

DECISIONS OF THE ECHR AFFECTING DOMESTIC LAWS IN THE FINANCIAL AND TAX FIELD

María Amparo GRAU RUIZ*

Abstract

Some would say that taxation and human rights is an oxymoron. An oxymoron is, of course, the conjunction of two otherwise apparently irreconcilable concepts. I personally do not believe that taxation and human rights are in any way irreconcilable or conflicting; I think human rights are a fundamental aspect of taxation. Human rights limit what governments can do to their citizens - to people affected by their decisions. I think at the moment we are at a very exciting stage, where we are seeing the extension of human rights principles into the tax field, to provide limits to what governments can do to taxpayers. It is part of the balance between the powers of the State and the rights of taxpayers¹.

Keywords: *taxation, human rights, taxpayers, ECHR, authorities.*

I. Preliminary remark

The current situation shows how apparently trivial issues in tax procedures reach the European Court of Human Rights (ECHR). There has been a growing trend in controversies, which seems to have experienced some changes regarding certain matters.

Among the main causes explaining the current situation, we could point out, first, the general resistance to taxation that has been aggravated by the economic crisis. When the public authorities have to fight against deficit, the tax officials may appear more anxious to recover tax claims. Secondly, the creation of Agencies complicates the administrative structure. In addition there are increasing international efforts to combat fraud. In the international context the cooperation among administrations in international tax matters to fight avoidance and evasion has led to a huge exchange of information, with different standards.

The effects can be observed from a double perspective, in theory to reinforce the categories, and in practice to try to solve the problems faced by professionals. Any effort to place taxation within the rule of law is to be welcome, increasing the legal certainty. With the involvement of lawyers and judicial authorities, the number of issues brought before Courts rises, but sometimes there is a lack of expertise in this field and it is difficult to manage the existing workload.

The core issue is the fair balance between the duty to pay taxes and individual rights, clarifying the legal statute of the taxpayer. In accordance with some Constitutions (i.e. the Spanish one), the contributions to sustain public expenditure may find limits on the respect of fundamental rights². Therefore, the obligation to contribute with taxes is a public obligation and finds limits in the application of article 6 of the European Convention on Human Rights.

* Professor Ph.D., Associate Dean for Institutional and International Relations, Faculty of Law, „Complutense” University, Madrid, Spain (e-mail: grauruiz@der.ucm.es).

¹ Inspiring words by Professor Philip Baker that can be found at http://www.taxbar.com/gitc_review/gitc_review_v1_n1.pdf (visited the 26th of June 2011).

² In this sense, the Spanish Constitutional Court has discussed much about the bank secrecy and the search in the taxpayers' premises.

Other important aspect to take into consideration is the possible application of the criminal safeguards in the tax area. Of course, an automatic extrapolation cannot be made. The doctrine might be applicable *mutatis mutandis*.

II. Main cases dealt regarding the application of the Convention in tax matters

The effective development of the Convention during the last years has depended on several additional protocols (i.e. the first protocol in article 1 explicitly deals with the need to pay taxes, charges or fines; the fourth includes *non bis in idem* for administrative or judicial tax penalties; the seventh opens the right to appeal in case of conviction with a criminal charge applicable to tax penalties). However in the coming future, it will be very difficult to reform the system through new Protocols due to the heterogeneous situation in all the Contracting States, which leads to strong differences related to their ratification).

Before reviewing the recent case law applicable in tax matters, it is convenient to take a look into the past and mention some leading cases.

In *Bendenoun*³ was shown that tax penalties have a deterrent and punitive purpose, and that the administrative procedure to impose tax penalties had a criminal nature. France was not condemned. Some special Customs regulations could not disregard the right to remain silent. Though not expressly mentioned, this was linked to the innocence assumption. The balance has to be carefully made. On the one hand, the duty to cooperate in order to determine the tax debt obliges to provide some information, but later its possible use to impose penalties recommends keeping both procedures separated (determination of the tax debt and sanction). The lack of cooperation may entail another risk: to forget the ability to pay principle and employ alternative means to calculate the tax debt, such as negotiations or indirect estimations.

It is worthwhile to add that the burden of proof is closely linked to innocence, and the defendant should not be obliged to give proofs to self-incrimination⁴.

In *Ferrazzini*⁵ was clearly stated that tax disputes fell outside the scope of civil rights and obligations.

In *Funke*⁶ the French tax authorities were condemned because of the lack of a judicial order to enter in premises and domicile. The legal conditions were too wide and it was important to achieve prior judicial authorization.

In *Hardy-Spirlet*⁷, affecting privacy, the Commission's decision was that the Belgian tax authorities had employed proportionate research powers for the adequate protection of the economic welfare.

In *Dangeville*⁸, on the Article 1 of the First Protocol, the French authorities did not want to compensate damages when a company had paid the Value Added Tax (VAT) in accordance with the domestic legislation, which was not compatible with the Community rules. The refund of an illegal tax unduly paid is a part of the property right. This credit has a patrimonial value. The Protocol applies to this asset. Therefore it would be possible to ask for the legislator's patrimonial responsibility.

³ ECHR 24-2-1994. *Bendenoun v. France*, application number 12547/86, reported in 1994 18 EHRR 54.

⁴ The European Association of Tax Law Professors has dealt with the subject of burden of proof in its Annual Congress held in Uppsala in June 2011.

⁵ *Ferrazzini v. Italy*, application number 44759/98, reported in 2001 3 ITLR 918.

⁶ *Funke, Mialhe and Crémieux v. France*, ECHR 25-2-1993, application numbers 10828/84, 12661/87 and 11471/85. 1993 16 EHRR 297, 332 and 357.

⁷ *X (Hardy-Spirlet) v. Belgium*, application number 9804/82, 7-12-1982, DR 231.

⁸ *S.A. Dangeville v. France*, ECHR 16-4-2002, application number 36677/97. ECHR 2002-III.

III. Overview of the recent case-law related to taxation

In the last years, the ECHR seems to have been quite sensitive to taxpayers' claims. However, it is important to keep in mind the *ratio decidendi* in each case, without trying to extrapolate any decision or any statement, assessing the different circumstances existing in a set of similar cases.

Regarding the property right (article 1 of the First Protocol), there are some clear lines of jurisprudence.

The right to deduct VAT is a legitimate expectation to recover amounts paid in excess and avoid the unjust enrichment by the tax administration. In *Bulves AB*⁹ the deduction prevails over formal conditions set for the functioning of the VAT system. There is a general interest in it. And there is no ability to secure compliance by the supplier with VAT reporting obligations. In *Business Support Centre*¹⁰, if the supplier does not fulfil his obligation, the taxpayer cannot deduct and must pay VAT twice, which turns into an excessive burden.

In *Moon*¹¹ after not having declared certain amounts of money in the border to the Customs' authorities, they were retained, the taxpayer was forced to prove that their origin was not illicit and an additional fine was imposed. This was a confiscatory measure.

In *Joubert*¹² the financial interest of the State to avoid complaints for the high cost to the Treasury if many assessments were declared invalid was not found a sufficient justification. In affecting the legal certainty regarding the entry into force, there was a lack of proportionality between means and goals, as an additional determination plus a 40% fine shows.

With respect to article 5, related to safeguards in case of tax crime (in particular, detention, motivation, length of the procedure and appeal) some questions have arisen.

On provisional measures, in *Mooren*¹³ the German authorities took too long preventive detention in tax fraud; in *Marian Sobczynski*¹⁴ the Polish authorities were diligent in a complex case where a serious penalty was imposed; in *Zurawski*¹⁵ three years of preventive detention was too much for a falsification.

Regarding legal aid, a couple of Swedish controversies were solved. In *Persson*¹⁶ if the tax case involves the determination of a criminal charge, the equality of arms principle applies. However, in this case, there was no evidence that the taxpayer had asked it and was refused. In *Barsom and Varli*¹⁷ the imposition of surcharges concerned minor penalties and the Court decided that the applicants could have presented their cases without legal assistance.

The article 6 of the Convention comprises several detailed rights that together allow a fair procedure. Let us recall some of the main judgments.

In *Matsyuk*¹⁸, referred to access to justice, the Ukrainian national courts denied the appeal made against a fiscal police's decision, notified by post by means of a simple letter without formalities in a tax crime.

⁹ *Bulves AD v. Bulgaria*, ECHR 22-1-2009, application number 3991/03.

¹⁰ *Business Support Centre v. Bulgaria*, ECHR 18-3-2010, application number 6689/03.

¹¹ *Moon v. France*, ECHR 9-10-2009, application number 39973/03.

¹² *Joubert v. France*, ECHR 23-7-2009, application number 30345/05.

¹³ *Mooren v. Germany*, application number 11364/03 (Sect. 5) ECHR 13.12.07; *Mooren v. Germany [GC]*, application number 11364/03, ECHR 9-7-2009.

¹⁴ *Marian Sobczynski v. Poland*, ECHR 2-2-2010, application number 35494/08.

¹⁵ *Zurawski v. Poland*, ECHR 24-11-2009, application number 8456/08.

¹⁶ *Persson v. Sweden*, ECHR 27-3-2008, application number 27098/04.

¹⁷ *Barsom and Varli v. Sweden*, ECHR 4-1-2008, application numbers 40766/06 and 40831/06.

¹⁸ *Matsyuk v. Ukraine*, ECHR 10-12-2009, application number 1751/03.

In *Feldman*¹⁹, a bank owner was charged with a tax crime, the case was reallocated before Courts without paying attention to strict rules and motivation.

The timely resolution depends on factors, such as the behaviour of the taxpayer (i.e. if he changes his lawyer) or the tax authorities (i.e. if they try agreements or ask reports) and the complexity of the interests involved. There is a series of cases on this matter: *Nielsen* (in tax asset stripping cases that took too long in Denmark)²⁰, *Smirnov* (where no complexity was appreciated)²¹, *Yefanov* (where the administrative behaviour was scrutinized)²², *Knaster* (when international assistance was sought from Luxembourg)²³, *Petroff* (where the tax authorities did not check the domicile)²⁴, *Niedzwiecki* (twelve years were too long in a case without complexity)²⁵, *Impar Limited* (the Vilnius city tax authorities faced fraudulent book keeping, the deterrent and punitive fine was reduced to 5%, but with many delays)²⁶.

The inviolability of premises, both business premises and homes, has been dealt with in French cases like *Ravon*, *Société IFB*, *Maschino*, *Kandler*, and *SA LPG Finance Industrie*²⁷. In *Ravon*, any search by revenues authorities involves a potential infringement, so any challenge requires access to an independent Tribunal, to know whether it should take place and how it must be conducted. The dispute is over a civil right, the taxpayers were not informed of this right and other routes for complaint were not effective. Notwithstanding this decision, in *SA LPG* is said that the previous doctrine could be maintained until the *Winkler* case, when a new route was open by the Conseil d'Etat, because afterwards there had been no exhaustion of all the available domestic remedies.

The tax administrative penalties may constitute a criminal charge for the purposes of the Convention, as some cases reflect: *Västberga Taxi Aktiebolag*²⁸ or *Jussila*²⁹. In the former a 20% tax-geared penalty was a criminal charge (and a 10% might also be); in the latter, which implied the end of the Bendenoun doctrine, a focus is placed on the administrative penalty (i.e. 10% VAT surcharge imposed for errors in book-keeping). It is necessary to check the nature of the offence (all citizens as taxpayers) and the degree of severity of the penalty (if it is deterrent, in spite of not being a substantial amount). This means that virtually all penalties calculated as a percentage of the tax under-charged will engage criminal guarantees in article 6, though they will not necessarily apply with their full stringency.

Other articles in the Convention refer to various matters, sometimes linked to taxation in practice. The article 7 contains the principle *nulla poena sine lege*, in the *Yukos*³⁰ case the applicant claimed its application in an indirect acquisitions by a State-owned entity (from a tax audit until the auction of the shares). The article 8 refers to the right to privacy and the professional

¹⁹ *Feldman v. Ukraine*, ECHR 8-4-2010, application numbers 76556/01 and 38779/04.

²⁰ *Nielsen v. Denmark*, ECHR 2-7-2009, application number 44034/07.

²¹ *Smirnov v. Ukraine*, ECHR 30-7-2009, application number 1409/03.

²² *Yefanov and others v. Ukraine*, ECHR 30-7-2009, application number 13404/02.

²³ *Knaster v. Finland*, ECHR 22-9-2009, application number 7790/05.

²⁴ *Petroff v. Finland*, ECHR 3-11-2009, application number 31021/06.

²⁵ *Niedzwiecki v. Germany*, ECHR 1-4-2010, application number 12852/08.

²⁶ *Impar Limited v. Lithuania* ECHR 5-1-2010, application number 13102/04.

²⁷ *Ravon & others v. France*, ECHR 21-2-2008, application number 18497/03. *Société IFB v. France*, ECHR 20-11-2008, application number 2058/04. *Maschino v. France*, ECHR 16-10-2008, application number 10447/03. *Kandler & others v. France*, ECHR 18-9-2008, application number 18659/05. *SA LPG Finance Industrie v. France*, ECHR 19-5-2009, application number 43387/85.

²⁸ *Västberga Taxi Aktiebolag v. Sweden*, application number 36985/97, reported in 2002 5 ITLR 65.

²⁹ *Jussila v. Finland*, application number 73053/01, reported in 2006 9 ITLR 662.

³⁰ *OAO Neftyanaya Kompaniya Yukos v. Russia*, admissibility decision 29-1-2009, application number 14902/04. Application number 137772/05, ECHR judgment of 27-5-2010.

privilege, which is fundamental to the proper operation of the judicial system. In *André and another v. France*³¹ was stated that any infringement at a lawyer's office must be necessary and proportionate. In the case there was no suspicion of participation in the fraud made by his client.

The article 9 on freedom of religion was claimed in *Tamara Skugar*³², regarding the use of the taxpayers' identification numbers, though the Orthodox Church did not find it against the religious practice. Moreover, the revenue authorities allowed the taxpayers to use their personal details instead. Therefore, the databases to organize State taxation do not interfere with this freedom. This was in like with the decision adopted in *C v. UK*³³, when the quakers objected to their taxes, because they were used in part to pay military expenses.

On the freedom of expression, the article 10 was discussed in *Mariapori*³⁴, where a tax expert in a court said that the tax inspector had intentionally made mistakes, and later did so in a book. She was charged with aggravated defamation and punished with a fine and conditional imprisonment. The ECHR decided that revenue officers in a democratic society must be expected to tolerate criticism and accepted wider limits.

The article 11 includes the freedom of association, in the case *Vördur Olafsson*³⁵ a mandatory payment of an industry charge was levied. The law imposed it for the promotion of a general interest, the Treasury collected it and transferred the revenue to the Federation of Industries. However, it was not designed as a private subscription. The citizen did not belong to that Federation and there was a lack of transparency on the use of the funds.

The article 14 focuses on non-discrimination, and a number of cases shows how fluctuations appear in the Court's reactions regarding this matter. In *Glor*³⁶ a man suffering diabetes was declared unfit for the military service, but was obliged to pay the 'military service exemption tax', because the disability threshold was arbitrary. In *Christopher Crossland*³⁷, his wife died and he had to give up his full time work to care for their children, he asked for a tax allowance -granted usually to women, and it was denied, then he went to Strasbourg and the UK Government offered him a friendly settlement. In *Willis*³⁸ the refusal to grant a man the allowance was unjustified and the Court awarded pecuniary damage. On the contrary, in *Hobbs, Richard, Walsh & Geen*³⁹ a violation was found, but the Court did not award financial compensation due to a change in the circumstances (the legislation was eliminated).

The article 1 of the First Protocol sets that any interference with the peaceful enjoyment of possessions should be lawful. It requires minimum quality standards in laws, i.e. in *Shchokin*⁴⁰ there were inconsistent legal acts applied by the tax authorities (an instruction fixing progressive taxation and a ministerial decree establishing a flat rate were clearly conflicting rules, and they were applied at a time). In *Spacek*⁴¹ the company failed in its claim because it did not seek professional advice.

³¹ *André and another v. France*, ECHR 24-7-2008, application number 18603/03.

³² *Tamara Skugar & others v. Russia*, ECHR 3-12-2009, application number 40010/04.

³³ ECHR 15-12-1983 Commissioner Decision, application number 10358/83.

³⁴ *Mariapori v. Finland*, ECHR 6-7-2010, application number 37751/07.

³⁵ *Vördur Olafsson v. Iceland*, ECHR 27-4-2010, application number 20161/06.

³⁶ *Glor v. Switzerland*, ECHR 30-4-2009, application number 13444/04.

³⁷ *Christopher Crossland v. United Kingdom*, application number 36120/97, admissibility decision 8-6-1999, ECHR 9-11-1999, resolution by the Committee of Ministers Resolution DH 2000 81, 29-5-2000.

³⁸ *Willis v. United Kingdom*, ECHR 11-6-2002, application number 36042/97.

³⁹ *United Kingdom*, ECHR 14-11-2006, application numbers 63684/00, 63475/00, 63484/00 and 63468/00.

⁴⁰ *Shchokin v. Ukraine*, ECHR 14-10-2010, application numbers 23759/03 and 37943/06.

⁴¹ *Spacek sro v. Czech Republic*, ECHR 9-11-1999, application number 26449/95.

The retrospective legislation is not forbidden as such, however if it imposes an excessive burden it might be. In *Belmonte*⁴² an Italian municipality compulsorily acquired some land, there were delays in compensation for the expropriation and a new legislation was passed with retrospective effects imposing a withholding tax at source. The ECHR found in the case a breach of the individual rights.

The ECHR has had the opportunity to consider the proportionality principle in a case of cumulative fines. In *Monedero*⁴³ there was gambling activity without license and some duties were evaded, doubts may arise regarding an excessive charge that undermines the individual's financial situation, taking into account all the money laundering regulations and the possible interference in witnesses' declarations.

A clear case shows that it is quite difficult to clarify the notion of an excessive tax burden, this happened with *Imbert de Tremiolles*⁴⁴. Regarding the French capital tax, the payable amount exceeded the net income obtained from the property, but the ECHR concluded in favour of a wide State's margin of appreciation.

The article 4 of the Seventh Protocol contains the principle *non bis in idem*. In *Ruotsalainen*⁴⁵ a 'low tax' petrol was unduly used and a criminal judgment led to a sanction through a quick process for a minimal fraud, but in addition an administrative procedure ended with a fine of three times the tax debt for driving without notifying it. It was an identical breach, with the same subject, the same facts and at the same time. A question could have been posed if a possible discount among the fines had made things vary.

IV. Balance on the issues to solve

As Professor Philip Baker says, we should ask ourselves: How many tax systems are based in laws that are in every respect accessible, precise and foreseeable in their application? Obviously, there is here room for improvement.

Paradoxically the case-law shows how big disputes regarding the quantum of the liability to tax do fall outside article 6 of the Convention, but some small penalties may fall inside its scope. This has enormous consequences and affects mixed cases, which are quite common.

In facing so many 'criminal charges', a distinction among them is made in accordance with their differing weights (tax surcharges differ from the hard core of criminal law, so one could argue how far does the right to silence applies in tax matters, for instance).

Another curious fact is that, in the current state of the art, the ECHR seems to accept retrospective changes to substantive law, and be reluctant when they affect procedural tax rules.

However, for the taxpayers the crucial issue is that of compensation. The failure to grant it might reduce applications to the ECHR in the near future. This is a complicated issue, because the ECHR could not delegate it, though some proposals have been made in this sense, due to possible divergences in its application within each national system.

The main findings in a recent study by *Keller & Stone Sweet*, which are summarized in the following paragraphs, may help us to understand the situation of the ECHR nowadays.

We are dealing with a kind of transnational or constitutional jurisprudence. The ECHR helps to define rights that overlap with national provisions, or fill a constitutional gap (acting as shadow Constitution). The national judges act as gatekeepers between domestic legal orders and the Court (proportionality must be enhanced, notwithstanding the subsidiarity and their margin of

⁴² *Belmonte v. Italy*, ECHR 16-3-2010, application number 72638/01.

⁴³ *Monedero & others v. France*, ECHR 2-2-2010, application number 32798/06.

⁴⁴ *Imbert de Tremiolles v. France*, ECHR 4-1-2008, application numbers 25834/05 and 27815/05.

⁴⁵ *Ruotsalainen v. Finland*, ECHR 16-6-2009, application number 13079/03.

appreciation). We must realize that today, national officials routinely participate in a transnational judicial process whose reach into domestic law and politics is limited by the ever-widening scope of the Convention itself, as determined by a transnational Court.

There is a clear trend: the Court's emphasis on procedural guarantees for defendants. The accusatorial civil law systems (differing from the adversarial Anglo-Saxon model) are sometimes criticized due to lack of impartiality or transparency and the accumulation of functions. The implementation of the Convention often requires changes in the judicial organization and operation. In this line, some constitutional courts make express requirements to the judiciary. When courts are open to enforce the Convention and the case-law (binding for the State and its officials), consequently there are less applications to the ECHR.

Of significant relevance are the generalized failures across Europe to ensure trial within a reasonable time period. Now it is worrying too the length of the proceedings before the ECHR.

This might be connected with the standard technique of judicial prudence in rights adjudication. Its effects vary for the individual (as retrospective judge, if compensation is awarded, possible feedback loops may happen, because positive decisions may attract new petitioners) and for other States (as prospective lawmaker seeking patterns for reform).

Of course, the national legal orders are porous to the ECHR's influence, but with different intensity in an open-ended process, and the impact depends on each legal domain. For the domestication of the Convention rights, it is wise to develop rules in order to better coordinate the national legal order and the ECHR.

V. The ECHR's decisions and the Financial Law

The ECHR has had an impact not only on the public revenue side, but also in the public expenditure. These minor 'collateral effects' are worth to be outlined at least briefly. Several national State Audit Offices have had to adapt to article 6.1 of the Convention. In particular, this has happened in France, Belgium, Greece and Italy.

If we have a look at the French experience⁴⁶, we will notice that since 1807 the French financial jurisdiction proceedings had features against the ECHR case-law. In principle, it was compulsory and reserved a marginal role to the parties. There was a lack of communication to the parties of the submissions made by the public prosecutor or the 'rapporteur' judge. The Decree of the 27th of September, 2002 solved the issue of the participation in the deliberations.

After some changes to renew the judgment proceedings of public accounts, one could ask if it is already in conformity with the article 6.1 of the Convention. On the one hand, an internal regulation of the 16th of May, 2006, issued by the President of the State Audit Office, imposed the respect of equality of arms and the adversarial principle. On the other hand, the Act of the 28th of October, 2008 aimed at compatibility with the fair trial. Accordingly, it modified the role of the public prosecutor of the State Audit Office and the Regional Audit Office. He/she had the exclusivity of the prosecutions. But there were still risks regarding the 'ordonnance de décharge' and the intervention of the Minister of the Treasury in the execution of the decisions.

Due to the exclusivity in the dispute phase and the increase of the prosecutor authority, it is necessary to clarify his/her independence. The role cannot be exactly assimilated to the prosecutors of the judiciary (with wider competence than a public accuser). And regarding impartiality, some aspects deserve careful attention: the participation of the 'rapporteur' judge in the financial jurisdiction deliberation, the composition of the 'Cour de discipline budgétaire et financière', and the beginning of the process.

⁴⁶ The issue was thoroughly analysed in the *Revue Française de Finances Publiques*, No.106, 2009.

The *Martinie*⁴⁷ case-law modifies the responsibilities established in France concerning persons entitled to make payments, public accountants, financial judges and the Minister of the Treasury, because the judgment of accounts becomes an ordinary law financial trial.

The financial jurisdiction has both judicial and non judicial competences, so eventually a structural partiality remains related to its dual function. The Minister of the Treasury may reject the force of judicial decisions given by the financial judge, that are contrary to public Law and European rules (while not modified, but probably it will be challenged).

References

- BAKER, P.: "Some recent tax decisions of the European Court of Human Rights", *European Taxation*, December, 2010, Vol. 50, No. 12, p. 568.
- BAKER, P.: "Some recent tax decisions of the European Court of Human Rights", *European Taxation*, June, 2010, Vol. 50, No. 6, p. 259.
- BAKER, P.: "Some recent decisions of the European Court of Human Rights", *European Taxation*, December, 2009, Vol. 49, No. 12, p. 596.
- BAKER, P.: "Some recent cases from the European Court of Human Rights", *European Taxation*, June, 2009, Vol. 49, No. 6, p. 326.
- BAKER, P.: "Widowers' bereavement benefits and tax relief: a survey of some recent case law of the European Court of Human Rights", *European Taxation*, December, 2008, Vol. 48, No. 12, p. 643.
- BAKER, P.: "Some recent decisions of the European Court of Human Rights", *European Taxation*, June, 2008, Vol. 48, No. 6, p. 315.
- BAKER, P.: "The determination of a criminal charge and tax matters", *European Taxation*, December, 2007, Vol. 47, No. 12, p. 587.
- DESCHEEMAEKER, C.: "La réception des exigences de la Convention européenne des droits de l'homme par la Cour des Comptes", in *La réforme des procédures des juridictions financières et la Convention européenne des droits de l'homme*, *Revue Française de Finances Publiques*, No. 106, 2009, p. 113.
- FALCÓN Y TELLA, R.: "La responsabilidad patrimonial del Estado-legislador en los supuestos de leyes inconstitucionales o incompatibles con el ordenamiento comunitario: la Sentencia Dangeville del Tribunal Europeo de Derechos Humanos", *Quincena Fiscal*, julio 2002, I, p. 5.
- FLIZOT, S.: "Les juridictions financières et article 6.1 de la CESDH: confrontation des expériences européennes", in *La réforme des procédures des juridictions financières et la Convention européenne des droits de l'homme*, *Revue Française de Finances Publiques*, No. 106, 2009, p. 183.
- HERTZOG, R.: "La juridiction financière en mutation", in *La réforme des procédures des juridictions financières et la Convention européenne des droits de l'homme*, *Revue Française de Finances Publiques*, No. 106, 2009, p. 247.
- KELLER, H.; STONE SWEET, A.: *A Europe of Rights. The Impact of the ECHR on National Legal Systems*, Oxford University Press, Oxford, 2008.
- MARCOS CARDONA, M.: *El procedimiento sancionador tributario*, Iustel, Madrid, 2005.
- MARTÍNEZ MUÑOZ, Y.: *La aplicación del Convenio Europeo de Derechos Humanos en materia tributaria: un análisis jurisprudencial*, Aranzadi, Cizur Menor, 2002.

⁴⁷ *Martinie v. France* (dec.), ECHR 13.1.04, application number 58675/00, ECHR 2004-II (extracts); *Martinie v. France* [GC], ECHR 12.4.06, application number 58675/00, ECHR 2006-VI.

- MARTÍNEZ MUÑOZ, Y.: "Jurisprudencia del Tribunal Europeo de Derechos Humanos", *Civitas Revista Española de Derecho Financiero*, No. 147, 2010, p. 785.
- PALAO TABOADA, C.: *El derecho a no autoinculparse en el ámbito tributario*, Thomson-Cívitas, Cizur Menor, 2008.
- PICHERAL, C.: "Le principe d'égalité des armes et la position du ministère public", in *La réforme des procédures des juridictions financières et la Convention européenne des droits de l'homme*, *Revue Française de Finances Publiques*, No. 106, 2009, p. 137.
- PIJL, H.: "Human Rights and admissibility in trivial tax matters", *European Taxation*, June, 2007, Vol. 47, No. 6, p. 299.
- PIJL, H.: "Netherlands Tax Law meets Human Rights Law", *European Taxation*, September, 2006, Vol. 46, No. 9, p. 453.
- RUIZ ZAPATERO, G.: "El TEDH y el bis in idem en el ámbito tributario (Ruotsalainen v. Finlandia)", *Quincena Fiscal*, No. 22, 2009, p. 50.
- SANZ DÍAZ-PALACIOS, J. A.: *Derecho a no autoinculparse y delitos contra la hacienda pública*, Colex, Madrid, 2004.
- SANZ DÍAZ-PALACIOS, J. A.: "Las sentencias del Tribunal Constitucional 18/2005 y 68/2006 y los pronunciamientos del Tribunal de Estrasburgo Shannon, Weh y Allen", *Impuestos*, No. 20, 2006.
- SARRÓ RIU, J.: *El derecho a no autoinculparse del contribuyente. Vigencia de las garantías frente a la autoincriminación en los procedimientos ante la Inspección de Hacienda*, Bosch, Barcelona, 2009.
- SOLER ROCH, M.T.: "Deberes tributarios y derechos humanos", *Revista Técnica Tributaria*, No. 30, julio-septiembre 1995, p. 101.
- SUDRE, F.: "L'applicabilité de l'article 6.1 de la Convention européenne des droits de l'homme aux procédures des juridictions financières", in *La réforme des procédures des juridictions financières et la Convention européenne des droits de l'homme*, *Revue Française de Finances Publiques*, No. 106, 2009, p. 55.
- SURREL, H.: "Le cumul des fonctions et l'impartialité objective", in *La réforme des procédures des juridictions financières et la Convention européenne des droits de l'homme*, *Revue Française de Finances Publiques*, No. 106, 2009, p. 173.
- VAN HERZELE, P.: "Sur le principe d'égalité des armes et la position de ministère public", in *La réforme des procédures des juridictions financières et la Convention européenne des droits de l'homme*, *Revue Française de Finances Publiques*, No. 106, 2009, p. 161.
- Further information at http://www.echr.coe.int/echr/Homepage_En