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## **RECOPIACIÓN DE JURISPRUDENCIA DEL TRIBUNAL EUROPEO DE DERECHOS HUMANOS SOBRE DERECHOS Y GARANTÍAS DE LOS CONTRIBUYENTES**

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## PRESENTACIÓN

Inevitablemente cuando hablamos de derechos humanos en el contexto europeo debemos hacer referencia al Convenio para la Protección de los Derechos Humanos y de las Libertades Fundamentales, más conocido como CEDH, un tratado internacional suscrito para dar protección a los derechos y libertades incluidos en la Declaración Universal de Derechos Humanos en el ámbito europeo y crear una jurisdicción internacional competente para asegurar el cumplimiento de su articulado por sus 47 miembros.

Normalmente se suele asociar la protección de los derechos humanos con el ámbito del Derecho penal o del Derecho procesal. No siendo dicha asociación del todo incorrecta, pero sí incompleta, pues el Derecho penal no es el único entorno jurídico en el que de forma exclusiva puedan verse afectados en su contenido los derechos humanos. Antes bien, el carácter general y universal de los derechos humanos permite su aplicación de forma transversal, afectando a todas las ramas del Derecho. También, ¡y cómo!, al Derecho tributario.

El Derecho tributario no es, pues, una excepción y la basta jurisprudencia del Tribunal Europeo de Derechos Humanos al respecto así lo ha demostrado. Una vez realizada esta afirmación, la pregunta adecuada sería ¿cómo puede el Derecho Tributario colisionar con los derechos humanos?

Para responder a esta pregunta, se ha de contextualizar el tratamiento de la materia tributaria en el CEDH. Su articulado no hace referencia expresa a la materia tributaria a excepción de una ocasión, el art. 1 del Protocolo adicional al CEDH:

“Toda persona física o jurídica tiene derecho al respeto de sus bienes. (...) sin perjuicio del derecho que tienen los Estados de dictar las leyes que estimen necesarias para la reglamentación del uso de los bienes de acuerdo con el interés general o para garantizar el pago de los impuestos, de otras contribuciones o de las multas”

Dicha mención no hace más que confirmar la relevancia e importancia que tienen la materia tributaria en el interés general, constituyéndose como una pieza fundamental del núcleo duro de la soberanía nacional.

Por este motivo, el TEDH durante muchos años adoptó una postura restrictiva, entendiéndose que la excepción materializaba la intención de los redactores del CEDH de excluir

de su ámbito de aplicación las cuestiones relativas a la configuración y aplicación de los tributos, excepción hecha de los supuestos de abuso de derecho manifiesto como las medidas confiscatorias arbitrarias.

No obstante, en aras de mantener vivo el articulado, el mismo TEDH ha evolucionado y ha flexibilizado su postura, aceptando de forma progresiva varios recursos relativos a la aplicación del convenio en materia tributaria, lo que ha permitido ampliar la cobertura del CEDH hasta la figura del contribuyente en el marco de sus relaciones con la Administración Tributaria, una posición coherente con la estructura del propio Convenio que está redactando en términos generales con vocación universal.

Caso contrario, se hubiese caído en un supuesto de desprotección del contribuyente: ¿Acaso no merece protección el contribuyente que se ha visto afectado por la imposición de un deber de colaboración que obliga a responder preguntas durante una inspección que terminaría en la autoinculpación por un ilícito tributario? (Caso Shannon, 2005) [[SHANNON v. UNITED KINGDOM, No. 6563/03, 4 October 2005, ECHR 2005](#)], o ¿no merece protección el contribuyente que es sancionado hasta en dos ocasiones por el mismo ilícito tributario? (Caso Nykanen, 2014) [[NYKANEN v. FINLAND, No. 11828/11, 20 May 2014, ECHR 2014](#)] o ¿no merece protección el contribuyente al que se le impidió imponer un recurso para prevenir o para verificar la ejecución del acceso al domicilio en el marco de una inspección por fraude fiscal? (Caso Ravon, 2008) [[RAVON AND OTHERS v. FRANCE, No.18497/03, 21 February 2008, ECHR 2008](#)] o ¿no merece protección el contribuyente al que la Administración rehúsa pagar intereses legales por sumas indebidamente cobradas? (Caso S.A Dangeville, 2002) [[S.A. DANGEVILLE v. FRANCE, No. 36677/97, 16 April 2002, ECHR 2002-III](#)]. EL TEDH ha decidido dar cobertura al contribuyente en los supuestos antes mencionados, apreciando la violación del CEDH.

Una vez aceptada la posible aplicación del CEDH en el ámbito tributario, cabe plantearse otra pregunta para completar la respuesta dada a la primera, y sería ¿Qué derechos humanos pueden ser afectados o vulnerados por la aplicación del Derecho tributario? Del análisis de la jurisprudencia del TEDH, considerando habitualidad y relevancia, los derechos humanos más susceptibles de ser vulnerados en el ámbito tributario son el derecho a la protección de la propiedad privada (art. 1 del Protocolo adicional al CEDH), el derecho a un proceso equitativo (art. 6), no hay pena sin ley (art. 7), el non bis idem (art. 4 del

Protocolo adición núm. 7 CEDH), el derecho a un recurso efectivo (art. 13), la prohibición a la discriminación (art. 14) y el derecho al respeto a la vida privada y familiar (art. 8).

Entendido los derechos susceptibles de vulneración y la aplicabilidad del CEDH, el cómo no deja de ser una pregunta meramente circunstancial, cuya respuesta deberá atenerse a las características de los supuestos, no obstante, pese a esa abstracción, sí que puede reconocer un núcleo común en todos ellos: el incumplimiento por parte del Estado de las garantías de la posición subjetiva del contribuyente.

Esta recopilación de jurisprudencia (1974-2020) está concebida para facilitar al lector la localización y consulta directa –mediante acceso a la base de datos del TEDH- de **126 casos** en los que la materia tratada ha tenido conexión con el Derecho tributario. *Clicando* la referencia de la sentencia se accede a la base de datos para poder acceder al texto íntegro de la misma, en las diversas versiones lingüísticas en las que esté disponible.

Todos ellos se han ordenado de forma alfabética, de forma que quien ya conoce la referencia nominativa de la sentencia la pueda localizar y acceder a la misma de forma directa.

En cada sentencia se han mencionado los principales artículos del CEDH citados en el fallo de la sentencia, de modo que el lector pueda realizar, también, una búsqueda de todas las sentencias relativas a cada uno de los preceptos.

Esta guía de jurisprudencia se ha elaborado para el Grupo de investigación “Derecho tributario y Política fiscal” de la Universidad de Barcelona, con la tutorización del Prof. José-Andrés Rozas, en el marco de la beca de colaboración del MEC que he disfrutado durante el presente curso académico 2020/2021.

Confío en que pueda resultar de utilidad para los investigadores/as interesados en conocer la jurisprudencia del TEDH sobre derechos y garantías de los contribuyentes.

Barcelona, Septiembre del 2021

## SELECCIÓN DE JURISPRUDENCIA

1. [AGOSI v. THE UNITED KINGDOM, No. 9118/80, 24 October 1986, SERIE A-108](#)

Conclusion:

- Art. 6-1 ECHR (Inapplicable): Right to fair trial. Analysis of the procedural equality of arms.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non-violation): Protection of property. Analysis of peaceful enjoyment of possession.

2. [ALEKSANYAN v. RUSIA, No. 46468/06, 22 December 2008, ECHR 2008](#)

Conclusion:

- Art. 5-3 ECHR (Violation): Right to liberty and security. Analysis of the principle of legality and its role in penal procedures.
- Art. 8 ECHR (Violation): Right to respect private and family life.

3. [ALUJER FERNANDEZ AND CABALLERO GARCIA v. SPAIN \(dec\), No. 53072/99, 14 June 2001, ECHR 2001-VI](#)

Conclusion:

- Art. 9 ECHR (Inadmissible): Freedom of thought, conscience, and religion.
- Art. 14 ECHR (Inadmissible): Prohibition of discrimination. Analysis of the role the religion in tax distribution.

4. [ANTONOV v. BULGARIA, No. 58364/10, 28 May 2020.](#)

Conclusion:

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.

5. [ANTTILA v. FINLAND \(dec\), No. 16248/10, 19 November 2013](#)

Conclusion:

- Art. 10 ECHR (Inadmissible): Freedom of expression

6. [AON CONSEIL ET COURTAGE S.A. AND CHRISTIAN DE CLARENS S.A. v. FRANCE, No. 70160/01, 25 January 2007, ECHR 2007](#)

Conclusion:

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession.

7. [ARTASHES ANTONYAN v. ARMENIA, No. 24313/10, 22 October 2020.](#)

Conclusion:

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.

8. [ASE OF ŞERIFE YIĞIT v. TURKEY, No. 3976/05, 2 November 2010, ECHR 2010](#)

Conclusion:

- Art. 8 ECHR (No violation): Right to respect for private and family life. The ECHR applied proportionality test to assure balance between general interest and fundamental rights.
- Art. 14 ECHR (No violation): Prohibition of discrimination. The ECHR require objective, reasonable and proportionate justification to not appreciate discrimination because a different taxation among two taxpayers in comparable situation.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (No violation): Protection of property.

9. [BEIRES CÔRTE-REAL v. PORTUGAL, No. 48225/08, 11 October 2011, ECHR 2011](#)

Conclusion:

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.

10. [BENDENOUN v. FRANCE, No. 12547/86, 24 February 1994, SERIE A-284](#)

Conclusion:

- Art. 6-1 ECHR (No violation): Right to fair trial. Analysis of the procedural equality of arms.

11. [BERKVENES AND BERKVENES v. THE NETHERLANDS \(dec.\), No. 18485/14, 27 May 2014, ECHR 2014](#)

Conclusion:

- Art. 14 ECHR (Inadmissible): Prohibition of discrimination, special consideration about the treatment of the inheritance taxes about different assets of two patrimonies.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Inadmissible): Protection of property.

12. [BERNH LARSEN HOLDING ET AL. v. NORWAY, No. 24117/08, 14 March 2013, ECHR 2013](#)

Conclusion:

- Art. 8 ECHR (No Violation): Right to respect for private and family life especially correspondence and home.

13. [BEYELER v. ITALY, \[GC\], No. 33202/96, 5 January 2000, ECHR 2000-I](#)

Conclusion:

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as tax credits rights.

14. [BREZEANU v. ROMANIA, No. 10097/05, 21 July 2009, ECHR 2009](#)

Conclusion:

- Art. 6 ECHR (Violation): Right to a fair trial.

15. [BRUNO v. SWEDEN \(dec.\) No. 32196/96, 28 August 2001, ECHR 2001](#)

Conclusion:

- Art. 6 ECHR (Inapplicable): Right to fair trial.
- Art. 9 ECHR (Inapplicable): Freedom of thought, conscience and religion. Analysis of Swedish church's role.

16. [BRYAN v. THE UNITED KINGDOM, No. 19178/91, 22 November 1995, SERIE A335-A](#)

Conclusion:

- Art. 6-1 ECHR (No violation): Right to fair trial. Analysis of the procedural equality of arms.

17. [BUFFALO S.R.L. IN LIQUIDATION v. ITALY, No. 38746/97, 3 July 2003, ECHR 2003](#)

Conclusion:

- Art. 1 - 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of tax credits rights.

18. [BULVES AD v. BULGARIA, No. 3991/03, 22 January 2009, ECHR 2009](#)

Conclusion:



- Art. 1 - 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of tax credits rights.

19. [BURDEN v. THE UNITED KINGDOM, No. 13378/05, 29 April 2008](#)

Conclusion:

- Art. 14 ECHR (No violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (No violation): Protection of property. Analysis of deprivation as a possible violation of right to peaceful enjoyment of possession.

20. [BURGHARTZ v. SWITZERLAND, No. 16213/90, 22 February 1994, SERIE A280-B](#)

Conclusion:

- Art. 14 ECHR (Violation) Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 8 ECHR (Violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

21. [BUSINESS SUPPORT CENTRE v. BULGARIE, No. 6689/03, 18 March 2010, ECHR 2010](#)

Conclusion:

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as tax credit rights.

22. [CECCHETTI v. SAN MARINO \(dec\), No. 40174/08, 9 April 2013, ECHR 2013](#)

Conclusion

- Art. 6-1 ECHR (Inadmissible): Right to fair trial. Analysis of the procedural equality of arms.
- Art. 7 (Inadmissible): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.

23. [COŞKUN AND OTHERS v. TURKEY, No. 35561/05, 13 December, ECHR 2011](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the impact of judicial taxes on access to court.

24. [CHAMBAZ v. SWITZERLAND, No. 11663/04, 5 April 2012, ECHR 2012](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in an administrative proceeding.

25. [DARBY v. SWEDEN, No. 11581/85, 23 October 1990, ECHR 1990 -I](#)

Conclusion

- Art. 14 ECHR (Violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession.

26. [DE WILDE, OMS AND VERSYP v. BELGIUM, No. 2832/66, 2835/66, 2899/66, 18 June 1971, Serie A-12.](#)

Conclusion

- Art. 8 ECHR (Non-violation): Right to respect for private and family life especially correspondence. The ECHR applied proportionality test to assure balance between general interest and fundamental rights.
- Art. 5-4 ECHR (Violation): Right to liberty and security, special consideration of paragraph 4 about take proceeding and order release.

27. [DI BELMONTE v. ITALY \(dec\), No. 72665/01, 3 June 2004, ECHR 2001](#)

Conclusion:

- Art. 14 ECHR (Inadmissible): Right to respect for private and family life. Application of proportionality test to government actions to ensure protection of the balance between general interest and fundamental rights.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Inadmissible): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.
- Art. 6 ECHR (Inadmissible): Right to fair trial.

28. [EAST/WEST ALLIANCE LIMITED v. UKRAINE, No. 19336/04, 23 January 2014, ECHR 2014](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of deprivation as a possible violation of right to peaceful enjoyment of possession.
- Art. 13 ECHR (Violation): Right to an effective remedy.

29. [EDATA-TRANS S.R.L. v. MOLDAVA, No. 55887/07, 17 March 2020](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as tax credit rights.

30. [EDIZIONI DEL ROMA SOCIETA COOPERATIVA A.R.L. ET EDIZIONI DEL ROMA S.R.L. v. ITALIE \(dec\), No. 68954/13 and 70495/13, 10 December 2020. ?](#)

Conclusion

- Art. 6-1 ECHR (No violation): Right to fair trial. Analysis of the procedural equality of arms in a criminal proceeding.

31. [EFE v. AUTRICHE, No. 9134/06, 8 January 2013, ECHR- 2013](#)

Conclusion

- Art. 14 ECHR (Non-violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non-violation): Protection of property.

32. [EKO-ELDA AVEE v. GREECE, No. 10162/02, 9 March 2006, ECHR 2006-IV](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.

33. [ENGEL AND OTHERS v. THE NETHERLANDS, No. 5100/71, 8 June 1976, SERIE A-22\)](#)

Conclusion

- Art. 7 ECHR (Violation): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily legality principle.
- Art. 6-1 ECHR (Violation): Right to fair trial.

- Art. 5-1 ECHR (Violation): Right to liberty and security. Analysis of a possible violation of the right to a lawful arrest or detention.

34. [FERRAZZINI v. ITALIE \[GC\], No. 44759/98, 12 July 2001, ECHR 2001-VII](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Evaluation of patrimonial nature of taxes obligations, reaffirming their exclusion from civil rights and obligation concept.
- Art. 14 ECHR (Inadmissible): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.

35. [FUNKE v. FRANCE, No. 10828/84, 25 February 1993, SERIE A 256-A](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms (fair hearing and right to keep silence)
- Art. 8 ECHR (Violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

36. [G.S.B. v. SWEDEN, No 28601/11, 22 December 2015, ECHR 2015](#)

Conclusion

- Art. 8 ECHR (No violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.
- Art. 14 ECHR (No violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.

37. [GAGLIARDI v. ITALY, COMMITTEE, No. 29385/03, 16 July 2013, ECHR 2013.](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the impact of judicial taxes on access to court in a civil proceeding.

38. [GÁLL v. HUNGARY, No. 49570/11, 25 July 2013, ECHR 2013](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of deprivation as a possible violation of right to peaceful enjoyment of possession.

39. [GASUS DOSIER- UND FÖRDERTECHNIK GMBH v. THE NETHERLANDS, No. 15375/89, 23 February 1995, Serie A306-B](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non violation): Protection of property. Discussion about the legality of an executive tax collection action.

40. [GOSPODĂRIA ȚĂRĂNEASCĂ CHIPER TERENTI GRIGORE v. THE REPUBLIC OF MOLDOVA, No. 71130/13, 2 June 2020](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms (fair hearing and right to keep silence).

41. [GRANDE STEVENS AND OTHERS v. ITALY, No. 18640/10, 4 March 2014, ECHR 2014](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms (public hearing).

- Art. 7 ECHR (Violation): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.

42. [GUBERINA v. CROATIA, No. 2368/13, 22 March 2016, ECHR 2016](#)

Conclusion

- Art. 14 ECHR (Violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property.

43. [GUREPKA v. UKRAINE, No. 61406/00, 16 September 2005, ECHR 2005](#)

Conclusion

- Art. 2 Protocol N<sup>o</sup> 7 ECHR (Violation): Right of appeal in criminal matters.

44. [HUBAUX v. BELGIUM \(dec.\), No. 11088/84](#)

Conclusion

- Art. 8 ECHR (Inadmissible): Right to respect for private and family life. In this decision, ECHR consider family roles and ties are relevant in order to determinate and configurate tax obligations.

45. [IMBERT DE TREMIOLLES v. FRANCE \(dec.\), No. 25834/05 and 27815/05, 29 April 2008](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Inadmissible): Protection of property. Analysis of the legality of the tax based on its non-confiscatory nature and proportionality.

46. [INTERSPLAV V. UKRAINE \(dec.\), No. 803/02, 31 March 2005, ECHR 2005](#)

Conclusion

- Art. 6-1 ECHR (Partly inadmissible): Right to fair trial.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Partly inadmissible): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as tax credit rights.

47. [IVASCHENCKO v. RUSSIA, No. 61064, 13 February 2018](#)

Conclusion

- Art. 8 ECHR (Violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights. Specially tax administration action over Ivaschencko's computer.

48. [J.B. v. SWITZERLAND, No. 31827/96, 3 May 2001, ECHR 2001-III](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in criminal proceeding and the role of the right to keep quiet.
- Art. 7 ECHR (Violation): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.

49. [JANOSEVIC v. SWEDEN, No. 34619/97, 23 July 2002, ECHR 2002-VII](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in criminal proceeding regarding access to court and reasonable time.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of deprivation as a possible violation of right to peaceful enjoyment of possession.



50. [JANYR v. REPUBLICA CECHA, No. 42937/08, 13 October 2013, ECHR 2013.](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in adversarial trial regarding access to court, right to keep silence, fair hearing and right to proof.

51. [JOHN MURRAY v. THE UNITED KINGDOM, No. 18731/91 8 February 1996. REPORT 1996-I](#)

Conclusion

- Art. 6-1 and 3-C ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms, especially right to defense and right to keep silence.

52. [JOKELA v. FINLAND, No. 28856/95 45, 21 May 2002, ECHR 2002-IV.](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of the legality of the tax based on its non-confiscatory nature and proportionality.
- Art. 6-1 ECHR (Non-violation): Right to fair trial. Analysis of the procedural equality of arms in a civil proceeding.

53. [JUSSILA v. FINLANDE \[GC\], No. 73053/01, 23 November 2006, ECHR 2006-XIV\)](#)

Conclusion

- Art. 6-1 ECHR (Non-violation): Right to fair trial. Analysis of the procedural equality of arms in an administrative procedure and delimitation of the concept of civil obligations.

- Art. 7 ECHR (Non-violation): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.

54. [KANDLER ET AUTRES v. FRANCE, No. 18659/05, 18 September 2008, ECHR 2008](#)

Conclusion

- Art. 6 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time.
- Art. 8 ECHR (Non violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

55. [KARAPETYAN v. GEORGIA, No. 61233/12, 15 October 2020](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non-violation): Protection of property. Analysis of deprivation as a possible violation of right to peaceful enjoyment of possession.

56. [KESLASSY v. FRANCE \(dec\), No. 51578/99, 8 January 2002, CEDH 2002-I](#)

Conclusion

- Art. 8 ECHR (Inadmissible): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

57. [KHODORKOVSKIY AND LEBEDEV v. RUSSIA, No. 11082/06 and 13772/05, 25 July 2013, ECHR 2013.](#)

Conclusion

- Art. 6, 6-3-c and 6-3-d ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms.
- Art. 8 ECHR (Violation): Right to respect for private and family life.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property
- Art. 7 ECHR (Violation): No punishment without law.

58. [KIIVERI v. FINLANDE, No. 53753/12, 10 February 2015.](#)

Conclusion

- Art. 4 Protocol N<sup>a</sup> 7 (Violation): Right not to be tried or punished twice. Tax penalties have to be interpreted according to criminal law guarantees, especially non bis idem principle.

59. [KISHÁZI AND OTHERS v. HUNGARY, No. 2814/19, 22 October 2020.](#)

Conclusion

- Art. 6 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in a criminal proceeding, especially right to be a reasonable time (depend on circumstances of the case)
- Art. 13 ECHR (Violation): Right to an effective remedy.

60. [KNIAT v. POLAND, No. 71731/01, 27 July 2005, ECHR 2005](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the impact of judicial taxes on access to court.

61. [KOZŁOWSKI v. POLAND, No. 23779/02, 21 January 2007, ECHR 2007](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the impact of judicial taxes on access to court.

62. [KRUGLOV ET. AL. v. RUSSIA, No. 11264/04, 4 February 2020](#)

Conclusion

- Art. 8 ECHR (Violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

63. [LINDSAY v. UNITED KINGDOM \(DEC\), NO. 11089/84, 11 November 1986, REPORT D.R.49, P.181.](#)

Conclusion

- Art. 8 ECHR (Inadmissible): Right to respect for private and family life.
- Art. 14 ECHR (Inadmissible): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations
- Art. 12 ECHR (Inadmissible): Right to marry.

64. [LUCKY DEV v. SWEDEN, No. 7356/10, 27 November 2014, ECHR 2014](#)

Conclusion

- Art. 4 Protocol N<sup>a</sup> 7 (Violation): Right not to be tried or punished twice. The ECHR considered that the tax penalties have to be interpreted according to criminal law guarantees especially non bis idem principle.

65. [LUNDBERG v SWEDEN \(dec\), No. 36846/97, 28 August 2001, ECHR 2001](#)

Conclusion

- Art. 6-1 ECHR (Inadmissible): Right to fair trial. Analysis of the procedural equality of arms.
- Art. 9 ECHR (Inadmissible): Freedom of thought, conscience and religion.

66. [M.A. ET AL. v. FINLAND \(dec\), No. 27793/95, 10 June 2003, ECHR 2003](#)

Conclusion

- Art. 6-1 ECHR (Inadmissible Right to fair trial. Analysis of the procedural equality of arms, specially access to court.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Inadmissible): Protection of property. Analysis of deprivation as a possible violation of right to peaceful enjoyment of possession.

67. [MAGYAR KERESZTENY MENONITA EGYHAZ & OTHERS v. HUNGARY, No. 70945/11, 8 April 2014, ECHR 2014](#)

Conclusion

- Art 11 ECHR (Violation): Freedom of assembly and association.
- Art. 9 ECHR (Violation): Freedom of thought, conscience and religion.

68. [MARIA MIHALACHE v. ROMANIA, No. 68851/16, 30 June 2020.](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession and control of the use of property.
- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time

69. [MARIAPORI v. FINLAND, NO 37751/07, 6 July 2010, ECHR 2010](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in the criminal proceeding.
- Art. 10 ECHR (Violation): Freedom of expression.

70. [MASCHINO v. FRANCE, No. 10447/03, 16 October 2008, ECHR 2008](#)

Conclusion

- Art. 6 ECHR (Violation): Right to fair trial. Special consideration to the legality of administrative activity or functions.

71. [MAYER v. GERMANY \(dec.\), No. 77792/01, 16 March 2006, ECHR 2006](#)

Conclusion

- Art. 6 ECHR (Inadmissible): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time.
- Art. 7 ECHR (Inadmissible): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.

72. [MIALHE v. FRANCE \(N°2\), No. 18978/91, 26 September 1996, REPORT 1996-IV](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time.

73. [MICROINTELECT OOD v. BULGARIA, No. 34129/03, 4 March 2014, ECHR 2014.](#)

Conclusion

- Art. 1 Protocol N° 1 ECHR (Violation): Protection of property because deprivation of property due to an executive action.

74. [MICHAUD v. FRANCE, No. 12323/11, 6 December 2012, ECHR 2012](#)

Conclusion

- Art. 8 ECHR (Non-violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

75. [N.K.M. v. HUNGARY, No. 66529/11, 14 May 2013, ECHR 2013](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of the legality of the tax based on its non-confiscatory nature and proportionality.

76. [NATIONAL & PROVINCIAL BUILDING SOCIETY, LEEDS PERMANENT BUILDING SOCIETY ET YORKSHIRE BUILDING SOCIETY v. THE UNITED KINGDOM, 21319/93, 21449/93, 21675/93, 23 October 1997, REPORT 1997-VII](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non-violation): Protection of property. Analysis of the legality of the tax based on its non-confiscatory nature and proportionality.
- Art. 14 ECHR (Non-violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 6-1 ECHR (Non-violation): Right to fair trial. Analysis of the procedural equality of arms.

77. [NIEMIETZ v. GERMANY, No. 13710/88, 16 December 1992, SERIE A 251-B](#)

Conclusion

- Art. 8 ECHR (Violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (No violation): Protection of property.

78. [NYKANEN v. FINLAND, No. 11828/11, 20 May 2014, ECHR 2014](#)

Conclusion

- Art. 4 Protocol N<sup>a</sup> 7 (Violation): Right not to be tried or punished twice. Tax penalties have to be interpreted according to criminal law guarantees, especially non bis idem principle.

79. [O'DONOGHUE AND OTHERS v. THE UNITED KINGDOM, No. 34848/07, 14 December 2010, ECHR 2010](#)

Conclusion

- Art. 14 ECHR (Violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 12 ECHR (Violation): Right to marry. Analysis of marriage income regarding tax treatment.
- Art. 9 ECHR (Violation): Freedom of thought, conscience and religion.

80. [OTHYMIA INVESTMENTS BV v. THE NETHERLANDS \(dec.\), No. 75292/10, 16 June 2015, ECHR 2015.](#)

Conclusion

- Art. 8 ECHR (Inadmissible): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

81. [P.M. v. THE UNITED KINGDOM, \(DEC\) No. 6638/03, 19 July 2005, ECHR 2005.](#)

Conclusion

- Art. 14 ECHR (Violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property.



82. [PÁKOZDI V. HUNGARY, No. 51269/07, 25 November 2014, ECHR 2014](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms based on a due civil process where there must be the right of oral hearing and public hearing.

83. [PHILLIPS v. THE UNITED KINGDOM, No. 41087/98, 5 July 2001, ECHR 2001-VII](#)

Conclusion

- Art. 6 ECHR (Non-violation): Right to fair trial. Analysis of procedural equality of arms in a criminal proceeding and presumption of innocence.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non-violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.

84. [PIRTTIMÄKI v. FINLANDE, No. 353232/11, 20 May 2014, ECHR 2014](#)

Conclusion

- Art. 4 Protocol N<sup>a</sup> 7 (Non-violation): Right not to be tried or punished twice. Tax penalties have to be interpreted according to criminal law guarantees, especially non bis idem principle.

85. [PONIATOWSKI v. FRANCIA \(dec\), No. 29494/08, 6 October 2009, ECHR 2009](#)

Conclusion

- Art. 6 ECHR (Inadmissible): Right to fair trial.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Inadmissible): Protection of property.
- Art. 7 ECHR (Inadmissible): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.

86. [QUINN v. IRELAND, No. 36887/97, 21 December 2000, ECHR 2000](#)

Conclusion

- Art. 6-1 and -2 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in a criminal proceeding.

87. [R.Sz v. HUNGARY, No. 41838/11, 2 July 2013, ECHR 2013](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of the legality of the tax based on its non-confiscatory nature and proportionality.

88. [RADOMILJA AND ORHERS v. CROATIA, No. 37685/10 and 22768/12, 20 March 2018.](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non-violation): Protection of property. Analysis of peaceful enjoyment of possession.

89. [RAVON AND OTHERS v. FRANCE, No.18497/03, 21 February 2008, ECHR 2008](#)

Conclusion

- Art. 6-1 ECHR (Violation): Analysis of procedural equity of arms in an administrative procedure and delimitation of the concept of civil rights and obligations.

90. [RHEIMS v. FRANCE, No. 32492/08 \(dec\), 21 January 2014, ECHR 2014](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Inadmissible): Protection of property. ECHR analyses the fair balance between general interest of the community and the fundamental of the rights of the applicants.

91. [ROBERT HUITSON v. UNITED KINGDOM, No. 50131/12 \(dec\), 13 January 2015, ECHR 2015](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Inadmissible): Protection of property. ECHR analyses the fair balance between general interest of the community and the fundamental of the rights of the applicants.

92. [ROSENQUIST v. SWEDEN \(dec\), No. 60619/00, 14 September 2014, ECHR 2004](#)

Conclusion

- Art. 4 Protocol N<sup>a</sup> 7 (Inadmissible): Right not to be tried or punished twice. Tax penalties have to be interpreted according to criminal law guarantees, especially non bis idem principle.

93. [ROTARU v. ROMANIA \(GC\), No. 28341/95, 4 May 2000, ECHR 2000-V](#)

Conclusion

- Art. 8 ECHR (Violation): Right to respect for private and family life.
- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms.

94. [ROUSK AGAINST v. SWEDEN, No. 27183/04, 25 July 2013, ECHR 2013](#)

Conclusion

- Art. 8 ECHR (Violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property because deprivation of property from executive action of the tax administration.

95. [RUOTSALAINEN v. FINLAND, No. 13079/03, 16 June 2009, ECHR 2009](#)

Conclusion

- Art. 4 Protocol N<sup>a</sup> 7 (Violation): Right not to be tried or punished twice. Tax penalties have to be interpreted according to criminal law guarantees, especially non bis idem principle.

96. [S.A. DANGEVILLE v. FRANCE, No. 36677/97, 16 April 2002, ECHR 2002-III](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.

97. [S.C. GHEPARDUL S.R.L. v. ROMANIA, No. 29268/03, 14 April 2009, ECHR 2009](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as tax credit rights.

98. [SADOCHA v. UKRAINE, No. 77508/11, 7 May 2020.](#)

Conclusion

- Art. 6-1 ECHR (Non violation): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non-violation): Protection of property.

99. [SAQUETTI IGLESIAS v. SPAIN, No. 50514/13, 30 June 2020](#)

Conclusion

- Art. 2 Protocol N° 7 ECHR (Violation): Right of appeal in criminal matters.

100. [SAUNDERS v. THE UNITED KINGDOM, No. 19187/91, 17 December 1996, REPORT 1996-VI](#)

Conclusion

- Art. 6-1 and -2 ECHR (Violation): Right to fair trial. Analysis of procedural equality of arms in a criminal proceeding regarding fair hearing, presumption of innocence and right to keep silence.

101. [SERVES v. FRANCE, No. 20225/92, 20 October 1997, REPORT 1997-VI](#)

Conclusion

- Art. 6-1 and -2 ECHR (Non-violation): Right to fair trial. Analysis of procedural equality of arms in a criminal proceeding regarding fair hearing, presumption of innocence and right to keep silence.

102. [SHANNON v. UNITED KINGDOM, No. 6563/03, 4 October 2005, ECHR 2005](#)

Conclusion

- Art. 6-1 (Violation): Right to fair trial. Analysis of the procedural equality of arms (fair hearing).

103. [SHMALKO v. UKRAINE, No. 60750/00, 20 July 2004, ECHR 2004](#)

Conclusion

- Art. 6-1 and -2 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in a civil proceeding.

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.

104. [SIDABRAS AND DŽIAUTAS V. LITHUANIA, No. 55480/00 AND 59330/00, 27 July 2004, ECHR 2004-VIII](#)

Conclusion:

- Art. 14 ECHR (Violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 8 ECHR (Violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

105. [SOCIEDAD ANÓNIMA DEL UCIEZA v. SPAIN, No. 38963/08, 4 November 2014, ECHR 2014](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the impact of judicial taxes on access to court.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession, understanding possessions as right to refund of taxes unduly paid.

106. [SOCIETE COLAS EST AND OTHERS v. FRANCE, No. 37971/97, 16 April 2002, ECHR 2002.](#)

Conclusion

- Art. 8 ECHR (Violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

107. [SPACEK, S.R.O. v. THE CZECH REPUBLIC, No. 26449/95, 9 November 1999, ECHR 1999](#)

Conclusion

- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Non-violation): Protection of property because deprivation of property from executive action of the tax administration.

108. [STEC AND OTHERS v. THE UNITED KINGDOM \[GC\], No. 65731/01 and 65900/01, 12 April 2006, ECHR 2006-VI.](#)

Conclusion

- Art. 14 ECHR (No violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (No violation): Protection of property.

109. [SUD FONDI SRL ET AUTRES v. ITALIE, No. 75909/01, 20 January 2009, ECHR 2009](#)

Conclusion

- Art. 7 ECHR (Violation): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property.

110. [TAFFIN AND CONTRIBUABLES ASSOCIES v. FRANCE, No. 42396/04, 18 February 2010, ECHR 2010](#)

Conclusion

- Art. 10 ECHR (Violation): Freedom of expression.

111. [THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS v. UNITED KINGDOM, No. 7552/09, 4 March 2014](#)

Conclusion

- Art. 14 ECHR (No violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 9 ECHR (No violation): Freedom of thought, conscience and religion.

112. [URBANEK v. AUSTRIA, No. 35123/05, 9 December 2010, ECHR 2010](#)

Conclusion

- Art. 6-1 ECHR (Non -violation): Right to fair trial. Analysis of the impact of judicial taxes on access to court.

113. [VAN RAALTE v. THE NETHERLANDS, No. 20060/92, 21 February 1997, ECHR-1997-I](#)

Conclusion

- Art. 14 ECHR (Violation): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property.

114. [VAN WEERELT v THE NETHERLANDS, No. 784/14 \(dec\), 16 June 2015, ECHR 2015](#)

Conclusion

- Art. 6-1 ECHR (Inadmissible): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time.



115. [VARVARA v. ITALY, No. 17475/09, 29 October 2013, ECHR 2013](#)

Conclusion

- Art. 7 ECHR (Violation): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.
- Art. 1 Protocol N<sup>a</sup> 1 ECHR (Violation): Protection of property. Analysis of peaceful enjoyment of possession.

116. [VASTBERGA TAXI AKTIEBOLAG AND VULIC v. SWEDEN, No. 36985/97, 23 July 2002, ECHR 2002](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms in a criminal proceeding regarding access to court and reasonable time.
- Art. 7 ECHR (Violation): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.

117. [VIDACAR S.A. AND OPERGRUP S.L. v. SPAIN \(dec\), No. 41601/98 and 41775/98, 20 April 1999, ECHR-1999-V](#)

Conclusion

- Art. 6-1 ECHR (Inadmissible): Right to fair trial. Analysis of the procedural equality of arms in an administrative procedure and delimitation of the concept of civil rights and obligations.

118. [VON HANNOVER v. GERMANY \(NO. 2\), No. 40660/08 60641/08, 7 February 2012, ECHR 2012](#)

Conclusion

- Art. 8 ECHR (Non-violation): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

119. [VÖRÐUR ÓLAFSSON v. ICELAND, No. 20161/06, 27 April 2010, ECHR 2010](#)

Conclusion

- Art. 11 ECHR (Violation): Freedom of assembly and association.

120. [WEH v. AUSTRIA, No. 38544/97, 08 April 2004, ECHR 2004](#)

Conclusion

- Art. 6-1 ECHR (Non-violation): Right to fair trial Analysis of the procedural equality of arms in a criminal proceeding, especially right to keep silence.

121. [X. v. BELGIUM, No. 8988/80, 10 March 1981](#)

Conclusion

- Art. 6-1 ECHR (Inadmissible): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time.

122. [X v. BELGIUM, No. 9804/82 \(dec\), 7 December 1982](#)

Conclusion

- Art. 8 ECHR (Inadmissible): Right to respect for private and family life. Application of proportionality test to government actions to ensure the protection of the balance between general interest and fundamental rights.

123. [X. v. AUSTRIA 5492/72 \(dec\), No. 5492/72, 16 July 1973, Collection 44, pp. 63-65](#)

Conclusion

- Art. 14 ECHR (Inadmissible): Prohibition of discrimination. Analysis of objectivity, reasonableness and proportionality qualities of the justification to differentiate between two taxpayers in comparable situations.

124. [X. v. THE NETHERLANDS \(dec\), No. 9926/82, 1 March 1983.](#)

Conclusion

- Art. 11 ECHR (Inadmissible): Freedom of assembly and association.

125. [ZAICEVS v. LATVIA, No. 65022/01, 31 July 2007, ECHR 2007](#)

Conclusion

- Art. 6 ECHR (Non-violation): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time.
- Art. 2 Protocol N° 7 ECHR (Violation): Right of appeal in criminal matters
- Art. 7 ECHR (Violation): No punishment without law. Tax penalties have to be interpreted according to criminal law guarantees primarily penal legality principle.

126. [ZAMAN v. FRANCIA \(dec\), No. 8013/12, 17 June 2014, ECHR-2014](#)

Conclusion

- Art. 6-1 ECHR (Violation): Right to fair trial. Analysis of the procedural equality of arms based on a due process where there must be right of oral hearing, public hearing, fair hearing, right to proof and reasonable time.

127. [ZOLOTUKHIN v. RUSSIA, No. 14939/03 \(dec\), 10 February 2009, ECHR 2009](#)

Conclusion



- Art. 4 Protocol N<sup>o</sup> 7 (Violation): Right not to be tried or punished twice. Tax penalties have to be interpreted according to criminal law guarantees, especially non bis idem principle.