



Observatory on the Protection of Taxpayers' Rights

Below you will find a report prepared by Patricio Masbernat and Gloria Ramos-Fuentes, both Reporters of the OPTR Unit for the *Inter-American Court*.

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"

ENGLISH VERSION

2023 Relevant Case Law – Inter-American Court of Human Rights

	Case	Date	ACHR Articles	Facts	Decision	Comments
<p>8. Enforcement of Taxes Minimum standard: Collection of taxes should never deprive taxpayers of their minimum necessary for living.</p> <p>2. The Issuance of a Tax Assessment Best practice: Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on the equality of arms</p> <p>12. Institutional Framework for Protecting Taxpayers' Rights</p>	Case of García Rodríguez et Al. V. Mexico (Serie C N°482)	January 25, 2023	5 (Right to Humane Treatment) 7 (Right to Personal Liberty) 8 and 24 (Right to a Fair Trial, Right to Judicial Protection)	<p>Two people were accused without legal evidence of the murder of a woman. Both people were tortured by the police, and both were remained in preventive detention for 17 years with the judicial process pending (without a conviction). Both sued the State of Mexico before the IACHR for the violation of their human rights. The plaintiffs requested compensation for consequential damages, loss of profits (direct and indirect), compensation measures for contributions (taxes), and moral or non-pecuniary damages.</p> <p>In tax matters, the State of Mexico continued to collect taxes from these two people during the period of unjustified confinement. Therefore, they specifically requested that the tax obligations not be collected from them due to the circumstances they had experienced due to actions of the State of Mexico.</p> <p>The plaintiffs claimed for each one, for various legal reasons, close to one million US dollars. In tax matters, the plaintiffs asked the IACHR "N°322 [...] "g) to order the Mexican State to send the pertinent communications to the</p>	<p><i>Judgment (Preliminary Objections, Merits, Reparations and Costs). ICHR</i></p> <p>The IACHR accepted the lawsuit, establishing various measures of reparation to the rights of the plaintiffs. But the Court did not agree to exclude the plaintiffs from paying taxes generated during the 17 years of illegal detention carried out by the State.</p> <p>The IACHR agreed to condemn the State of Mexico to pay, for each of the plaintiffs, compensation for consequential damage and loss of profits, in the amount of USD\$50,000 (fifty thousand dollars of the United States of America); and for compensation for non-pecuniary damage the amount of USD\$50,000 for each one.</p> <p>Regarding the other requests, including tax matters, the ruling states that "324. <i>This Court has established in its case law that pecuniary damage encompasses the loss of or detriment to the victims' income, the expenses incurred as a result of the</i></p>	<p>In our opinion, an individual (taxpayer) who cannot obtain profits due to a very long and illegal deprivation of liberty, should be exempt from paying taxes. This is even more justified if one considers that it is the State itself that has deprived this person of his rights to freedom, and has deprived him of the possibility of generating income.</p> <p>The situation described should influence the entire system of taxpayer rights, be it in terms of determining tax obligation, resolution of conflicts between the State and the taxpayer, and the system of tax payments and penalties. This kind of issue should also be considered a constitutional principle in tax matters.</p>

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SPANISH VERSION

	Case	Date	ACHR Articles	Facts	Decision	Comments
<p>8. Enforcement of Taxes Minimum standard: Collection of taxes should never deprive taxpayers of their minimum necessary for living.</p> <p>2. The Issuance of a Tax Assessment Best practice: Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on the equality of arms</p> <p>12. Institutional Framework for Protecting Taxpayers' Rights</p>	<p>Case of García Rodríguez et Al. V. México (Serie C N°482)</p>	<p>January 25, 2023</p>	<p>5 (Right to Humane Treatment) 7 (Right to Personal Liberty) 8 and 24 (Right to a Fair Trial, Right to Judicial Protection)</p>	<p>Dos personas fueron acusadas, sin pruebas, del homicidio de una mujer. Ambas fueron torturadas por la policía, y ambas permanecieron 17 años en prisión preventiva encontrándose pendiente el proceso judicial (sin existir condena). Ambos demandaron al Estado de México ante la CIDH.</p> <p>Los demandantes solicitaron la indemnización por daño emergente, lucro cesante, medidas de retribución por contribuciones, y daño moral o inmaterial.</p> <p>En materia tributaria, el Estado de México les continuó cobrando los impuestos a estas dos personas durante el periodo de reclusión injustificada. Por lo que ellos solicitaron específicamente, que no les fueran cobradas las obligaciones fiscales por las propias circunstancias que habían vivido por actuaciones del Estado de México.</p> <p>Los demandantes reclamaron para cada uno de los dos, por diversas causas, cerca de un millón de dólares de USA.</p> <p>En materia tributaria, los demandantes solicitaron a la CIDH " N°322 [...] g) que conmine al Estado Mexicano a que dirija las comunicaciones pertinentes a las autoridades internas federales, estatales y municipales, para que de</p>	<p>Judgment (Preliminary Objections, Merits, Reparations and Costs), IACHR</p> <p>La IACHR acogió la demanda, estableciendo diversas medidas de reparación a los derechos de los demandantes. Pero no aceptó excluir a los demandantes del pago de impuestos o taxes generados durante los 17 años de detención ilegal llevada a cabo por el Estado.</p> <p>La CIDH accedió al Condenó al Estado de México al pago, para cada uno de los demandantes, de una indemnización por concepto de daño emergente y de lucro cesante, de cantidad de USD\$ 50.000,00 (cincuenta mil dólares de los Estados Unidos de América); y por indemnización por concepto de daño inmaterial la cantidad de USD\$ 50.000,00 para cada uno.</p> <p>Respecto de las demás solicitudes, incluyendo los asuntos tributarios, la sentencia expone que "N°324. Esta Corte ha desarrollado en su jurisprudencia que el daño material supone la pérdida o</p>	<p>En nuestra opinión, un individuo (contribuyente) que no puede obtener ganancias debido a una muy larga e ilegal privación de libertad, debiera ser liberada del pago de impuestos. Ello es aún más justificado si se considera que es el propio Estado quien ha privado de los derechos de libertad a esta persona, y la ha privado de la posibilidad de generar ingresos.</p> <p>La situación descrita debiera influir en todo el sistema de derechos del contribuyente, sea en materia de determinación de la obligación tributaria, resolución de conflictos entre el Estado y el contribuyente, y el sistema de pagos de impuestos y sanciones. Esta tipo de asunto también debiera ser considerado como un principio de carácter constitucional en materia tributaria.</p>

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