

## CONSTITUTIONAL GUARANTEES FOR THE PROTECTION OF TAXPAYERS' RIGHTS

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**Abstract.** The subject matter of protection of taxpayers is crucial, both from the theoretical and practical point of view. Tax law is a branch of public law which involves, among others, interference in the property sphere of the obliged entity. In addition, the unequal position of the parties to the tax law relationship and the method of its regulation require the development of instruments to protect taxpayers' rights, also at the constitutional level. These premises provided a springboard to carry out an in-depth analysis of legal measures relevant to this case. Therefore, the research looks into the provisions of the Constitution of the Republic of Poland and views of legal scholars and commentators. Particular attention is paid to the established line of judicial decisions of the Constitutional Tribunal. The findings provide a basis for the conclusions.

**Keywords:** the Constitution; tax legislation; taxpayers' rights.

### INTRODUCTION

This paper addresses a topic of great importance, both for the theory and practice of tax law. The choice of the subject was dictated primarily by the specific characteristics of tax law, treated as a separate branch of law (yet showing a number of links with other branches). This is a division of public law of a particularly intrusive nature, especially when it comes to the sphere of property. Tax law, in addition to primarily performing a fiscal function, may be used for the implementation of many policies. Moreover, legal transactions performed under private law often have tax consequences. Without going into detail of all features of this law, as they could feed a separate study, it should be noted that addressing them was only intended to highlight the role of the legislator in the field of tax legislation. Therefore, it should be assumed that it requires the creation of such tax law regulations that will limit the natural disproportion of the position of the authorised entity and the obliged entities in tax law relations.

For obvious reasons, constitutional regulations are extremely important in this regard.

The aim of the study is therefore to answer the question of whether and to what extent the provisions of the Constitution of the Republic of Poland<sup>1</sup> create a coherent and comprehensive system of protection of taxpayers' rights. The latter, in the absence of uniformity [Dzwonkowski, Duda, and Gorąca 2016, 289] are treated as human rights for the purpose of this paper, intended to limit the power of the state in order to establish a *sui generis* balance between the income needs of the state and the rights of the individual [Nykiel 2019, 10].

To realize this research intention, I examine the law in force by explicating the basic law, legal commentary and judicial decisions.

The scope of this study determines its design. First, general and introductory issues are discussed, so as to identify and examine the provisions of the Constitution directly and indirectly creating the basis for the protection of taxpayers' rights. To maintain the consistency of the discussion and avoid unnecessary repetitions, the section entitled "Introductory remarks" includes a synthetic presentation of the criteria for the separation of tax law, so that the relevant provisions of the Constitution may be examined in depth in this perspective in subsequent parts of the work.

## 1. INTRODUCTORY REMARKS

The analysis of constitutional measures in the field of protection of taxpayers' rights requires some general remarks. This is mainly due to the statement that the scope of the basic law's regulation in this respect is a consequence of taking into account both classic tax rules and doctrinal reasons for the separation of tax law, which also expose the characteristics of this branch of law. Therefore, the analysis concerning the protection of taxpayers' rights under the Constitution should be conducted through the prism of these determinants. Prior to that, it is fair to note that tax rules are at the same time one of the determinants of the assignment of legal norms to a given branch of law.

Thus, legal scholars and commentators most often mention the following criteria of division of law into branches [Redelbach, Wronkowska, and Ziemiński 1992, 231]: the criterion of the taxation object, the criterion of the person subject to tax, the criterion of the method of regulation, the criterion of the guiding principles, the criterion of the regulation function. Due to their important role, they require a short description.

The criterion of the taxation object allows a distinction of the type of social relations regulated by legal norms. Tax law regulates relations featuring

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<sup>1</sup> Act of 2 April 1997 Constitution of the Republic of Poland, Journal of Laws No. 78 item 483 as amended.

an obligation imposed on an entity in the form of a tax performance to the state or other public-law authority. Therefore, there are always two entities involved: the party entitled to demand the performance and the party obliged to provide it. Thus, one can use the claim that tax law regulates social relations related to the non-equivalent transfer of cash between these entities [Gomułowicz and Małecki 2000, 103]. It is also worth noting that social relations regulated by tax law are created by the will of the legislator, not the entities participating in them, and should therefore be classified as *thetic* (given) relations [Mastalski 1998, 12]. The subject of regulation often involves the “financial side” of a relationship arising under civil law, or more precisely the requirement to pay a cash performance in connection with the occurrence of an economic event regulated by the provisions of civil law.

The person subject to tax criterion determines the specific characteristics of the relation between the entities of a given legal relationship. Undoubtedly, the tax law relationship involves an obligation, while the position of the entitled entity is “stronger” than the position of the obliged entity. Another determinant that allows for assigning a legal norm to a specific branch of law is the criterion of guiding principles. The rules of the design of tax standards are in fact certain models, which a rational legislator should follow when creating these regulations. They are formulated in legal commentary and some of them are of a lasting nature. The canons of convenience, economy, certainty and equality of taxation (A. Smith) or the principles of economics, justice and tax management (A. Wagner) should be mentioned here. Nowadays, it is legal scholars and commentators and the established line of judicial decisions, especially the decisions of the Constitutional Tribunal, that play a leading role in shaping tax rules. The principle of tax fairness is of unquestionable importance in this respect, which, following the assumption cited earlier, will be presented later in the study.

The criterion of the method of regulation is important for distinguishing tax law as separate from other branches of law. In tax law, it is the administrative and legal method. It involves subordination of one entity to another [Mastalski 2000, 17], and affecting the character of tax legislation.

The classification of a standard to a given branch of law is also made taking into account the functions of regulation. The basic, although not the only, function of taxes is the fiscal function, which consists in the greatest simplification of feeding the state budget or the budgets of local government units with funds derived from taxes, which then serve to finance public needs. It undoubtedly affects taxpayers’ attitudes towards taxation.

As the above clearly shows, there is a noticeable relationship between individual criteria, and in fact between certain characteristic elements that recur regardless of the angle from which the analysis of standards considered to be tax law standards is made. There is a common question of state

authority, which results in the inequality of the subjects of legal relations and their specific nature. It can therefore be concluded that the decisive importance should be attributed to two criteria: object and method of regulation, while reserving a complementary role for the other criteria.

## 2. UNIVERSALITY OF TAXATION IN THE LIGHT OF ARTICLE 84 OF THE CONSTITUTION

Article 84 of the Constitution bears fundamental importance among regulations which allow interference with the rights of an individual. It lays down that everyone is obliged to bear public burdens and performances, including taxes, specified in the statute – which is a normative expression of the principle of universality of taxation [Glumińska-Pawlic 2008, 88]. It is poignant that this article is placed in Chapter II of the Constitution, entitled “The freedoms, rights and obligations of persons and citizens”, and therefore the obligation of paying levies should be examined as a constitutional duty. The analysis of the said provision leads to the following conclusions: First, the division between public “burdens” and “performances” is not sufficiently precise, since taxes are included among public performances [Kallas 1997, 52]. Second, the said Constitution provision determines that public levies are a permanent element of the state system [Dębowska-Romanowska 2009 110]. They are not incidental or occasional, but permanent and repetitive [Idem 2010, 123].

The issue of defining the relation of the levy law to civil rights and freedoms is a disputed matter. There are two opposing views: 1) it is believed that public levies should be treated as an exception to civil rights and freedoms, and at the same time it is indicated that civil rights and freedoms hold the primary role in a democratic state. Their limitation through the introduction of public levies can only be made to the extent necessary. This necessity must be understood as meaning that the amounts of public levies should be determined by their purpose, i.e. financing a state to satisfy public needs. The state apparatus performing these tasks should be as rational and cheap as possible [Smoktunowicz 1997, 1-2]; 2) following a contrary view, “public burdens”, “public performances” or “taxes” should be treated as a constitutionally separate sphere of civic obligations, resulting from “a tribute” to the state. Therefore, they should not be treated as an exception to civil rights and freedoms, but as the opposite (opposition). However, this is not an equal and equivalent opposite, the size and scope of tributes given is the subject of a social contract [Dębowska-Romanowska 1996, 1].

Both of the above approaches highlight the element of the amount of the levies – it should be commensurate with the needs arising from the extent of financing public needs. It is particularly important at the stage of formulating the assumptions of the tax policy.

There is no doubt that although public levies, especially taxes, are an essential source of budget revenues, their fiscal function cannot dominate the design of the tax system [Kulicki and Sokół 1995, 22]. Also, despite the commonly adopted principle of giving the legislator considerable discretion in creating tax law, it is pointed out that its limits are defined by basic constitutional values. The principle of equitability of taxation is named as one of most important principles among them [Mastalski 2001, 2001], as will be discussed later.

From the point of view of the subject of this study, special attention should be paid to that part of the provision which states that statutes are the only legal acts that can introduce the obligation to pay tax. Such a measure should be considered appropriate; the unilateral imposition of financial performances must be in line with one of the fundamental principles of tax law, that is its certainty. At the same time, the principle of the statutory levying of taxes is the only general principle, clearly resulting from the provisions of the law in force [Brzeziński and Nykiel 2009, 139].

In conclusion, it should be noted that under Article 84 of the Constitution the possibility of interference in the sphere of civil liberties is accepted on the one hand, but on the other it may only be done by a statute, which should be considered as a kind of guarantee of protection of taxpayers' rights.

### 3. CONSTITUTIONAL RULES OF TAX LEGISLATION

Article 217 of the Constitution is one of the provisions that on the one hand serves as a constitutional basis of taxation, and on the other as a guarantee of the cohesion of the tax system. It expresses the principle of statutory completeness of taxation and is a development of Article 84. Apart from this, it should be treated as a provision guaranteeing both the rights of the taxpayer and the inviolability of the power of Parliament to impose taxes [Kryczko 2009, 110; Kosikowski 2006, 101].

Pursuant to Article 217 of the Constitution, the statute imposing a tax must specify the subjects to and objects of taxation, tax rates, and the principles for granting tax reliefs and remissions; it must also define categories of taxpayers exempt from taxation. First of all, it should be noted that the aforementioned provision refers to the doctrinally elaborated rules of the design of the tax law. In principle, they concern clearly defined elements of the regulation of individual taxes which are common to them. They are usually called "elements of tax design", and some of them are an essential condition for the implementation of tax performances. Traditionally, such mandatory elements include: those subject to tax, the taxation object, the tax base, the tax rate, the date and the method of payment of the tax [Kostecki 1985, 153].

It should be noted that this enumeration does not coincide with the scope of regulation of the cited constitutional provision. Therefore, the literature emphasises that elements such as the tax base, even if absent from the basic law's regulation, must be prescribed by a tax statute [Kosikowski 1999, 2; Nykiel 2023, 204; Kryczko 2009, 110-11]. A similar position has been expressed in the decisions of the Constitutional Tribunal<sup>2</sup> and, therefore, legislative practise fills this gap.

Another constitutional provision directly related to the issue of tax legislation is Article 123, pursuant to which the Council of Ministers may consider the draft law adopted by it to be urgent, with the exception of draft tax statutes, statutes concerning the election of the President of the Republic, the Sejm, the Senate and local self-government bodies, statutes regulating the system and competence of public authorities, and codes. Legal commentary emphasises that the quoted section of the Polish Constitution creates a separate zone of particularly protected legislation, safeguarded from hasty changes due to the importance of the issue regulated in its subconstitutional legal acts [Ławniczak 2014].

The differences between the ordinary and urgent procedure seem to suggest at least a longer period of work of the Sejm on ordinary projects, which are such either from the decision of the applicant submitting the draft to the Marshal's Office or from the will of the legislator, as is apparent from Article 123(1). Especially in the latter case, the will of the legislator indicates at least the need to carefully look at the submitted tax measures. Haste does not facilitate this, hence tax statutes, among other acts, are excluded from the urgent mode of processing drafts [Kulicki 2010, 5]. It is worth adding that, as stated by the Constitutional Tribunal, the extraordinary pace of work on a statute which affects, among other things, an important personal and political freedom, [...] is not justified in any particular circumstances of the case. The adoption of a statute in such a hurry does not encourage reflection on, i.a., the compatibility of the adopted statute with the basic law.<sup>3</sup> This position has not been expressed in connection with the examination of the constitutionality of tax statutes, but, as indicated in the literature, it should be applied to all legal acts falling within the scope of the regulation of Article 123 of the Constitution [Radziewicz 2023].

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<sup>2</sup> Cf. Judgements of the Constitutional Tribunal of: 10 September 2010, ref. no. P 44/09, OTK-A 2010, No. 7, item 68; 2 April 2007, ref. no. SK 19/06, OTK ZU 2007, No. 4/A, item 37; 27 November 2007, ref. no. SK 39/06, OTK ZU 2007, No. 10/A, item 127; 10 December 2002, ref. no. P 6/02, OTK-A 2002, No. 7, item 91; 27 April 1999, ref. no. P 7/98, OTK ZU 1999, No. 4, item 72; 9 February 1999, ref. no. U. 4/98, OTK ZU 1999, No. 1, item 4; 16 June 1998, ref. no. U. 9/97, OTK ZU 1998, No. 4, item 51; 1 September 1998, ref. no. U. 1/98, OTK ZU 1998, No. 5, item 65.

<sup>3</sup> Order of the Constitutional Tribunal of 4 October 2011, ref. no. K 9/11, OTK-A 2011/8/85; judgement of the Constitutional Tribunal of 14 July 2020, ref. no. Kp 1/19, OTK-A 2020/36.

#### 4. OTHER CONSTITUTIONAL GUARANTEES FOR THE PROTECTION OF TAXPAYERS' RIGHTS

Turning to the characteristics of the second group of constitutional regulations, i.e. indirectly constituting the protection of taxpayers' rights discussed here, one should refer to the criterion allowing for assigning a legal norm to a specific branch of law, that is the criterion of guiding principles. As already noted, the rules concerning the construction of tax regulations are in fact certain models or postulates which should guide a rational legislator when creating these regulations. They are formulated in legal commentary and some of them are of a lasting nature. The canons of convenience, economy, certainty, equity of taxation (A. Smith) or the canons of economics, justice and tax management (A. Wagner) should be mentioned here. Nowadays, it is legal scholars and commentators and the established line of judicial decisions, especially the decisions of the Constitutional Tribunal, that play a leading role in shaping tax rules.

Smith, who introduced the following four principles to the study of tax law, has been considered the creator of tax rules:

- (1) The canon of equity of taxation, which is the most important of the principles and which, although defined as equity, in fact refers to tax justice. It comes from two concepts that are linked together: "benefit" and "ability to pay". The first concept is based on Smith's assumption that tax is a fee paid by citizens in return for the protection they receive from the state. On the other hand, the amount of the tax burden should be a reflection (measure) of this protection, while assuming that the ratio between the amount of tax and the state expenditure on citizens is proportional [Gomułowicz and Małecki 2000, 25]. For this reason, an appropriate (fair) amount of tax should be found and determined (valued), which may be different for entities with different wealth (the state protects more wealth by granting protection to a wealthier person, for which the person should pay a higher tax). The ability to pay is directly linked to the actual possibility of paying a tax of a certain amount. Therefore, Smith postulated that no one should pay a tax higher than he can pay, which boils down to the distribution of the tax burden depending on income, excluding from taxation the minimum necessary for existence [Gomułowicz and Małecki 2000, 26].
- (2) The canon of tax certainty (it had been formulated earlier). This is a postulate which can be read to mean that the persons liable to pay a tax were informed in good time about the amount of the tax, the method and the date of payment, and therefore these elements should be clearly and precisely defined.



- (3) The canon of convenience of taxation, which means that any tax should be collected at a time and in such a way that the taxpayer is most comfortable to pay it [Smith 2013,501].
- (4) The canon of cheap taxation, which postulates that tax collection should be as cheap as possible. Too high costs of administration dealing with the collection of tax receivables destroy the benefits of taxes flowing into the budget.

All of Smith's tax canons are derived from the theory of liberalism, which refers to "objective laws of nature."

Of course, the Smithsonian principles have been the subject of numerous polemics and controversies, subject to subsequent studies, but nevertheless they have taken a prominent place in the science of tax law. However, the principle of fairness in taxation is of paramount importance for the issues raised in this work, and therefore, taking into account the breadth of the work, the natural consequence of this is to focus on it. It is assumed today that equity of taxation does not mean that all subjects to taxation should pay the tax in the same amount, but that they should bear equal burdens [Gomułowicz 1996, 3].

One can speak here of "vertical" and "horizontal" justice, where the latter requires equal treatment of entities belonging to the same category and can be expressed as "equal treatment of equals". In turn, "vertical" justice assumes a different distribution of the tax burden on entities operating in different economic conditions [ibid.].

First of all, it should be noted that the principle of justice is a principle of constitutional importance (although tax fairness is not mentioned). Pursuant to Article 2 of the Polish Constitution, the Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice.

The Constitutional Tribunal has interpreted the cited article many times,<sup>4</sup> also in relation to Article 32 of the Constitution. It is worth noting that its decisions on the relationship between Article 32 and Article 2 of the Constitution has evolved. The most recent rulings have consolidated the view that there is no need to adjudicate on a violation of the principle of social justice in a situation where the provisions of the Constitution formulating the principle of equality are shown as control models, and the arguments presented in support of both charges are repeated (convergent) or the entity initiating proceedings before the Constitutional Tribunal has not cited separate, additional arguments pointing to an inherent (i.e., in isolation from the

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<sup>4</sup> The Constitutional Tribunal, examining the compatibility of legal acts with Article 2 of the Constitution, issued nearly 700 judgements, some of which directly referred to the principle of social justice.



principle of equality) violation of the principle of justice.<sup>5</sup> According to the accepted line of judicial decisions of the Constitutional Tribunal,<sup>6</sup> the constitutional principle of equality before the law (equality in law) in the broadest approach means that all subjects of the law (addressees of legal norms) that equally bear this significant (relevant) feature must be treated equally. Thus, on the same scale, without discriminating or favouring distinctions.<sup>7</sup> In developing this thesis, the Court also concluded that there is a close link between justice and equality in law (whereby “the belief in equality in law is a derivative of justice”) and that if there are unfair differences in the distribution of goods (the granting of rights) and the related division of legal entities, these differences are considered inequalities. Fairness requires that the legal differentiation of the different entities (their categories) remain in an appropriate relation to the differences in the situation of these entities. Distributive justice expressed in this way means that equal persons should be treated equally, and similar persons should be treated similarly, but in the latter case, account should be taken of the extent to which certain characteristics exist among the various entities (categories of persons) that should be considered in the process of distributing certain goods (rights). This rule assumes the existence of a proportion between essential features of individual categories of people and their due treatment (relevance rule).<sup>8</sup>

What is equally important, Article 2 of the Constitution also lays down other rigours that tax legislation must meet. In its judgements, the Constitutional Tribunal presented them against the principle of certainty and convenience of tax. The established line of judicial decisions emphasises that the principle of non-retroactivity is the basis of the legal order. It shapes the principle of citizens’ trust in the state and the laws it establishes. The principle of non-retroactivity of the law should be strictly respected, especially in cases where the laws contain provisions for taxpayers that are less favourable than those currently in force.<sup>9</sup> There is a marked emphasis on the fact that the principle of *lex retro non agit* and the principle of protection of duly acquired

<sup>5</sup> Judgements of the Constitutional Tribunal of: 14 November 2000, ref. no. K 7/00, Journal of Laws, No 100, item 1084; 5 September 2006, ref. no. K 51/05, Journal of Laws, No. 165, item 1180.

<sup>6</sup> Judgements of the Constitutional Tribunal of: 8 May 1990, ref. no. K 15/90, OTK 1990, No. 1, item 2; 11 December 1990, ref. no. K 15/90, OTK 1990, No. 1, item 6.

<sup>7</sup> Judgement of the Constitutional Tribunal of 6 March 1990, ref. no. K 5/89, OTK 1990, No. 1, item 1.

<sup>8</sup> Judgement of the Constitutional Tribunal of 6 April 1993, ref. no. K 7/92, OTK 1993, No. 1, item 7.

<sup>9</sup> Cf. judgements the Constitutional Tribunal of: 8 March 2005, ref. no. K 27/03, Journal of Laws No. 41, item 4010; 31 January 2001, ref. no. P 4/99, OTK ZU 2001, No. 1, item 5; 25 September 2000, ref. no. K 26/99, OTK ZU 2000, No. 6, item 186; 17 December 1997, ref. no. K 22/96, OTK ZU 1997, No. 5-6, item 71.

rights are substantive canons which define the limits of interference of the public authority in the sphere of subjective rights. Violation of these principles may be justified by the allegation of unacceptable interference by this authority within the sphere of the constitutionally protected rights or freedoms of the individual, which in consequence leads to the finding of a violation of these rights or freedoms contrary to the constitutional order.<sup>10</sup>

Moreover, the Constitutional Tribunal has repeatedly stressed in its decisions that tax legislation should provide for appropriate *vacatio legis* necessary to allow the taxpayer to adjust his handling of his matters to the situation arising from the new tax regulations. The Constitutional Tribunal also pointed out that it is forbidden to make changes in taxes imposed on a tax year during that tax year. The common denominator of these judgments was the emphasis that while an unequal position of the parties to tax law is inevitable, such standards of tax legislation must be upheld that will at least give the taxpayer a sense of tax certainty and minimise the inconvenience resulting from the tax obligation.<sup>11</sup>

Another provision of the basic law which constitutes a specific protection of taxpayers' rights is Article 7, pursuant to which public authorities act on the basis and within the limits of the law, i.e. they are bound by these provisions in the process of applying the law. This means, among other things, that it is impossible to apply administrative discretion without explicit statutory authority, which is of particular importance under the intrusive rules of tax law. It is worth mentioning that discretion takes place when a legal rule does not clearly define consequences, but allows the authority to make a choice, leaving a considerable scope of discretion in determining them. This boils down to the administrative authority determining the legal effect of the norm [Mincer 1983, 63]. In other words, it is associated with granting the administrative body the possibility of shaping the legal situation of the addressee of the norm through specific legal acts, especially an administrative act [Nowacki 1986, 40].

Therefore, we may speak of administrative discretion in those cases where the legislator does not make the decision completely dependent on the facts which are to be the factual basis for it, but only on certain elements of it, or certain elements of the decision are omitted in determining the facts of the decision. In these cases, the administration is to issue an administrative act in the face of the facts in which the choice, designation and even determination of some of its elements is left to it. Therefore, only a legal

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<sup>10</sup> Order of the Constitutional Tribunal of 17 February 1999, ref. no. Ts 154/98, OTK ZU 1999, No. 2, item 34.

<sup>11</sup> Judgement of the Constitutional Tribunal of 15 March 1995, ref. no. K 1/95, OTK 1995, No. 1, item 7; cf. judgement of the Constitutional Tribunal of 29 March 1994, ref. no. K. 13/93, OTK 1994, No. 1, item 6.

norm or a norm constructed on the basis of the provisions of the relevant rank may serve as the basis for the application of the institution of discretion [Mincer 1983, 48]. Failure to respect this regularity could lead to unequal treatment of subjects before the law, which is unacceptable in a state governed by the rule of law.

When talking about constitutional guarantees for the protection of taxpayers' rights, it should also be pointed out that tax legislation should be consistent with those provisions of the basic law which concern the economic rights and freedoms of the individual (Articles 20, 21, 22 and 64) or the right to privacy (Article 47). It should be noted, however, that constitutional norms concerning fundamental economic rights and freedoms should in fact be a reference point for a discussion on constitutional limits of taxation. Comparing the constitutional provisions concerning economic rights and freedoms with the content of Article 84 and Article 217, one can assume that a violation of the constitutionally permissible substantive or procedural limits, provided for the establishment of taxes, can be qualified as a violation of economic rights and freedoms [Gomułowicz 2005, 29].

## CONCLUSION

The specific nature of tax law, manifested, among others, in the state's power to tax, requires the creation of regulations for the protection of taxpayers' rights, also at the constitutional level. The taxpayers' rights are, in turn, a broad and heterogeneous category, which, however, is of unquestionable importance for the obligated persons. They can be classified as human rights and, as indicated, respect for them is intended to allow achievement of a kind of balance between the implementation of the fiscal function of taxation and individual rights.

The purpose of the study, as indicated at its introduction, was to answer the question of whether and to what extent the Constitution of the Republic of Poland implements the assumption of the need to ensure this protection.

An in-depth analysis of the provisions of the basic law in the investigated area allowed the following conclusions to be drawn. The first of these is that the Constitution contains, above all, regulations setting out the rules of tax legislation. In turn, they also contain those that directly refer to them, and those from which models of good legislation are derived. These regulations complement each other, creating a coherent catalogue of constitutional guarantees for the protection of taxpayers' rights.

The basic meaning should be attributed to two editorial units of the Constitution, namely Articles 84 and 217. The former, on the one hand establishes the right of the state to impose levy obligations, thus making them

duties of constitutional rank, but on the other, it prescribes the only possible way of determining them, which is a statute. Only a democratically elected Parliament can create tax laws. In turn, Article 217, which is a development of Article 84, sets out standards which the tax law must comply with. This reservation may be regarded as a characteristic, but also indispensable, restriction of the legislative freedom of Parliament. The implementation of the principle of good tax legislation is also to be strengthened by Article 123, which creates a ban on giving the draft tax law the attribute of an urgent draft, which is to facilitate not so much the extension of the legislative process as avoidance of too hasty legislative actions.

Another conclusion resulting from the research conducted in this article evidences the indisputable role of decisions of the Constitutional Tribunal in the protection of taxpayers' rights. The well-established, but also evolving lines of jurisprudence indicate the requirements that must be met by tax law acts (especially statutes), which must respect constitutional principles, such as justice, equality, the rule of law, protection of property, or economic rights and freedoms. Therefore, one should fully share the view that the Constitution, laying down the standard of protection of taxpayers' subjective rights, expressed in the regulations discussed, introduces measures according to which the Constitutional Tribunal is the guarantor of the principle of constitutionality of taxes [Gomułowicz 2005, 23].

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