



Observatory on the Protection of Taxpayers' Rights

Below you will find a report prepared by Katerina Perrou, Doctor at the *University of Athens Law School* and Natalia Vorobyeva, Senior Lawyer at the *European Court of Human Rights*, both reporter of the OPTR Unit for the European Court of Human Rights.

This report contains a summary of court cases before the Inter-American Court of Human Rights, in which issues regarding the practical protection of taxpayers' rights were discussed and decided in 12 relevant areas, identified by Prof. Dr. Philip Baker and Prof. Dr. Pasquale Pistone at the 2015 IFA Congress on "The Practical Protection of Taxpayers' Fundamental Rights".

2020 Relevant Case Law – European Court of Human Rights¹

Minimum Standard Best Practice	Case	Date	ECtHR Articles	Facts	Decision	Comments
??	<p><i>Khodorkovskiy and Lebedev v. Russia</i> (No. 2), no. 51111/07 and 42757/07</p> <p>See also previous cases brought by the applicants before the ECtHR:</p> <p>(1) <i>Khodorkovskiy and Lebedev v. Russia</i>, nos. 11082/06 and 13772/05, 25 July 2013 (the case concerned the first trial of the applicants in which they were tried for tax evasion);</p> <p>(2) <i>Khodorkovskiy v. Russia</i>, no. 5829/04, 31 May 2011 (the case concerned the applicant's arrest and detention pending the first trial on tax evasion);</p>	14 January 2020	<p>Article 6 § 1 (criminal) and Article 6 § 3 (c) and (d)</p> <p>Article 6 § 2</p> <p>Article 7</p> <p>Article 8</p> <p>Article 18 and Article 8</p>	<p>The case concerned the complaints related to the second trial of former senior executives at the Yukos oil company, Mr Khodorkovskiy and Mr Lebedev.</p> <p>After being convicted of tax evasion in 2005 and sent to penal colonies both applicants faced fresh criminal charges in 2009. A new trial began in March 2009 and ended with their conviction for a second time in December 2010 for the misappropriation or embezzlement of oil and for laundering illicitly gained profits. In essence, the trial court found that the applicants had used their influence and position to get Yukos production entities to sell their crude oil cheaply to Yukos trading companies, which had then exported it for a higher price on world markets. The profits had then been sent to Russian and foreign corporate accounts controlled by the applicants.</p>	<p>Article 6 § 1 (criminal) and Article 6 § 3 (c) and (d): the applicants complained about numerous shortcomings which in their view had rendered their trial unfair.</p> <p>(1) Impossibility to have confidential contacts with the lawyers during the trial – violation of the applicants' rights to participate effectively in the trial court proceedings and to receive practical and effective legal assistance.</p> <p>The Court noted that all the documents which the defence lawyers wished to show to their clients had first to be reviewed by the judge (a similar violation had already been found in the first case of the applicants). Moreover, they had been held in a glass dock which had reduced their direct involvement in the trial and had separated them from their lawyers making any confidential contact</p>	<p>While this case is not about tax offences, the Court's findings under Article 7 can have repercussions for future tax matters. The applicants' complaint under Article 7 raises an important issue about an <u>extensive and unforeseeable interpretation of domestic law inconsistent with essence of the criminal offence</u>. The Court stressed that transfer of oil from the Yukos production entities to Yukos trading companies were lawful purchase-sale transactions under civil law. The applicants could not have foreseen that these transactions would be interpreted as "stealing" in the future. However,</p>

¹ This part of the report was prepared by Natalia Vorobyeva, senior lawyer at the Registry of the European Court of Human Rights. The views expressed in the contribution are strictly personal and do not represent the official position of the European Court of Human Rights or the Council of Europe.

	<p>(3) <i>Lebedev v. Russia</i>, no. 4493/04, 25 October 2007 (the case concerned the applicant's arrest and detention pending the first trial on tax evasion).</p> <p>See also the case <i>OAO Neftyanaya Kompaniya Yukos v. Russia</i>, no. 14902/04, 20 September 2011 (the case concerned complaints brought by Yukos of irregularities in the proceedings concerning its tax liability for the 2000 tax year and the unlawfulness and lack of proportionality of the 2000-2003 tax assessments and their subsequent enforcement).</p>			<p>During the trial, when the applicants were held in glassed-in boxes, the judge refused to call several witnesses for the defence and rejected requests for finance and oil market specialists to come and testify in the applicants' favour on the expert reports which had been part of the prosecution case.</p> <p>On appeal, the trial court's verdict was upheld but the applicants' sentence was reduced to 13 years' imprisonment from 14. The appeal court rejected the applicants' arguments that, among other things, they were not guilty of stealing because the transactions between the production and trading had been legal and valid; that the trial judge's taking of evidence had been one-sided; that they had been tried twice for the same offence; and that their prosecution had been politically motivated. Three sets of supervisory review proceedings reduced their sentences further. Mr Khodorkovsky was pardoned in December 2013 while Mr Lebedev completed his sentence in January 2014. Vladimir Putin, prime minister at the time of the second trial, made various public statements during the</p>	<p>impossible. The applicants' rights had therefore been restricted in a way that was neither necessary nor proportionate.</p> <p>(2) Adversarial proceedings and examination of witnesses – violation on account of a breach of various guarantees of a fair trial.</p> <p>The Court examined five groups of complaints under this head. It found violations of Article 6 on account that (1) the applicants had not been able to cross-examine the expert witnesses whose reports were later used against them; (2) the trial court refused to admit most of expert evidence proposed by the defence; (3) the applicants had not been able to obtain the questioning of various defence witnesses, both in Russia and abroad; (4) the trial court refused to admit exculpatory material to the case file or to order its disclosure; (5) the trial court had relied on a number of earlier judicial decisions, including those delivered in the proceedings in which the applicants had not been defendants.</p> <p>Article 6 § 2: the applicants complained that Mr Putin's public statements made in 2009 and 2010 had</p>	<p>Judges Dedov and Lemmens disagreed with the majority's finding in that respect and pointed out that the applicants had used lawful transactions to commit crimes. In their view, the majority failed to assess the applicants "entire economic activity" aimed at depriving the minority shareholders of the dividends that they would have normally received (see joint dissenting opinion of Judges Lemmens and Dedov).</p>
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				<p>proceedings, referring to Mr Khodorkovsky and the Yukos case.</p>	<p>breached their right to the presumption of innocence.</p> <p>The Court found no violation of the above provision. It noted the particular circumstances in which the contested statements had been made and considered that they did not give rise to any Article 6 § 2 issues.</p> <p>Article 7: the applicants complained that they were subjected to an extensive and novel interpretation of the criminal law.</p> <p>The Court examined whether the acts the applicants were convicted of, namely “misappropriation and embezzlement”, fell within a definition of a criminal offence which was sufficiently accessible and foreseeable. It noted that the contracts for sale of oil from Yukos’s production entities had been valid under civil law at the time. It was thus difficult to understand how a reciprocal transaction that was valid under civil law could amount to “the unlawful and uncompensated taking... of another’s property”, which was the definition of “stealing” in domestic law. Furthermore, the notion of “deceit”, mentioned in the domestic judgments as the</p>	
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					<p>way the applicants had obtained approval for the oil sale agreements, did not appear as a qualifying element in either the offence of “misappropriation or embezzlement” or that of “stealing”. The acts imputed to the applicants therefore were not punishable under the criminal provisions applied by the courts. The Court concluded that the applicants could not have foreseen that their entering into the transactions on oil sale from the Yukos production entities to the Yukos trading companies could have constituted misappropriation or embezzlement. It was equally unforeseeable that the profits from the sale of the oil would be found to constitute the proceeds of a crime, the use of which could amount to money laundering.</p> <p>Violation.</p> <p>The Court also found a violation of Article 8 on account of the lack of long-stay visits in the applicants’ remand prisons and no violation of Article 18 with regard to the applicants’ complaint about an alleged political motivation for their detention, criminal prosecution and punishment.</p>	
??	<i>Antonov v. Bulgaria,</i>	28 May 2020	Article 1 of	The case concerned the	Article 1 of Protocol no. 1:	Interestingly, in that

	no. 58364/10		Protocol no. 1	<p>applicant's complaint that the authorities had failed to comply with final court judgments ordering a tax refund in his favour.</p> <p>In 2000-01 the applicant was audited by the tax authorities. They issued a tax assessment charging him 28,128 euros in VAT and income tax, including interest. In 2004, after judicial review proceedings, the Varna Regional Court instructed the tax authorities to carry out a fresh audit. The court found that the 2001 tax assessment had been in breach of the statutory provisions because the applicant had been audited as an individual, whereas the taxes charged related to the activity of a private agricultural association for which he was the legal representative. Following a new audit in 2004 covering the same period as that in the 2001 assessment, the tax authorities issued another assessment, charging the applicant EUR 20,825. The applicant brought further judicial review proceedings and in 2007 the Supreme Administrative Court ("the SAC") set aside the 2004 assessment, finding that the taxes levied had not been due. In final judgments of November 2008 and</p>	<p>the tax authorities' failure to refund the applicant unduly paid taxes breached his right to property.</p> <p><u>Admissibility of the complaint:</u> (1) while the applicant was refunded the unduly collected taxes, including interest, years later, the authorities had never acknowledged the alleged violation; (2) the applicant's failure to inform the Court about the refund received in 2012 did not amount to an abuse of the right of individual petition.</p> <p><u>On the merits:</u></p> <p>(1) On the basis of two final court judgments in his favour and the relevant statutory provisions the applicant had a legitimate expectation and hence a "possession", consisting of the right to be refunded unduly paid taxes.</p> <p>(2) The delay in enforcing the final judgments in the applicant's favour and refunding the unduly paid sums amounted to an interference with the right to property. However, it was not justified because instead of proceeding with the refund within 30 days as required by law, the tax authorities brought various actions in the courts all of which had to be dismissed. It appears that none of these actions had</p>	<p>case the tax authorities were extremely reluctant to refund to the applicant the unduly paid taxes with interest. Instead of abiding by the final domestic judgments, they persistently sought to prove the absence of any initial errors on their part when making tax assessment. In such situations <u>tax authorities' should have the duty to refund taxes in due course.</u></p>
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				<p>December 2008 the SAC reiterated this finding and ordered the authorities to refund the applicant, with interest. The applicant's requests for a refund were then stayed pending the outcome of proceedings brought by the tax authorities seeking a declaration of nullity and a reopening of the proceedings. The authorities' actions were ultimately unsuccessful and three and a half years later, the applicant was refunded the unduly collected taxes.</p>	<p>any prospects of success; however, the tax authorities pursued their actions with persistence, thereby forcing the applicant in several pointless sets of proceedings.</p> <p>Violation (unjustified delay in enforcing the final judgments and refunding the applicant the sums unduly collected from him were imputable to tax authorities and upset the fair balance that has to be struck between the general and the individual interest.</p> <p>Article 41: EUR 3,500 in respect of non-pecuniary damage.</p>	
??	<i>Agapov v. Russia</i> , no. 52464/15	6 October 2020	<p>Article 6 § 2 Article 1 of Protocol no. 1</p>	<p>The case concerned the applicant's complaint that he had been made to pay tax arrears owed by the company, Argo-RusCom Ltd, for which he was the managing director.</p> <p>In 2013 the tax inspection authorities audited Argo-RusCom Ltd and found that the company had evaded payment of VAT. They ordered payment of tax arrears with interest and penalty totalling ~330,000 EUR. The commercial courts confirmed the lawfulness of the authorities' claims in a final decision in 2015. The applicant's company, not</p>	<p>Article 6 § 2 of the Convention (presumption of innocence): the applicant complained that the civil court's decision had pronounced him guilty of tax evasion.</p> <p>(1) The Court concluded that the applicant had indeed been "charged with a criminal offence". Furthermore, there was a direct causal link between the concluded criminal proceedings and the civil proceedings for damages brought against the applicant by the tax authorities. Complaint was therefore</p>	<p>By obliging the applicant to pay damages due by the company of which he was the managing director, the domestic tax authorities sought to pierce the corporate veil. However, in the <u>absence of an effective judgment declaring the applicant guilty of tax evasion</u> such court decision violates the Convention requirements, in particular Article 6 § 2 and Article 1 of</p>

				<p>being able to pay the sum owed, was liquidated and deregistered in 2015. In the meantime, in 2014 the investigating authorities refused to institute criminal proceedings against the applicant on the charge of tax evasion as prosecution was time-barred. The tax authorities then sued the applicant for damage caused by tax evasion committed by him in the amount of EUR 330,000. The civil courts, referring to the audit report and investigator's decision of 2014, found him liable for his company's debt, stating in particular that he had committed "illegal acts with a criminal intent to evade the payment of taxes" and caused damages to the Russian budget. All his appeals were unsuccessful.</p>	<p>admissible.</p> <p>(2) The wording of civil courts should be construed as imputing criminal liability to the applicant because (i) it went beyond determining facts and encompassed judicial authorities' opinion on the applicant's <i>mens rea</i>, and (ii) no justification was provided for the impugned choice of words made by the domestic courts.</p> <p>Conclusion: violation (imputation of criminal guilt inconsistent with right to presumption of innocence).</p> <p>Article 1 of Protocol no. 1: the domestic courts' decision to impose on the applicant the duty to pay tax arrears, penalty and a fine owed by the company of which he had been the managing director violated his right to property.</p> <p>Obligation to pay damages imposed on the applicant was indeed an interference with his property rights. However, this interference was not lawful: the courts' decisions were devoid of any legal basis under the Russian law. The applicant's duty was based on allegation of the applicant's criminal conduct for which he had never been convicted.</p> <p>Conclusion: violation (the</p>	<p>Protocol no. 1.</p>
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					<p>order for the applicant to pay damages to the tax authorities was made in an arbitrary fashion).</p> <p>Article 41: non-pecuniary damage award EUR 7,800; pecuniary damages awarded in the amount EUR 688 (amount of damages paid by the applicant).</p>	
<p>MS 78: retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail.</p> <p>BP 51: reviews and appeals should not exceed two years.</p>	<p><i>Vegotex International S.A. v. Belgium</i>, no. 49812/09</p> <p>Referred to the Grand Chamber on 8 March 2021</p>	10 November 2020	Article 6 § 1	<p>The case concerned tax-assessment proceedings in which the applicant company had been ordered to pay approximately EUR 298,813 together with a 10% surcharge.</p> <p>In 1995 the tax authorities corrected the company's tax return and applied a 10% penalty on the amount due. The company first appealed to the head of regional tax office (1996-2000) and then in 2000 to the court. In October 2000 the tax authorities issued it with a summons to pay, expressly stating that the purpose of the summons was to interrupt the period before the tax debt became time-barred.</p> <p>In a judgment of 10 October 2002 – while the company's case was pending at first instance – the Court of Cassation adopted new case-law to the effect that this type of summons did not interrupt the limitation period</p>	<p>Article 6 § 1: the applicant company complained about the legislator's intervention during the proceedings. It argued that if the new law had not been applied retrospectively to its case, its tax debt would have become time-barred in accordance with the case-law of the Court of Cassation as established in a judgment of 10 October 2002.</p> <p><u>Applicability of Article 6:</u> tax assessment proceedings did not fall within the scope of Article 6 but the imposition of the surcharge was to be considered as "criminal charge". Article 6 therefore applied. At the same time, the tax surcharge had a close link with the tax debt; it thus differed from the hard core of criminal law. The criminal-head guarantees do not necessarily apply with their full stringency in such cases (<i>Jussila v. Finland</i> [GC], no. 73053/01, § 43, ECHR 2006-XIV).</p>	<p>In the assessment of justification for the retrospective application of law the Court gave no assessment of the fact that taxpayers could have legitimately expected the application of the new, favourable to them case law of the Court of Cassation. Indeed the Court was reluctant to justify the retrospective application of new law by the need of safeguarding financial interests of the State. However, it cannot be said that the Court fully took into account the need of taxpayers' rights protection in that case. It had found that domestic proceedings had been excessively long with no fault on the part of the taxpayer. If</p>

				<p>in such cases. As a result, the recovery of tax debt had been time-barred since 15 February 2001 (a date prior to the actual emergence of this case-law).</p> <p>The applicant company first referred to this case-law in April 2004 before the Court of Appeal. However, in July 2004 the legislature intervened to reverse this development and to restore the previous administrative practice by means of a law that was immediately applicable to pending proceedings. This legislation was applied to the applicant's case by the Court of Cassation, which consequently dismissed its appeal on points of law in 2009.</p>	<p><u>On the merits:</u></p> <p>(1) As a result of the impugned law the applicant's debt had ultimately not been considered time-barred. The intervention of the legislature had decisively influenced the judicial outcome of the dispute to which the State was a party.</p> <p>(2) The retrospective law had sought to neutralise the effect of the case-law introduced by the Court of Cassation, which itself had been retrospective (it had undermined legal certainty). The retrospective application of that law cannot be justified by the need of safeguarding the financial interests of the state. The Court accepted – in the circumstances of the case - that the law sought to re-establish legal certainty and to confirm the legality of previous administrative practice. It had not therefore been unforeseeable. The legislature's intervention had also sought to ensure that taxes were paid by those who were liable for them and thus to avoid arbitrary discrimination between different taxpayers.</p> <p>(3) The Court concluded that the impugned measure had been driven by a compelling reason of a general interest. That was to restore the</p>	<p>the final decision would have been made before the entry into force of the new law in 2004, the applicant company would have benefited from the favourable change in the administrative practice. The Court did not pay attention to the fact that there might have been other taxpayers which had indeed benefited from that change because their proceedings were concluded in due course, before summer 2004. That creates "arbitrary discrimination between different taxpayers" that the impugned law meant to avoid, in the Court's view.</p> <p>As to length of proceedings, the applicant company first had to file an appeal with the head of the regional tax office which was pending for 4 years. Once this appeal had been dismissed, the company had recourse to judicial review proceedings</p>
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					<p>interruption of the limitation period by payment orders that had been served well before the Court of Cassation's 2002 judgment, thus enabling the resolution of disputes pending before the courts and without affecting the rights of taxpayers. No violation.</p> <p>Article 6 § 1: the applicant company alleged a breach of its right to adversarial proceedings before the Court of Cassation. It claimed that the court substituted the grounds of appeal of its own motion.</p> <p>The Court found no violation of that right since the applicant company had been afforded the opportunity to respond to the submissions of the public prosecutor who had called for that substitution.</p> <p>Article 6 § 1: length of proceedings (calculated from 1995 when the applicant company had been informed of the tax authority's intention to rectify its tax return and to impose a penalty, until 2009 when the Court of Cassation delivered final judgment).</p> <p>Violation: 13 years and 6 months.</p> <p>Article 41 (non-pecuniary): finding of a violation</p>	<p>which lasted 9 years. No reasons can justify such an extremely long duration of the examination of the tax case.</p>
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					constitutes sufficient just satisfaction.	
??	<i>Edata-Trans S.R.L. v. The Republic of Moldova</i> , no. 55887/07 [Committee]	17 March 2020	Article 1 of Protocol no. 1	<p>The case concerned the applicant company's complaint about tax adjustment and fiscal penalties imposed on it owing to the fraudulent behaviour of the supplier.</p> <p>The applicant company had a transaction with company F, according to which it paid the value of goods including VAT. Two years later the tax office found that the invoice issued by company F had been forged. The tax office decided that the applicant company had infringed its obligations by having declared the amounts paid under a forged invoice. They recalculated the income tax and VAT and obliged the applicant company to pay these amounts together with fine and interest.</p> <p>The first instance court held in favour of the applicant company, having noted that it had acted in good faith and could not have known that the invoice had been forged. The Supreme Court set aside this judgment and held that the applicant company had to pay the VAT due.</p>	<p>Article 1 of Protocol no. 1: the applicant complained that it had to pay VAT with penalties despite having acted in good faith.</p> <p>(1) The Court held that the applicant company had a legitimate expectation to deduct the VAT paid to its supplier because at the moment of the transaction it could not have known that the invoice had been forged.</p> <p>(2) The authorities' refusal to allow the deduction of the VAT and its decision of tax adjustment and imposition of penalties constituted an interference with the company's right to property.</p> <p>(3) With reference to <i>"Bulves" AD v. Bulgaria</i>, the Court held that this interference was disproportionate. The applicant company had duly complied with its obligations and should not have been held responsible for the fraudulent behaviour of its supplier. Violation.</p> <p>Article 41: EUR 5,176 for pecuniary damage (amount paid to the State) and EUR 3,000 for non-pecuniary damage.</p>	<p>This case confirms the approach taken in <i>"Bulves" AD v. Bulgaria</i> (no. 3991/03, 22 January 2009) and confirmed in <i>Euromak Metal Doo v. the former Yugoslav Republic of Macedonia</i> (no. 68039/14, 14 June 2018).</p>

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2020 Relevant Inadmissibility Decisions – European Court of Human Rights²

Minimum Standard Best Practice	Case	Date	ECtHR Articles	Facts	Decision	Comments
MS 62: collection of taxes should never deprive taxpayers of their minimum necessary for living	<i>Christian Religious Organization of Jehovah's Witnesses v. Armenia (dec.)</i> , no. 73601/14	29 September 2020	Article 9 § 1 Article 1 of Protocol no. 1	<p>The case concerns the authorities' refusal to exempt a religious organisation from taxation on regular imports of religious material.</p> <p>The applicant organisation appealed unsuccessfully against the tax authorities' refusal to exempt its regular imports of donated religious literature and other materials from payment of VAT, as well as the manner used to calculate the tax due.</p>	<p>Article 9 § 1: the applicant organisation complained that the refusal to exempt its imports of donated religious literature from taxation, as well as the arbitrary imposition of a grossly inflated customs value on them, was in breach of its right to freedom of religion.</p> <p>(1) The Court reiterated that a fiscal measure could constitute an interference with the exercise of the rights secured under Article 9 if that measure were found to have a real and serious impact on a religious community's ability to pursue its religious activity.</p> <p>(2) In the present case the authorities' refusal to apply the tax exemption</p>	In this case the Court maintained its well-established position that in such a complex sphere as the imposition of the VAT, the respondent state should be afforded a particularly wide margin of appreciation. A fiscal measure can be considered as breaching the requirements of Article 1 of Protocol no. 1 only if it has imposed an unreasonable or disproportionate burden on the taxpayer. The latter should demonstrate that his/her financial position has been fundamentally undermined by the impugned measure, so as to deprive him or her the minimum necessary for living.

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					<p>provided for in domestic legislation had not had such an effect on the applicant organisation as to fundamentally undermine its ability to develop its religious activity. The applicant organisation had not submitted that as a result of the impugned measure it had found itself in such financial hardship that it had been prevented from guaranteeing its adherents' freedom to exercise their religious beliefs.</p> <p>The complaint was declared inadmissible as manifestly ill-founded.</p> <p>Article 1 of Protocol no. 1: the Court also declared the complaint under this provision inadmissible as manifestly ill-founded. The Court found that levying VAT on the applicant organisation's imports of religious literature had not upset the balance between protection of their rights and the public</p>	
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					<p>interest in securing the payment of taxes. The Court noted, in particular, that the organisation was required to pay 20% and 30% VAT which could not be considered exorbitant, and that it did not claim that such a sum in VAT had fundamentally undermined its financial situation. The Court also stressed that the applicant organisation had been able to dispute the tax authority's relevant decisions before the courts exercising jurisdiction in administrative matters and had not claimed that that procedure had failed to meet the requisite procedural standards.</p>	
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2020 Relevant Communicated Cases – European Court of Human Rights

Minimum Standard Best Practice	Case	Date Communicated	ECtHR Articles	Facts	Decision	Comments
<p>MS 21: Freedom of information legislation may allow a taxpayer to access information about himself. However, access to information by third parties should be subject to stringent safeguards: only if an independent tribunal concludes that the public interest in disclosure outweighs the right of confidentiality, and only after a hearing where the taxpayer has an opportunity to be heard</p>	<p>Application No. 2843/16, <i>Andriy Romanenko v Ukraine</i></p>	<p>9 November 2020</p>	<p>10 §§ 1-2</p>	<p>The applicant filed an information request with the Mayor of Kramatorsk asking to provide him with the copies of the Mayor's and his deputies' income declarations as well as some local council's officials' declarations.</p> <p>The applicant's request was rejected. It was noted in the reply that only information contained in the declarations was of public nature and not the declaration (as a document) itself.</p> <p>The applicant challenged that refusal before the courts relying both on the law on Access to Public Information and the Law on Prevention and Fight against Corruption according to which the public officials' declarations' were open to the public. In his application before the Court he also claimed that he needed the copies of the original declarations and not the extracts from them in order to have trustworthy information and avoid manipulations. After one re-examination of the case, on 30 September 2015 the High Administrative Court upheld the decision of the court of appeal which partly allowed the applicant's claims ordering to disclose the information</p>		<p>In a recent case <i>L.B. v. Hungary</i> (no. 36345/16, 12 January 2021) the Court found no violation of Article 8. It considered that publication of applicant's identifying data, including his home address, for failing to fulfil his tax obligations was justified in the circumstances of the case.</p> <p>The present case should also be compared to the case <i>Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland</i> ([GC], no. 931/13, 27 June 2017). In that case the court found no violation of the applicant companies' rights under Article 10 on account of order restraining mass publication of tax information.</p>

				contained in the financial declarations. The courts, however, concluded that the copies of the originals of financial declarations could not be provided to the applicant as part of the information contained in them (like, for example, the address and the individual tax number) was confidential in nature.		
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Minimum Standard Best Practice	Case	Date Communicated	ECtHR Articles	Facts	Decision	Comments
MS 41: Entering premises or interception of communications should be authorized by the judiciary	Application No. 24460/16 <i>Rustamkhanli v Azerbaijan</i>	3 February 2020	6, 8 and P1-1	The application concerns the imposition of a financial sanction and the freezing of the bank accounts following an allegedly unlawful tax inspection carried out at the Qanun Magazine Editorial Office (<i>Qanun Jurnalı Redaksiyası</i>), a company of which the applicant was the owner and director.		

Minimum Standard Best Practice	Case	Date Communicated	ECtHR Articles	Facts	Decision	Comments
MS 43: Inspection of the taxpayer's home should require authorization by the judiciary and only be	Application no. 67101/17 <i>N.B. v Latvia</i>	9 November 2020	8	The application concerns the search at the applicant's home, which premises she also used for providing legal and accounting services, and the seizure of her computer in		

<p>given in exceptional cases BP 47: If data are held on a computer hard drive, then a backup should be made in the presence of the taxpayer's advisers and the original left with the taxpayer</p>				<p>connection with criminal proceedings against her clients concerning tax evasion. The applicant is a witness in those proceedings. The search of the applicant's home was authorised on the basis of a search warrant of 12 December 2016 issued by an investigating judge. On 13 February 2017 police officers of the Finance Police Department of the State Revenue Service arrived at her home and seized her computer. The applicant lodged complaints regarding the search warrant and actions taken by the police officers during the search. On 10 March 2017 an appellate court judge upheld the lawfulness of the search warrant. On 25 May 2017 a superior prosecutor dismissed the applicant's request to return her computer. Upon repeated requests by the applicant, on 29 May 2018 the computer was returned to her. There is no information about the current stage of proceedings in relation to the criminal investigation.</p>		
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Minimum Standard Best Practice	Case	Date Communicated	ECtHR Articles	Facts	Decision	Comments
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<p>BP 44: Access to bank information should require judicial authorization</p>	<p>Application No 14914/17</p> <p><i>GOTALIMPA, LDA</i> <i>v. Portugal</i></p>	<p>15 September 2020</p>	<p>8</p> <p>6</p> <p>13</p>	<p>The application concerns access by the Tax Authority (<i>"Autoridade Tributária e Aduaneira"</i>) to the identity and bank information of the recipients of bank cheques (<i>cheques ao portador</i>) issued by the applicant, within the framework of a criminal investigation opened against it.</p> <p>The applicant lodged a motion with the public prosecutor in charge of the proceedings to have the Tax Authority's access to the identity and bank information of the recipients of the applicant's bank cheques declared illegal on the ground that it lacked the required authorisation from the public prosecutor.</p> <p>On 9 December 2016 the public prosecutor dismissed the motion, explaining that the Tax Authority's access to the identity and bank information of the applicant's bank cheque recipients had been a mere procedural irregularity which could thus be rectified. For this purpose, the public prosecutor issued the missing authorisation. The applicant was unable to appeal against this decision.</p>		<p>Invoking Article 8 §§ 1 and 2, the applicant complains of the Tax Authority's access to the company's bank cheques without the prior authorisation of the public prosecutor. Under Articles 6 § 1 and 13 of the Convention it also complains of the absence of a domestic remedy in this respect.</p>
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