



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 2025 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."

2025 Relevant Case Law – European Court of Justice

Minimum Standard Best Practice	Case	Date	EU Charter Articles	Facts	Decision	Comments
66 (BP). The review or appeal of tax decisions should not place on the taxpayer an excessive or impossible burden of evidence. This should apply, in particular, where the burden is on the taxpayer to prove a negative (e.g. to prove the absence of motive) or to prove facts that occurred significantly in the past (e.g. more than 10 years previously).	C-277/24 Adjak (M. B. v Dyrektor Izby Administracji Skarbowej we Wrocławiu)	27/02/2025	47	National legislation which provides for the joint and several liability (for the VAT liability of a taxable person) of the former chairperson of the management board of the taxable person. The issue was whether it is compatible with the right of defence that a third party who may be held jointly and	Denying a third party who may be held jointly and severally liable for the tax debt of a legal person the right to participate in the tax proceedings brought against that legal person does not go further than is necessary to preserve the rights of the public exchequer as effectively as possible. On the other	The right of defence means that although in principle a third party cannot be party to the judicial proceedings between a person and the state, the third party may need, during any joint and several liability proceedings brought against that third party, to be able effectively to call into question the

				severally liable for the tax debt of a legal person cannot be a party to the tax proceedings brought against that legal person to establish the tax debt of that legal person, and is not given any adequate means of challenging the findings and assessments as to the existence or the amount of that tax debt in the context of the joint and several liability	hand, that limit would be exceeded if the very substance of the rights of the defence of that third party were adversely affected in the context of any joint and several liability proceedings brought against that third party.	findings of fact and the legal classifications made by the tax authority in the context of the tax proceedings, and to have access to the file of the tax authority, in accordance with the rights of that person or of other third parties.
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				proceedings.		
72 (MS). Proportionality and ne bis in idem should apply to tax penalties.	C-278/24 Genzyński (P.K. v Dyrektor Izby Administracji Skarbowej we Wrocławiu)	30-4-2025	17 20-21 47 Principle of proportionality Legal certainty	Polish legislation establishes the joint and several liability of a member or former member of the board of directors of a company for the VAT debt of that company, without requiring a finding of fault on the part of that member or former member and, provides, as a condition for exemption, for the filing in due time, by that member or	The Court held that this legislation does not infringe the right to property, the principles of equal treatment, proportionality and legal certainty, as long as the member or former member of the BoD, in order to demonstrate that there was no such fault, may validly claim that he or she exercised all due diligence	

				former member, of an application for a declaration of insolvency with respect to that company, including where that company has the public exchequer as its sole creditor and such an application is, therefore, according to national practice and case-law, bound to be rejected.	in the conduct of the affairs of the company concerned.	
72 (MS). Proportionality and ne bis in idem should	C-733/23 Beach and Bar management	3-7-2025	49(3) 50	Principle ne bis in idem – Duplication of criminal and administrative	Art. 49(3) of the Charter national legislation which provides	

<p>apply to tax penalties</p>				<p>penalties in respect of the same offence – Financial penalty and sealing of a commercial premises</p>	<p>for, as an administrative penalty, a financial measure of a high amount without the court hearing a challenge to that measure having the procedural possibility of imposing an amount less than that provided for by that legislation or another more lenient type of penalty. Art. 50 of the Charter precludes national legislation which provides</p>	
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					for the imposition of a financial penalty on a taxable person on the ground that he or she has not issued fiscal cash register receipts relating to sales made where that offence has already given rise to the imposition of a coercive administrative measure to seal the business premises in which that offence was committed and prohibiting access	
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					thereto.	
66 (BP). The review or appeal of tax decisions should not place on the taxpayer an excessive or impossible burden of evidence. This should apply, in particular, where the burden is on the taxpayer to prove a negative (e.g. to prove the absence of motive) or to prove facts that occurred significantly in the past (e.g. more than 10 years previously).	C-605/23 Ati-19	3-7-2025	47	Bulgarian legislation limits the scope of the judicial review carried out in the context of an application for suspension of the provisional enforcement of a coercive administrative measure of a criminal nature solely to the existence of damage which is serious or reparable only with difficulty that such provisional enforcement may cause.	The first paragraph of Article 47 of the Charter must be interpreted as precluding legislation of a Member State which, pursuant to the option provided for in the first paragraph of Article 273 of the VAT Directive, limits the scope of the judicial review carried out in the context of an application for suspension of the provisional	

					<p>enforcement of a coercive administrative measure of a criminal nature solely to the existence of damage which is serious or reparable only with difficulty that such provisional enforcement may cause, by excluding any possibility for the court hearing that application to assess whether it is justified, in law and in fact, by arguments capable, prima facie, of demonstrating that the</p>	
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					measure at issue is unlawful.	
27 (MS). Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted. Data held by tax authorities (or third parties for tax purposes) should only be accessible to those who can show a legitimate interest in access to that data	T-225/24 Huhtamaki Holding	3-9-2025	41 47 48	In state aid procedures, the applicant seeks annulment of a Commission decision refusing it access to documents relating to state aid procedures; the applicant had requested access to the information concerning advance tax agreements that the Luxembourg tax authorities had issued (including a list	The action was dismissed	The case concerns the right to public access to documents held by the EU Institutions (Regulation 1049/2001)

				of the recipients of tax rulings by Luxembourg tax authorities as well as copies of ATAs issued to other comparable taxpayers)		
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2025 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>In providing your comments, please make clear the relationship between the court declaration and the minimum standard/best practice affected by it.</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 become final</p>						
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