



Observatory on the Protection of Taxpayers' Rights

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

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."

ESPAÑOL

2024 Relevant Case Law – Inter-American Court of Human Rights

Minimum Standard Best Practice	Case	Date	ACHR Articles	Facts	Decision	Comments
<i>Todos los estándares mínimos</i> <i>Todas las mejores practicas</i> 10. Legislation 10.1. The general framework In a democratic state, taxes must be based on a legal source, which results from the will of the people expressed through its political representation in the legislature. It is not sufficient for tax law to formally comply with the issuing state's legal order to safeguard taxpayers' rights; rather, taxes must be the outcome of the citizens' consent. [Taxation-without-representation principle] 10.3. Public consultation and involvement in the making of tax policy and tax law. An effective legislative protection of taxpayers' rights requires an effective public participation in the legislative process to ensure the no-taxation-without-representation principle, as introduced in	Corte IDH. Caso González Méndez y otros Vs. México. <u>Serie C No. 532</u>	22 de agosto de 2024.	Artículo 2. Deber de Adoptar Disposiciones de Derecho Interno. Si el ejercicio de los derechos y libertades mencionados en el artículo 1 no estuviere ya garantizado por disposiciones legislativas o de otro carácter, los Estados partes se comprometen a adoptar, con arreglo a sus procedimientos constitucionales y a las disposiciones de esta Convención, las medidas legislativas o de otro carácter que fueren necesarias para hacer efectivos tales derechos y libertades. Artículo 6. Prohibición de la Esclavitud y Servidumbre. Artículo 21. Derecho a la Propiedad Privada. 1. Toda persona tiene derecho al uso y goce de sus bienes. La ley puede subordinar tal uso y goce al interés social. 2. Ninguna persona puede	El Sr. Antonio González-Méndez, en enero de 1999 es asesinado en un contexto de violencia en el norte del estado mexicano de Chiapas (zona de gran presencia de poblaciones indígenas). En Chiapas, actuaban diversos grupos paramilitares, incluyendo el grupo "Paz y Justicia", en contra de los grupos rebeldes armados. Esos grupos paramilitares actuaban con el apoyo y bajo la tolerancia y aquiescencia del Estado Nacional de México, cometiendo hechos de violencia como ejecuciones y desapariciones de personas civiles. Las actuaciones oficiales seguidas a nivel nacional (por los órganos públicos de la república de México) no implicaron una "búsqueda activa y seria" de la persona desaparecida ni la averiguación de lo sucedido ni la determinación de responsabilidades legales.	Sentencia (Excepción Preliminar, Fondo, Reparaciones y Costas) condena al estado de Mexico por su responsabilidad por la muerte y desaparición del Sr. Antonio Gonzalez-Mendez y violación de derechos a los miembros de su familia	Este caso de vincula a la muerte y desaparición de una persona, ocasionada por grupos paramilitares organizados, financiados y apoyados por el Estado. Esta parte no se vincula a y tributos de manera directa. Sin embargo, forma parte de la realidad de muchos países de América Latina, en los cuales el estado abandona sus funciones en determinados territorios y gestiona el poder público a través de organizaciones criminales comunes o de organizaciones paramilitares (que realizan actividades criminales pero con una finalidad política). En esos territorios el Estado no ejerce el poder para aplicar tributos, pero le otorga este poder a dichas organizaciones criminales o paramilitares políticas (como sucede en este caso específico). En este caso en particular, el estado no realiza sus funciones de aplicación de la ley tributaria (no cobra tributos) sino que deja estas tareas en manos de los ejércitos irregulares o paramilitares que el propio

section 10.1. It also involves the constitution's integrity as tax codes may be ruled to contradict general codes and violate taxpayers' rights 12. Institutional Framework for Protecting Taxpayers' Rights 12.1. The general framework. In practice, an institutional framework is needed when states enact their powers towards taxpayers. In doing so, states must adhere to legality, meaning that they must enact their powers and, at the same time, meet their obligations. The necessary framework can be shaped in different ways to ensure the adequate protection of taxpayers' rights. 12.2. Statements of taxpayers' rights: charters, service charters and taxpayers' bills of rights Minimum standard: Adoption of a charter or statement of taxpayers' rights should be a minimum standard			ser privada de sus bienes, excepto mediante el pago de indemnización justa, por razones de utilidad pública o de interés social y en los casos y según las formas establecidas por la ley. 3. Tanto la usura como cualquier otra forma de explotación del hombre por el hombre, deben ser prohibidas por la ley. Artículo 24. Igualdad ante la Ley Todas las personas son iguales ante la ley. En consecuencia, tienen derecho, sin discriminación, a igual protección de la ley.	Debido a las acciones armadas de las guerrillas rebeldes en la zona de Chiapas, el Estado de México no sólo interviniera con el Ejército Nacional (militares regulares), sino que además organizara un ejército paramilitar compuesto por civiles. Debido a acciones de guerrillas rebeldes en el estado de Chiapas, el Estado de México organizó grupos paramilitares formados por ciudadanos civiles, a los que brindó adiestramiento, armas y financiamiento, se les permitía ejercer el control territorial y cobrar impuestos (77-84). Estos grupos paramilitares cometieron asesinatos y desapariciones forzadas, además de otras muchas violaciones a derechos humanos de la población civil del estado de Chiapas. Uno de los grupos paramilitares que surgió en este contexto fue "Paz y Justicia", específicamente en la región del norte de Chiapas, a quien se le atribuye la autoría de estos hechos.		Estado ha organizado, con el fin de que obtengan financiamiento. Por supuesto en estos casos no se aplica la ley tributaria nacional en esos territorios sino un sistema tributario definido por las autoridades del ejército irregular o fuerzas paramilitares, que cuentan con una organización financiera para ello. En este escenario que el propio Estado ha levantado, mediante estas acciones de las fuerzas paramilitares, que son claramente contrarias a la constitución y a las leyes, se vulneran derechos humanos tales como el derecho de propiedad. También resulta vulnerada la igualdad ante la ley, porque a los ciudadanos de las regiones afectadas se les aplica un sistema tributario ilegal. También podría considerarse una manera de esclavitud, porque las personas se debe trabajar para grupos armados bajo amenaza de muerte.
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ENGLISH

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<i>All the minimum standards</i> <i>All de best practice</i> 10. Legislation 10.1. The general framework In a democratic state, taxes must be based on a legal source, which results from the will of the people expressed through its political representation in the legislature. It is not sufficient for tax law to formally comply with the issuing state's legal order to safeguard taxpayers' rights; rather, taxes must be the outcome of the citizens' consent. <i>Taxation-without-representation principle</i> 10.3. Public consultation and involvement in the making of tax policy and tax law An effective legislative protection of taxpayers' rights requires an effective public participation in the legislative process to ensure the <i>no-taxation-</i>	IHR Court. Case González Méndez and others Vs. México. <u>Serie C No. 532</u>	August 22, 2024.	Article 2. Domestic Legal Effects. Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms. Article 6. Freedom from Slavery Article 21. Right to Property. 1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society. 2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law. 3. Usury and any other form of exploitation of man by man shall be prohibited by law.	Mr. Antonio González Méndez was murdered in January 1999 in a context of violence in the north of the Mexican state of Chiapas (an area with a large presence of indigenous populations). In Chiapas, various paramilitary groups, including the group "Peace and Justice", were active against armed rebel groups. These paramilitary groups acted with the support and with the tolerance and acquiescence of the National State of Mexico, committing acts of violence such as executions and disappearances of civilians. The official actions taken at the national level (by the public bodies of the Republic of Mexico) did not involve an "active and serious search" for the missing person, nor the investigation of what happened, nor the determination of legal responsibilities.	Judgment (Preliminary Objection, Merits, Reparations and Costs) condemns the State of Mexico for its responsibility for the death and disappearance of Mr. Antonio Gonzalez-Mendez and violation of the rights of his family members	This case relates to the death and forced disappearance of a man, caused by organized paramilitary groups, financed and supported by the State. This part is not directly linked to taxes. However, this is part of the reality of many Latin American countries, where the state abandons its functions in certain territories and manages public power through common criminal organizations or paramilitary organizations (which carry out criminal activities but with a political purpose). In these territories, the State does not exercise the power to levy taxes, but grants this power to these criminal or political paramilitary organizations (as is the case here). In this particular case, the State does not carry out its functions of enforcing tax law (it does not collect taxes) but leaves these tasks in the hands of irregular or paramilitary armies that the State itself has organized, with the objective of

without-representation principle, as introduced in section 10.1. It also involves the constitution's integrity as tax codes may be ruled to contradict general codes and violate taxpayers' rights. 12. Institutional Framework for Protecting Taxpayers' Rights 12.1. The general framework In practice, an institutional framework is needed when states enact their powers towards taxpayers. In doing so, states must adhere to legality, meaning that they must enact their powers and, at the same time, meet their obligations. The necessary framework can be shaped in different ways to ensure the adequate protection of taxpayers' rights. 12.2. Statements of taxpayers' rights: charters, service charters and taxpayers' bills of rights Minimum standard: Adoption of a charter or statement of taxpayers' rights should be a minimum standard			Article 24. Right to Equal Protection. All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.	Due to the armed actions of the rebel guerrillas in the Chiapas area, the State of Mexico not only intervened with the National Army (regular soldiers), but also organized a paramilitary army made up of civilians. The Mexican National State then organized paramilitary groups made up of civilian citizens, to whom it provided training, financing, weapons and political protection, and they were allowed to exercise territorial control and collect taxes or tributes (judgments sections No. 77 to No. 84). These paramilitary groups committed murders and forced disappearances, in addition to many other human rights violations against the civilian population in the Chiapas region. One of the paramilitary groups that emerged in this context was "Paz y Justicia", specifically in the northern region of Chiapas, to whom the authorship of these events is attributed.		obtaining financing for the paramilitary army. Of course, in these cases, the national tax law in these territories does not apply, but rather a tax system defined by the authorities of the irregular army or paramilitary forces, which have a financial organization for this purpose. In this scenario, which the State itself has created, through these actions of the paramilitary forces, which are clearly contrary to the constitution and the law, human rights such as the right to property are violated. Right to Equal Protection before the law is also violated, because citizens of the affected regions are subject to an illegal tax system. It could also be considered a form of slavery, because people are forced to work for armed groups under threat of death.
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