



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 Reporter of the OPTR Unit for the *European Court of Justice*.

This set of questionnaires comprises the National Reporter's assessment of the country's practice during 2024 in protecting taxpayers' rights and the level of fulfilment of the minimum standards and best practices on the practical protection of taxpayers' rights identified by Prof. Dr. Philip Baker and Prof. Dr. Pasquale Pistone at the 2015 IFA Congress on "The Practical Protection of Taxpayers' Fundamental Rights."

2024 Relevant Case Law – European Court of Justice

Minimum Standard Best Practice	Case	Date	EU Charter Articles	Facts	Decision	Comments
<p>MS 23: Legal professional privilege should apply to tax advice</p> <p>23 (BP). Privilege from disclosure should apply to all tax advisors (not just lawyers) who supply similar advice to lawyers. Information imparted in circumstances of confidentiality may be privileged from disclosure</p>	<p>C-623/22</p> <p>Belgian Association of Tax Lawyers</p>	29 July 2024	Articles 7, 20 and 21, and Article 49(1)		<p>1) The validity of DAC 6 on automatic exchange of reportable cross border arrangements is not affected by the provisions of the Charter.</p> <p>2) The solution adopted in the judgement in case C-694/20 as regards the notification obligations of lawyers can only be extended to professionals practicing under one of the titles listed in Directive 98/5/EC</p>	<p>Whilst several key concepts introduced by DAC6 are broad, they are nevertheless “determined in a sufficiently clear and precise manner” and do not call into question the validity of the Directive</p>
<p>MS 23: Legal professional privilege should apply to tax advice</p>	<p>C-432/23</p> <p>Ordre des avocats du barreau de Luxembourg</p>	26 September 2024	Article 7 and Article 52(1)		<p>Legal professional privilege under Article 7 of the Charter (i.e. the strengthened protection of communications</p>	

					between lawyers and clients guaranteed by Article 7 of the Charter) covers all communications between lawyers and their clients and is not limited only to cases where there is a risk of criminal prosecution against the client	
58 (MS). Proportionality and ne bis in idem should apply to tax penalties.	C-331/23 Dranken Van Eetvelde NV	12 December 2024	Article 50 (ne bis in idem)		Article 50 of the Charter must be interpreted as not precluding national legislation which allows criminal penalties and administrative penalties of a criminal nature, resulting from different proceedings, to be combined in respect of offences which are of the same nature yet occurred over consecutive tax years, which are the subject of administrative proceedings of a criminal nature for	The Court held that the condition of "idem" is not met where the criminal proceedings and the administrative proceedings concern different tax periods

					one tax year and criminal proceedings for another tax year.	
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2024 Relevant AG Opinions – European Court of Justice

Minimum Standard Best Practice	Case	Date	EU Charter Articles	Facts	AG Opinion	Comments
<p>Please indicate here the minimum standard and/or best practice to which the commented decision refers, following the list enclosed with this email.</p> <p>Example:</p> <p>MS 28: In application of <i>audi alteram partem</i>, taxpayers should have the right to attend all relevant meetings with tax authorities (assisted by advisers), the right to provide factual information and to present their views before decisions of the tax authorities</p>						<p>In providing your comments, please make clear the relationship between the court declaration and the minimum standard/best practice affected by it.</p>

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