise on WEF rankings
 - Trust sector: new reality, amended business model
 - IG financing: follow BEPS (should not be a real problem)
 - Exchange of rulings: not a real issue compared to others. But see app.3.
- Communicate and again communicate that BEPS unresolved problem is retention of sovereign taxing powers by nations: hence nations shall continue and are free to compete for FDI, for HQs.

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Factors determining success or failure:

- Communication plan
- Open lines with countries in similar position
- Show good intentions
- But at same time: no fool
- Explain to media, to the world the next steps
- Explain failure elements in BEPS and how to resolve
- Work with UN, WorldBank/IMF to address needs of LIC's
- Ask for a pan-EU Tax Conference to discuss BEPS and EU approach
(like Brussels Forum)
- Request a G20 Tax Conference in 2016 to monitor progress on
“widespread and consistent implementation” of BEPS package.

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Conclusion:

1. The Global tax landscape has not changed much yet. Mainly perception so far.
2. Media and politicians have taken the tax planning issue and proposed measures with negative impact on global growth with little upside potential.
3. Luxembourg is generally tax tainted, not in an enviable position media wise.
4. However, a plan can be built to change and turn negatives to positives.
5. Communication to all stakeholders is key.

What to do next:

1. Determine strength and weakness of Luxembourg, including tax matters.
2. Decide how/what Luxembourg should look like in 5-10 years
3. Take action
4. Communicate with stakeholders; show a robust plan.
5. Make Luxembourg a turn around case study in business schools

Thank you

Tax fraud and tax evasion represents a huge problem and affects each and every European citizen. The problem knows no borders and can only be solved effectively with concerted, joint effort.



How does tax fraud and tax evasion happen ?

This money is lost in a number of ways including:

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