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Taxpayer's privacy. Issue seen as one of tax challenges

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Abstract
It has become difficult to deal with the increasingly complex and, in fact, disturbing tax reality. That is because solutions, often based on gathering and processing tax information, are being sought to remedy identified difficulties (e.g. combating tax evasion and tax avoidance), while failing to see that fixing one tax problem makes way for another. The taxpayer has the right to privacy, guaranteed at different levels of regulation. However, privacy is subject to limitations, and lawmakers are introducing a variety of regulations that have a detrimental impact on the scope of the taxpayer's inviolable sphere of privacy. It is the aim of this paper to present the issue of the invasion of the taxpayer's privacy that is currently occurring, identify its source and, against this background, make some observations regarding the need to increase the protection of the taxpayer's privacy. Based on a solid legal, as well as judicature analysis and a literature review that provides good theoretical insights to define and understand one of the challenges of upcoming tax reality, a mixed-method, related to the functional approach, has been utilized for this paper.

Keywords: taxpayer, taxpayers' rights, privacy, tax

Introduction

Nowadays, it has become difficult to deal with the increasingly complex, chaotic and unfortunately disturbing tax reality, also including the use of new technologies for tax purposes and, in such way, modelling tax provisions. Tax law is in crisis. It is thought that tax avoidance and evasion and the decline in the fiscal efficiency of taxes still constitute some of the key problems. These topics have become the leitmotif of the debate about taxes in the 21st century. A whole range of solutions are being sought in order to remedy this situation, while failing to see that fixing one tax problem makes way for another. The impact of digital technology in taxes is extensively used. Every tax administration in the EU uses – in a narrower or broader scope - AI in everyday actions. It has improved the speed and efficiency of tax administrations' operations and creates new possibilities. But there are not only the benefits of using AI. One of the important drawbacks of AI use and application is the endangerment of taxpayers' privacy.

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All elements of tax legislation that are characterized by a broadly oppressive approach (interference in the private sphere of the individual should also be perceived in this way) destroy what should be the foundation in a democratic state, which is mutual trust between the taxpayer and the tax beneficiary represented in the legal-tax relationship by the tax authority. Therefore, the tax legislator has to balance the benefit of 'taxpayer surveillance' (new technologies offer great opportunities) and the problems that it generates. This fact should be the background of exploring reasons why nations do not become happier as they become wealthier (Bentley, 2007, pp. 1-2). What makes people happy is the respect for their other (soft) needs, rights and quality of life. Taxes are everyday facts. Therefore, tax legislation should fulfil not only the fiscal function of taxes, but should be created in such a way that, while being effective, they are not oppressive to taxpayers. The comfort of the taxpayer should be important to the legislator. In the field of taxation, the forgotten perspective is the taxpayer's perspective, the inter alia protection of his privacy or rather the depth of invasion on his privacy. It must not be overlooked that excessively burdensome, repressive and intrusive tax provisions cause a concrete reaction from taxpayers. As a reaction they implement various solutions to avoid their effects, which, in turn, results in the introduction of even more restrictive, detailed legal solutions and generally causes these solutions to become more oppressive and burdensome, thus stifling the taxpayers' freedom even to a greater extent.

The main proposition comes down to a statement that the legislator is systematically expanding the scope of invasion against the taxpayer's private sphere, inter alia using AI tools, and refrains from introducing new and adequate instruments for the protection of the taxpayer's right to privacy, which has led to a disparity between the protection of public and private interests.

It is the aim of this paper to present the issue of the invasion of the taxpayer's privacy, which is currently occurring, to identify its source and, against this background, make some observations regarding the need to increase the protection of the taxpayer's privacy. A mixed-method, related to the functional approach, based on a solid legal as well as judicature analysis and a literature review that provides good theoretical insights to define and understand one of challenges of upcoming tax reality has been utilized for this paper, it is.

1. The taxpayer as a subject of rights

A subjective right determines the place of the subject of that right in relation to other subjects of law in a given political and legal system (Jakimowicz, 2002, p. 121). We should strive to achieve a relative balance between the protection of the taxpayer's interest, on the one hand, and of the public interest on the other (Avi-Yonah & Mazzoni, 2016; Bentley, 2007, p. 56; Suwaj, 2009). The level of the proper relation between the rights and obligations of the taxpayer should be determined with regard to the essence of the legal relationship. It is in the nature of the tax law that

the public interest takes priority and dominates over the interest of the individual; however, the rights of the individual should be properly secured by providing the individual with legal, effective guarantees to protect his interests (Gomułowicz, 2005, p. 81; Popławski, 2019, p. 113). It is possible to achieve sustainable and efficient sources of public revenue that will guarantee the achievement of public interest only if the private interest of the taxpayer is respected (Wójtowicz & Gorgol, 2006, p. 99).

As Bentley noticed "If you are going to tax people, male sure they know that they are doing something for the greater good, that the process is as painless as possible and that they don't feel that they are paying more than their fair share" (Bentley, 2007, p. 2). Focusing attention on the second of these conditions, it should be noted that much can be done in terms of making the process of paying taxes and fulfilling additional obligations incumbent on the taxpayer much less painless. After a period of relative development of taxpayer rights and evolution of the relationship between the taxpayer and the tax authorities (Bentley, 2007, pp. 2-6), there has been stagnation in this area. The outlook that Bentley had in 2007 was optimistic but, after a period of development of thought running in the direction of the development of taxpayer rights, there was a turn to the protection of fiscal interests. However, it has to be noted that these relatively new phenomena cause quiver in the domestic tax systems. The pervasiveness of this kind of practices and the scale of the resultant revenue losses had brought worldwide attention, following unprecedented disclosures and complex investigative reporting (Alston & Reisch, 2019, p. 5).

The fact is that the attitude of certain taxpayers is directed towards avoiding or minimizing tax burdens. Researches revealed that tax evasion and psychological egoism negatively affect tax revenue collection performance (Mu et al., 2023, p. 11). In connection with this, the legislator has been introducing additional institutions in order to prevent this from happening, but these have negative consequences on the taxpayer's privacy. The disparity in the protection of public and private interests in tax law is growing (Drywa, 2020, pp. 15-17; Nykiel & Sęk, 2022, p. 16). The legislature's failure to strike fair balance between competing public and private interests is at stake (*L.B. v. Hungary*, 2023). For this reason, more and more attention should be paid not only to the system, but also to the position of the individual, his rights and their protection thereof.

The term of taxpayer rights does not have a uniform meaning (Leszczyńska, 2009, pp. 513-514; Nykiel & Sęk, 2022, pp. 16-22). Their essence lies in the fact that rights granted to the taxpayer are intended to protect him from legislative, administrative and judicial lawlessness in the field of tax law (Nykiel & Sęk, 2022, p. 18). This is a collective category, covering a variety of rights and entitlements, differing as to their source, scope and character, at the disposal of the taxpayer, all bearing various degrees of importance for him and his interests (Szczurek, 2008, p. 247).

Human rights serve to protect the interests of the individual and, due to their general and universal nature, they have become the source of many taxpayer rights (Napiórkowska, 2011, p. 147; Nykiel & Sęk, 2022, p. 17; Zelwiański, 2003, p. 161). Respect for human and civil rights is the foundation of a modern democratic state. For this reason, it goes without saying that the taxpayer should first be seen as a human being and a citizen and, only in the second instance, as a subject obliged to bear burdens for the benefit of the state (Szczurek, 2008, p. 39).

The obligations imposed on the taxpayer, which follow from the essence of tax law, should be balanced by granting the taxpayer rights intended to protect him from unjustified, unlawful interference by the tax authorities in the sphere of his freedom (Szczurek, 2008, p. 1). The state is equipped with taxation power, which implies, among other things, a wide margin of freedom in this field, but it is not unlimited. Any case of interference (related to tax regulation) must strike a 'fair balance' between the requirements of the general interest of the community and the requirements of protecting the fundamental rights of the individual (Alojzy Formela v. Poland, 2019, point 113). In line with the principle of mutual loyalty, when requiring the taxpayer to bear the tax burden and comply with any ancillary obligations of a technical nature, the taxpayer should be guaranteed the tools to protect the rights granted thereto, while protecting him from undue interference in the sphere of privacy (Nykiel & Sęk, 2022, p. 14).

2. Protection of taxpayer privacy

The Fiscal administration is authorized to collect any information relevant to tax matters, obviously including annual tax return in income taxes. The scope of information collected by a tax administration can be very broad and include, for example, the following: consumer choices, economic decisions as well as medical records, love letters, family dynamics, reading habits, or other details of private life (Hatfield, 2017, p. 580). In view of the opportunities created by new technologies, there is a noticeable tendency to collect more and more information about the taxpayer from various sources. Moreover, it should be noted that, in view of using AI tools for processing tax information, the model of gathering tax information switched. In the analogue era, the main source of tax information was the taxpayer; in case of doubts, the information was confirmed or not by other information gathered from third parties. In the digital era, the main source of tax information are third parties, which are then verified in the context of taxpayers' explanations or information. Because of that, there are both practical and principled reasons to be considered in terms of taxpayer privacy (Hatfield, 2017, p. 581).

The right to privacy is well known in modern societies, although not every cultural circle attributes the same philosophy or scope to privacy and its protection (Avi-Yonah & Mazzoni, 2016, footnote 26). The right to privacy is not a right ascribed equal importance on a global scale (Westin, 1967, pp. 26-30). The right to

privacy is a legal-nature concept (product, invention) based on the concept of "privacy" (Drywa, 2022b, pp. 7-9). In this connection, it should be noted that the conceptual scope of the legal view of right to privacy will not be fully consistent with the concept of privacy developed in psychology, sociology or philosophy (Drywa, 2022a, pp. 13-12). Generalizing, privacy, which is legally protected to a certain extent in a positive or negative way, is seen as a value. Still, there are problems with the interpretation and application of privacy protection enhancing standards. In view of the conceptualisation difficulties, it should come as no surprise that legislators do not define the concepts of privacy, the right to privacy or private life in normative acts. It is, therefore, one of those rights, whose indeterminate nature still causes practical problems in filling it with content. The legal concept of privacy is a fundamental right, which means we are aware of its value, but have no clear notion of what it actually is (Leith, 2006, p. 109). Privacy is a value that evolves (Drywa, 2022b, p. 42).

The taxpayer has the right to privacy, guaranteed at different levels of regulation. First, it is the result of international law acts. The right to privacy is guaranteed by the international system for the protection of human rights and by regional systems for the protection of human rights. It is guaranteed in the most important acts that have as their object the protection of human rights, among others in the Universal Declaration of Human Rights (United Nations, 1948), the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950[1], the International Covenant on Civil and Political Rights of 1966[2] and in the Charter of Fundamental Rights of the European Union (European Union, 2016)[3]. The legislation introducing the right to privacy is characterized by a high degree of generality, so there are still clear differences, even between European countries, in the approach to the scope of protection (Leith, 2006, p. 11; Westin, 1967, pp. 29-32). There is also the need to mention about the data protection rules, which are basically connected with the very core of the right to privacy – its informational aspect (GDPR).

Secondly, the right to privacy is guaranteed, in many countries, by constitutional regulations, directly or inferred from other general norms, such as the principle of the democratic state of law. The subjective rights of a taxpayer, when not guaranteed directly in tax regulations, obviously may be derived from the Constitution (Münnich, 2021, p. 127). Poland is an example of the protection of taxpayer rights through reference to constitutional protection (Tychmańska, 2021). In the Polish legal order, the concept of the right to privacy has been introduced primarily in Articles 47 and 51 of the Constitution (Constitution of the Republic of Poland, 1997). These regulations are seen as establishing the legal protection of

[1] Article 8; OJ of 1993, No 61, item 284 with further amendments.
[2] Article 17; OJ of 1977, No 38, item 167 with further amendments.
[3] Article 7; OJ EC 202 of 2016, p. 389.

private and family life, honour, good name and the right to decide on personal life are commonly called the "right to privacy" (Judgment of Constitutional Tribunal SK 19/17, 2018).

Both the rights derived from acts of the international law and from national constitutions are of a general nature. The existence of a general right to the protection of privacy (private life in a broad sense), which includes various elements indicated in the content of legal provisions (Czubik, 2013, p. 296) is assumed. Although the different acts in this area differ slightly in terms of conceptualisation, the practice basically indicates that the scopes (and standards) of protection resulting from those acts are quite the same.

Third, the taxpayer's right to privacy is also governed by state tax legislation. The introduction into order of rules granting the taxpayer *expressis verbis* the right to privacy is still an exception[4] but it may also result from some general principles (Bobrus-Nowińska, 2019, pp. 126-134) or legal instruments guaranteeing, to a certain extent, the protection of their privacy. Among others, regulations on tax secrecy, transparency of tax procedures and participation in them, examination of the evidence, sharing tax information or seizure of property can be indicated.

Fourth, it is necessary to note that, as a means of communicating tapxpayers their rights, non-binding rules are, most often, published by the tax authorities or by the ministers responsible for finance[5]. Many countries have adopted taxpayer bills of rights; as a rule, these are declaratory in nature, but, sometimes, acts of a normative nature can be found as well, for instance, in Italy[6]. The bill of right is a document that enumerates the principles that should inform the tax authority-taxpayer relationship (Brzeziński, 2008, p. 111; Napiórkowska, 2011, p. 149; Nykiel & Sęk, 2022, p. 27). Nevertheless, as a document of a generally non-binding nature, while also fulfilling an educational role, it is able to influence the practice of taxpayers and tax authorities and legislators only to a limited extent. An example of such a solution for EU Member States is the European Taxpayers' Code[7], which lists

[4] In 2015, in USA, after efforts of the National Taxpayer Advocate, Congress enacted the Taxpayer Bill of Rights (TBOR) in Internal Revenue Code (Code) Section 7803(a)(3); available at: https://www.law.cornell.edu/uscode/text/26/7803.

[5] E.g. in the Canadian Taxpayer Bill of Rights which regulates administrative rights such as the right to privacy and confidentiality unlike the statutory rights, they are not included in the Income Tax Act.

[6] The Taxpayer's Bill of Rights has been introduced into the Italian system by Law No. 212/2000 (Statuto dei Diritti del Contribuente). Although it does not introduce the right to privacy, it includes some instruments for securing taxpayers' privacy, e.g. art. 12. Sartori (2020), Tax in History: The Italian Statute of Taxpayers' Rights: State of the Art 20 Years after Its Enactment, Intertax No. 48, Iss. 11, 2020.

[7] The European Taxpayers' Code (Ref. Ares (2016)6598744 - 24/11/2016) was introduced in 2016 by European Commission, Directorate-General Taxation and Customs Union (European Commission, 2016). It is a non-binding instrument. Its main purpose is to lay

the right to privacy (and separately the right to confidentiality) as one of the taxpayers' rights.

3. Permissible interference with the taxpayer's sphere of privacy

The right to privacy is not an absolute right, as it commonly restricted by legal provisions. The legislator may adopt provisions which permit interference with the taxpayer's privacy but this must be done by way of a statute and only to the extent that is acceptable in a democratic state of law and for justified reasons. What is more, there must exist a reasonable relationship of proportionality (Mudrecki, 2021, pp. 38-47) between the means employed and the aim sought to be realised by tax law (Alojzy Formela v Poland, 2019, §113).

Technological progress has far pushed the boundaries of actual interference with the taxpayer's privacy. The facts of a tax case can be reconstructed by monitoring records, e-mails and text messages sent, phone calls made, GPS records, text (data) mining, internet activity, especially on social media and portals providing services and goods, or, finally, bank statements and payments made with payment or credit cards, and also by using a drone and algorithms. The use of algorithms constitutes a source of taxpayer privacy violation. The lack of transparency when it comes to construction or operating criteria of the algorithm's does not allow us to understand the mechanisms behind profiling, prediction and standardization calculations (Maceratini, 2021, p. 18). Decisions are made although decision-makers do not fully understand the logic of the connection between the data and settlement (Maceratini, 2021, p. 18). That is even more important given that algorithms are not free of errors. And what is more, in using algorithms, many cases of the same error occur before the case – problem will be noticed[8].

The tax law is intrusive in nature, and the violation of the taxpayer's privacy is inherent in its very essence. However, the scope and justification of this legally permissible interference is disputable. Now, taxpayers have to face a new reality.

Tax law is based on the collection of information on taxpayers, primarily with regard to the object and tax base, but the group of legal instruments related to its

down the basic rules in one coherent document. It compiles the main rights and obligations of taxpayers. Creates kind of model relationships between the taxpayers and tax administrations in Europe.

[8] Mistakes made by tax administration employees are relatively easy to catch, especially when procedures are two-instance, or when an appeal is provided. When algorithms are used, or as we might call it, in the age of "digital tax administration," catching an error or a wrong assumption, the source of which is, for example, a programmer's error, are difficult to spot. See, for example, the Robodebt case in Australia: Royal Commision into the Robodept Scheme. Report, Australia 2023, s. 453-454 oraz 458-460 available at: https://robodebt.royalcommission.gov.au/system/files/2023-09/rrc-accessible-full-report.PDF.

collection, including the powers of the tax administration, has so far been relatively stable (Majka, 2020, p. 190). Over the last decade, however, there have been dynamic changes in tax law regarding especially the scope of gathering the information by tax authorities (OECD, 2022). The concept of the scope of taxpayer data collection has changed. Most of this is caused by the realization of the assumption of the so-called sealing of the tax system, concerned with tax dishonesty, and reflected, among others, by increasing the scope of information obligations, expanding the catalogue of entities obliged to provide information and using the IT technologies as new tools for collecting and analyzing information (Majka, 2020, p. 190). We are currently experiencing the introduction of regulations that result in an increase in the number of information obligations imposed on both taxpayers and other related subjects (Drywa, 2022b, pp. 47-53; Majka, 2020, p. 190).

Taxpayers face new problems due to provisions introduced to deter tax avoidance, on the basis of the so-called BEPS Actions. One such consequence is the increased drive for information exchange between states on tax matters, which raises concerns inter alia about taxpayer rights to privacy. The risks that taxpayers face, which is the use of tax exchange information for other purposes, the increasing number of tax disputes, and the potential exchange of false or miscellaneous information must be highlighted (Tychmańska, 2021).

To give some examples that illustrate the scale (Drywa, 2022b, pp. 47-53), the EU increasing initiatives to tackle tax issues problems have introduced a variety of directives, i.e., an interest and royalty directive (Directive 2003/49/EC), a merger directive (Directive 2011/96/EU), anti-tax avoidance directives (Directive 2017/952)[9], and recently, a DAC 7 (Directive 2021/514) and reestablishing the 'Fiscalis' programme for cooperation in the field of taxation (Regulation 2021/847). The EU is focused on the solutions its member states should implement to manage domestic tax systems. The member states stay resistant to broadening integration on tax matters; however, many consider it likely to be achieved in the future (Tychmańska, 2021).

Tax authorities constantly collect a variety of information about taxpayers, about actions they take and activities they perform. The complicatedness of tax cases is reflected in the complexity and amount of evidence gathered by tax authorities. This, in turn, directly affects the extent of invasion of taxpayer privacy. In their actions towards taxpayers, tax authorities each time should use instruments that will result in the least possible, broadly understood, discomforts for the taxpayer (Popławski, 2019, p. 118).

[9] Known as ATADI and ATAD II, they are introducing legally binding anti-abuse measures, which member states should apply as a way to overcome common forms of aggressive tax planning (including a controlled foreign company rule, switchover rule, exit taxation, interest limitation and general anti-abuse rule).

4. About losing privacy

Privacy is a broad concept (*Usmanov v. Russia*, 2020, § 52). It must be seen in this way also on tax grounds. That means, that an individual (taxpayer) loses privacy when it becomes an object of interest, as well as involuntary and accidental, but also as conscious and intentional (Gavison, 1980, p. 423). Tax law involves an invasion of the taxpayer's privacy and therefore a loss of some part of his privacy. Privacy is first and foremost closely related to access to certain information about an individual and the fact that it is shared with others[10]. The information aspect of privacy is a foreground dimension when it comes to taxation. However, an individual (the entity) also loses privacy when its physical boundaries are violated. It is the physical aspect of privacy, that can also be breached on field of taxation (e.g. actions taken by tax administration). At the same time, it should be noted that a person's territory can be violated in many ways, obviously through invasions but also, for example, through arrogance or importunity (Sofsky, 2008, p. 41).

At the same time, one can quote the ECHR which expresses the view that the States have a broad margin of appreciation when assessing the need to establish a scheme for the dissemination of personal data of taxpayers who fail to comply with their tax payment obligations, as a means, among others, of ensuring the proper functioning of tax collection as a whole (*L.B. v. Hungary*, 2023, §128). It should be added that this discretion attributed to states is not unlimited (*L.B. v. Hungary*, 2023, §128). Where should the tax legislator stop and refrain from introducing any more solutions that, while beneficial and convenient for the realization of the public interest, intrude too far into the taxpayer's private sphere? Especially in the light of introducing provisions connected with new technologies, it is time to shift the centre of the discussion from what is legal to what is morally acceptable (Maceratini, 2021, p. 9). Determination of these boundaries will take time. There are many issues that need to be considered. One should take note of several key points which follow from the provision of Article 8 of the Convention.

It is worth pointing out a number of conditions imposed in connection with interference in the private sphere of taxpayers. The limitation of the taxpayer's freedom must, in particular, pursue an aim that can be linked to one of those listed in the Convention (Parrillo v. Italy, 2015, § 163) (a necessity in a democratic society

[10] Cf. e.g. ECHR, 26 March, 1987, Leander v. Sweden, 9248/81, § 48: "Both the storing and the release of such information [...] amounted to an interference with his right to respect for private life"; ECHR,16 February, 2000, Amann v. Switzerland, 27798/95, § 69: "The Court reiterates that the storing by a public authority of information relating to an individual's private life amounts to an interference within the meaning of Article 8. The subsequent use of the stored information has no bearing on that finding"; CJEU, 2 October, 2018, Ministerio Fiscal, C207/16, § 51: "As to the existence of an interference with those fundamental rights, it should be borne in mind [...] that the access of public authorities to such data constitutes an interference with the fundamental right to respect for private life".

in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others; art. 8 §2 of the Convention). The legitimate purposes of interference with privacy arising from the text of the provision and the grounds set out in the restrictive clauses in the Convention are exhaustive. At the same time, they are broadly drawn and must be interpreted with a certain degree of flexibility. Rather, it becomes crucial to consider closely connected issue: whether the restriction is necessary or justified, that is, based on relevant and sufficient reasons and proportionate to the pursuit of the aims or grounds for which it is authorised (Parrillo v. Italy, 2015, §302). An interference will be considered "necessary in a democratic society" for the achievement of a legitimate aim if it answers a "pressing social need" and, in particular, if the reasons adduced by the national authorities to justify it are "relevant and sufficient" and if it is proportionate to the legitimate aim pursued (Vavřička and Others v. the Czech Republic, 2021, §273).

Taxpayers only rarely pursue their rights in cases involving violations of their right to privacy. One of the most important disputes related to this matter is the case *L.B. v. Hungary* (2023). The application introduced the ECHR concerns on the publication of information about taxpayer, specifically the applicant's personal data disclosed on a list of major tax debtors posted on the website of the Hungarian National Tax and Customs Authority. The reason for the actions taken by the tax administration was failure to comply taxpayer's obligations. The applicant claimed that the publication violated his right to privacy (right to respect for private life) as protected by Article 8 of the Convention. This case is all the more important as ECHR agreed with the applicant, stating that there has accordingly been a violation of Article 8 of the Convention. "While the Court accepts that the legislature's intention was to enhance tax compliance, and that adding the taxpayer's home address ensured the accuracy of the information being published, it does not appear that the legislature contemplated taking measures to devise appropriately tailored responses in the light of the principle of data minimisation. [...] In short, the respondent State has not demonstrated that the legislature sought to strike a fair balance between the relevant competing individual and public interests with a view to ensuring the proportionality of the interference. In the light of the above, given the systematic publication of taxpayer data, which included taxpayers' home addresses, the Court is not satisfied, notwithstanding the margin of appreciation of the respondent State, that the reasons relied on by the Hungarian legislature in enacting the section 55(5) publication scheme, although relevant, were sufficient to show that the interference complained of was "necessary in a democratic society" and that the authorities of the respondent State struck a fair balance between the competing interests at stake" (*L.B. v. Hungary*, 2023, §137-140).

The tax legislator should safeguard the taxpayer's right to privacy to a greater extent. This may be enforced by way of taxpayers pursuing their rights and by

specific rulings that courts of various instances may issue. Perhaps taxpayers will feel encouraged to assert their privacy-related rights.

A good way to summarize the considerations above is to cite M. Szyszkowska who states that "the philosophy of the future cannot be a collectivist philosophy that would conceive of the individual solely as a component of the mass. One must turn to the individual and to the community […]" (Szyszkowska, 1989, p. 24). We should conclude that the way of reforming the tax system should go through developing a human-centred, participatory approach to reforming the legal system (Hagan, 2020, pp. 3-15). Individuals should recognize and respect one another's individuality. The taxpayer's right to privacy seems to emerge as a prerequisite for the exercise of many other fundamental issues, challenges of the XXI century (Maceratini, 2021, p. 10).

5. Perspectives

The impact of the scientific and technological revolution on conceptions of human rights has been the subject of much analysis over the years because it brings with it both risks and conveniences. In many cases, progress is the source of the development of increasingly effective methods of protecting human rights. However, in terms of privacy protection, it represents a major threat. It is also important to consider that we are witnessing an accumulation of technological and scientific breakthroughs, such as artificial intelligence (AI), robotics, the Internet of Things (IoT), autonomous vehicles, 3D printing, nanotechnology, biotechnology, quantum computers, etc. This draws the framework of a new reality, which will also be reflected in matters of broader taxation, including tax regulation.

The use of new technologies offers unprecedented opportunities to control taxpayers and fulfil their obligations. 'Omni-control' of taxpayers is possible, which, by the way, is a very tempting prospect for the tax legislator and the tax administration, but creates powerful threats to taxpayer privacy.

The taxpayers' behaviour is subject to analysis, including automated analysis based on algorithms[11]. Big Data analysis is based on algorithms. Data is analysed, not cause-and-effect relationships, because mathematics is used for analysis. The automated use of algorithms on the ground of broadly gathered data in tax law comes with an increased risk of harming the taxpayer in the form of undue interference with his privacy. Algorithms also run the risk of being designed incorrectly, while these errors are difficult to catch. The ease with which artificial intelligence (AI) solves problems obviously offers hope in terms of realizing the principle of tax fairness,

[11] For a more extensive discussion on the advantages and disadvantages associated with the use of algorithms in the operation of public administration, see, for example, Peeters (2020), The agency of algorithms: Understanding human-algorithm interaction in administrative decision-making, Information Polity, 2020, vol. 25, no. 4 and the literature cited therein.

also in terms of reducing the cost of tax administration. However, it is questionable whether morality can be "taught"?

Moreover, new technologies are a source of invasion on the privacy of taxpayers, as they give tax authorities whole new perspectives and opportunities. There is no other way, we have to defend the need for the digitization process; however, we should not focus exclusively on the use of the digital component to consolidate models aimed at the fight against tax fraud, but take advantage of these tools to develop proactive models aimed at facilitating compliance with tax obligations and care about taxpayers' rights (Antón, 2023, p. 2).

'Legal Design' might be the answer worth considering. Its purpose might be seen in developing a human-centred, participatory approach to reforming the legal system—one that recognizes the importance of new technology but that does not privilege it as the main way to innovate (Hagan, 2020, p. 4). The 'legal design' perspective, in the context of the views of the representatives of this course, seems promising for the protection of taxpayers' privacy. The views of researchers defending the need to introduce greater elements of the so-called human-centred design (placing the person at the centre) in the digitization processes of administrations is a favourable prospect for taxpayers (Antón, 2023, p. 2). Through digitalization, it is possible to build a new paradigm in the administration - taxpayer relationship, which is understood within the framework of a "service" relationship (Antón, 2023, p. 2). Are we allowed to overlook such a perspective? We should have taken, a long time ago, a methodology that focuses on the needs of the users and that takes into account the interests of both parties. It might result in designing more intelligible procedures for compliance with tax obligations and thus facilitate voluntary compliance as well as, it might introduce the taxpayer, in an accessible and understandable way, to their rights, guarantees and obligations (Antón, 2023, p. 2).

Conclusions

One of the problems that appears much more intense in the 21st century is the invasion against taxpayer privacy. The legislator noticeably continues to expand the scope of permissible invasion of taxpayer privacy. It establishes further instruments through which tax offices acquire a range of information about taxpayers. At the same time, no new effective tools are introduced to protect taxpayer privacy. The fundamental question is whether a correct balance was struck between the public interest in ensuring tax discipline and the economic well-being of the country and the interest of potential business partners in obtaining access to certain State-held information concerning private individuals, on the one hand, and, the interest of private individuals in protecting certain forms of data retained by the State for tax collection purposes, on the other (*L.B. v. Hungary*, 2023, §116). It appears that it is sometimes violated.

Privacy, including that of the taxpayer, must be considered an objectively important value. The need to protect privacy is embedded in the foundations of the humanistic perception of the individual and his rights, and this should also be reflected in the tax reality. Building consistency, efficiency and effectiveness of tax systems must not come at the expense of reducing the taxpayer's sphere of comfort - his privacy. Nowadays, in the era of leapfrogging technological development, in fact, the technological revolution taking place, privacy and the protection of privacy should be among the key issues. Moreover, it also needs to be recognized and secured on the grounds of taxation.

The way to improve tax systems must lead through respect of rights, including taxpayer privacy. It becomes necessary to establish appropriate standards in tax law to protect taxpayer privacy. A human-centred, participatory approach to reforming tax systems, as well as in the tax administrations digitization process, should be developed.

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