

Digital Transformation of Tax Administrations in the EU

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Discussion DIGITAX

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I think I will.

Start with the that one I think is for me so.

Martha, Agnieszka ask. Well if the balance between reactive and proactive model, the core aspect is the assessment whether the use of technological tools.

I refer here to the proportionality as one of the requirement to be fulfilled in order to legally restrict certain fundamental rights.

For example, in the Spain the the High Court, the Constitutional Court of Spain in order to assess the intervention of of tax administration in the OR the interference of tax administration in the in the fundamental rights of taxpayers as citizens. Proportionality is one of the of the of the main.

Elements, I think is is not only proportionality, also necessity also the three.

The perspective of of this, we cannot only.

The end has to be.

Legitimate the means have to be proportionate and this.

Have to be a necessity of of of up to it in that way, so I think it is is.

It's clear that.

Proportionality has to appear in all the.

All the assessments of the use of technological tools, but also in analogical world, I think any intervention of tax administration which interferes with with taxpayer rights and fundamental rights.

To obtain or to secure collective rights should be assessed under a proportionality.

Listening.

I think guys aspect also in proportionalities.

Pasquale, I don't know if if you have access to the chat I I do have access to the chat but John has raised his hand before and since somehow he's familiar with the topic of proportionality, then I I think you have not phrased your hand now. Oh sorry, I thought it was, you know, I clapped. I was. I was just appreciative of presentation, but it was not raising your hand. OK then I I mean, I I was misled. I saw that Martha has raised her hand but before.

Giving it, handing it over to Martha, I could perhaps be useful. Also, if I follow up because I've got also a reply, or at least a comment on her rather on on her other question exactly. So if if that's OK for you, Martha?

I meant Martha, but yeah, I I saw that question. You know Martha has raised two question and let me start by the second one by addressing the second one because it's it's a follow up to what already Alvaro has indicated. Now one of the point is that the the need for proportionality cannot go up to the point of giving up privacy and data protection. It's very difficult to understand how we we have the different. Protection of the different.

How we reach the balance among the different rights. But you know, I find it really hard to say that we can get something more proportionate. Insofar as we we forced to to make public disclosure of information. And, you know, we we don't secure an effective protection of rights. Martha, you know this is my personal view and I am, you know, very perhaps allergic to naming and shaming, but the point that I want to make as long as I give tax authorities.

The possibility to have access to that information who has to do tax audit tax authorities then? Why should I, you know, forced to give up previously rights or you know the data protection and make public disclosure? That's how I see that it would be by its own nature disproportionate.

Then you had another question on the SE. Oh sorry, I should say in English SI ministro mediator information in Spain and VAT well.

You know that is something which you know. I do not know it that well, but in the framework of this research, I think that it falls within the cluster that I have mentioned, Martha. So this cluster in which you make invoices available electronically. Now what I understand, but again, I'm not a Spaniard, but this is my perception that insofar as it falls within that cluster, there is no unauthorized access to that information. So you have to identify yourself.

So you can access your information and tax authorities can access to that information, but no one else. And the ones that are entitled to access to that. So Minister Immediato information can actually get that. So I would say that as long as there is no unauthorized access, it is enhancing the quality of of what I called monitoring. So I am quite positive about that. And finally I got the question from Michael Project prior Cavalera.

And hi Michelle, nice to to to see that you are online. We have seen each other. We have met some time ago in Brazil and well the consequences of illegal disclosure of data. Is it a matter of making them making them impossible to use or do they give entitlement to compensation? Now for my own way of reasoning, they you know the point concerning compensation is only something that comes at the later stage. So in other words.

I was also thinking that **there is actually not a lot of transparency in information.**

So the taxpayers data is being stored for how long? How is it being processed, what it's being done with that data, and that for me was one of the indicators, or an argument to state that perhaps that goes a little bit too far and and without certain information and procedural guarantees to actually verify and to understand by taxpayers how that information is used, whether only and strictly for the purposes of fighting.

That fruit, or also for other purposes, might put at risk the the proportionality and my second question, then was whether.

Actually, the balance between the reactive and proactive model is something we should paint the main attention to when assessing proportionality and is is that in. In your opinion, the core element for assessment of proportionality or or or not or only one of many elements to look at.

As quality, you have to raise your no. Yeah thanks very much. Martha and.

I must say.

I have not gone up to the point on this ministry. Military information to get to understand precisely what is being done. What I saw is that it's secluded from the rest, but let's try to explore potential paths. Also taking into account the concern that you have been precisely expressing couple of minutes back.

On the one hand, we have not reached a level in which four from a tax perspective there are sufficient standards. Sufficiently clear standards of how long.

Uh.

Tax information can be stored for, so I am not aware of any limit to the storing of tax information, but of course this is something that can change at any time. I think it could be useful also to say that if there are some GDPR standards that it could be worth addressing whether this GDPR standards could be relevant for, let's say, nudging a development in One Direction. Frankly speaking Marta, we have.

The so called statute of limitation rules which prevent tax authorities from collecting taxes beyond a certain period so some people can take for granted that after that period they are to some extent you know either disposed when it was about you, know physical data. I am quite sure that they would not that the the my tax return of 1985 has, perhaps, you know, been destroyed by the Italian.

That's authorities, but you know the the point is that from a digital perspective, we in fact do not know whether that is always the case, because they can also store them forever. And then the point can also be, well, they can be under threat or under attack, and there could be similar situation. The point is that after a certain number of years, they can clearly not use it for the statute of limitation rules, so perhaps it could also be meaningful to say that also considering this.

That there is no reason why tax authorities should keep that information, because they can say, well, we want to keep them for statistical analysis to see how VAT fraud has evolved across the years. Could that be the case? Could that be important to be stored? Well, perhaps yes. And then you should find also a reason why you want to have it destroyed. So in other words, can we say that the fact that there are some?

Limits to the time limits to the storage of information, privately should also apply to public matters, and then one can say, well, GDPR is about non public disclosure. We are talking here in a different context. So this is still to be explored as a territory. What is perhaps a good to.

Discussed and I'm sorry if I'm taking a bit of an extra time, but it's not that easy. The question that you have that you have raised you have asked and also your reaction prompts me to to be up to your expectations. If I manage we have two judgments on DVD, the Web, 9 licenses and the East bus. And of course you know that also brings us to say, well, information that is collected for one purpose. Can it be used for other purposes? Now we know that this is very problematic when it comes between Social Security.

The taxes we know that it was problematic when it was collected for criminal purposes and then used for administrative purposes. But if we collect that information for VAT purposes and then we use it for direct tax purposes, would that be so much of a problem?

I would say we're neither in an *Espa* situation nor in a *web mind lights*. It's a situation whether that is useful, that in my view, possibly yes as presidents, whether that is conclusive.

I'm not sure, but still I also want to make the point that we should not force.

You know one in the same tax authority because we're talking about one in the same tax authority that is collecting information for tax. You know for tax avoidance or whatever in one or the other case, we cannot artificially fragment that *Marta*. I have been. You know, discussing in my own country about the fact that we think that the the the procedural rights do not apply in Italy. In the administrative procedures, except when EU law is applicable and that is a fundamental mistake by the the Italian Corte de Cassation. At present, because they see that administrative and judicial tax procedures are separate and only when EU law is relevant, then they comply with all the case law starting from so probably onwards. But you know, if we prevent tax authorities from using information for VAT that they have collected for direct tax purposes and vice versa, I don't think.

That we are going in the right direction. All this is a lot of uncertainty, *Marta*, but at least I gave you my point of view.

Thank you very much. Thank you very quickly to answer your your question. Also, I think we shouldn't mix the proportionality assessment.

In these cases, with the the model of of the the the design model of of tax administration, because even in a in a in a proactive model we should have taken mind the proportionality, we cannot override a proportionality by justifying that the model is to to shape, to to, to collaborate with taxpayers. **So the the this principle always has to to be in mind.**