

International Association of Tax Judges



Michael Beusch
IATJ 7th Assembly
September 30th
October 1st, 2016
Madrid, Spain

Human Rights and Taxation



Protection of sensitive data in times of automatic data exchange I

- Tax returns contain a lot of sensitive data (civil status, number and name of children, religious affiliation, donations, medical reports) -> your tax authority knows you best
- In the area of cross-border procedures less attention appears to have been given to the protection of taxpayers' rights than for purely domestic matters
- Exchange of information on request (EoI): Main topic is the notification, the right of the taxpayer to be informed and to challenge the EoI
- Automatic exchange of information: Main topic is the data security



Protection of sensitive data in times of automatic data exchange II

Automatic exchange of information is (mainly) about financial data

- Does the supplying State has to inform the taxpayer?
- Does the taxpayer has the right to accede to the data bound for delivery in order to correct any inaccuracies?
- Does the taxpayer has the right to challenge the delivery? If so, in which moment?
- Does the supplying State have to take into account the “data-protection-level” in the receiving State? If so, how?



“Naming and shaming” of tax evaders

- Confidentiality is a “top issue” in tax law; p.m.: your tax authority knows you best
- Information supplied to the revenue authorities have to be kept confidential
- Encryption and “need to know”-principle can help safeguarding confidentiality, and so does control and auditing of access
- What about disclosing taxpayers (and their revenues)?
- Does it make a difference if this happens as a part of a general transparency policy or in order to “name and shame”?
- What’s the role of the judge?



Reputation risks for petitioners

- Taxes are due when they are legally due
- What about governments and NGOs claiming “patriotism” and “bearing a fair share of tax”?
- Do public hearings / deliberations before Court in general have the effect of a reputation risk (even if no tax evasion is at stake)
 - in common law countries?
 - in civil law countries?