Review Article

The constitutional framework for taxation in France

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ABSTRACT:

Following the path of the requirements applicable to corporate governance, the need arose for good fiscal governance, based on increased legal certainty and reciprocal cooperation between tax administrations and citizens.

must inform it within the framework of the Rule of Law, and the attitude of the Spanish Tax Administration, occupied, in general, in obtaining of resources more than in tax justice, which does not favor the development of correct collaborative relationships with citizens

PALABRAS CLAVES:

buen gobierno fiscal agresiva; responsabilidad social corporativa

RESUMEN:

Siguiendo la senda de las exigencias aplicables al gobierno corporativo surgió la necesidad de
el adecuado desarrollo de unas relaciones de colaboración con los ciudadanos.

MOTS CLES :

bonne gouvernance fiscale; la administration; échange d'informations; planification fiscale agressive; responsabilité sociale des entreprises

RESUME :

Dans le sillage des exigences applicables au gouvernement d'entreprise, s'est fait sentir le besoin d'une bonne gouvernance fiscale, fondée sur une sécurité juridique accrue et une coopération réciproque entre les administrations fiscales et les
agressive, et
, ce qui entraîne une dégradation des concepts et des principes qui doivent l'informer dans le cadre de l'État de droit, et l'attitude de l'administration fiscale espagnole, occupée, en général, dans l'obtention de ressources plus que dans la justice fiscale, ce qui ne favorise pas le bon développement de relations de collaboration avec les citoyens.

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1 INTRODUCTION

The representative system is the keystone of democracy. The establishment of the first representative regimes in the United Kingdom and then in the United States (the "tea party" in Boston) was done for tax reasons. The French experience has not escaped this tradition. The monarch had not convened the States-General, that is, the assembly which brought together the representatives of the nobility, the clergy and the third estate since 1614. Louis XVI convened them in 1789 because he needed their consent to new taxes to fund state spending. Once united, the third estate proclaims itself a constituent assembly. Over the years – before and after the Napoleonic parenthesis – parliament votes on tax revenues, then it arrogates to itself the right to control the use made of it, that is to say, public expenditure, then it controls the action of the government, asks for the dismissal of the government and ends up obtaining it. Thus is established the filiation, which, from the fiscal power, leads to establishing a representative system.

The French political framework was substantially renovated by the Constitution of 1958, adopted by referendum under the aegis of General de Gaulle, which created the Fifth Republic. It put in place a rationalized parliamentarism, which would be upset by the adoption, in 1962, of the election of the President of the Republic by universal suffrage, in a two-round ballot. If a candidate does not obtain an absolute majority in the first round – this has never happened – only the two candidates who came first in the first round can participate in the second round after any withdrawals. The regime has become more presidentialist, but with a government that remains accountable to the lower house of parliament (the National Assembly).

The French regime practices a hierarchy of written law norms in accordance with Hans Kelsen's pyramid. At the top is the Constitution (1), whose texts with fiscal connotations are the subject of the abundant case law of the Constitutional Council (2).

2 THE FRENCH CONSTITUTION

The French Constitution comprises several texts, which form the "block of constitutionality", the supreme reference. It includes three founding provisions of the tax: articles 13 and 14 of the Declaration of August 26, 1789 (§ 1), and articles 34, paragraph 2 (§ 2) and 55 (§ 3) of the Constitution of October 4 1958. The Declaration of the Rights of Man of 1789 and the Preamble of the Constitution of 1946 are integrated into the block of constitutionality by express provision of the Constitution of 1958, which makes reference to them and expressly declares to incorporate them.

2.1 ARTICLES 13 AND 14 OF THE DECLARATION OF AUGUST 26, 1789

2.1.1 The context of their adoption

The States General were convened by the monarch to consent to the tax, and the first important text adopted by the National Assembly institutionalized this power of authorization in its article 14: "All citizens have the right to ascertain, through them -themselves or through their representatives, the need for the public contribution, to consent to it freely, to monitor its use, and to determine the proportion, the base, the recovery and the duration".

From now on, the representatives of the citizens-taxpayers will have the power to set the characteristics of the tax levy (its base, its quota and the methods of its recovery) but also to monitor the use made of it by the Executive, that is that is, to control public spending. This text serves as a basis for the development of the representative system in France since, strong in this competence, the parliamentarians of the Restoration (1815-1830) and the July Monarchy (1830-1848) will gradually manage to impose their control over the decisions of the Executive, then to censure the latter and thus establish the political responsibility of the government before the Lower House, according to a process comparable to that followed in Great Britain a century and a half earlier.

2.1.2 Section 13

It poses both the need for taxation, designed as a privileged instrument for financing public expenditure, but also the obligation to distribute its burden in an egalitarian manner while weighing it according to the contributory faculties of each citizen: "For the maintenance of the public force, and for the expenses of administration, a common contribution is essential: it must be equally distributed among all the citizens, by reason of their faculties".

If the choice of a pay-as-you-go tax reflects a bygone era with the generalized advent of quota taxes, on the other hand two fundamental principles of contemporary tax law have their roots in this text: equality before tax (1) and personalization of it (2).

2.2 EQUALITY BEFORE TAXES

Equality before taxes constitutes the fiscal component of one of the founding principles of the French Republic, but it is clear that its expression is too general to be used operationally: in a contemporary State with neoliberal coloring, the judge will be reluctant to censure in the name of this principle the application of an incentive standard which certainly breaks equality by means of tax incentives but which thus acts with the intention of directing the behavior of taxpayers towards actions which will coincide with the objectives of State policy, for example in terms of job creation, regional development or improvement of the quality of housing. The constitutional judge will take care to recall that equality simply means that two taxpayers in an identical situation must be treated in the same way, and he will only rarely refer to this principle, preferring to him that of equality before public charges, which is more vast and consequently allows him to appreciate with greater freedom the situation or the text submitted to him. The Constitutional Council came to give force to the principle of equality between taxpayers (in particular, Decision no . 2010-88 QPC of 21 Jan. 2011). However, its practical scope is limited, so that overall tax equality represents more of a philosophical principle and an ultimate bulwark than a true constitutional principle.

The discourse of contemporary rulers suggests that this principle does not only imply taxation of a comparable weight for income from capital and for income from work, but that in a finer way it should make it possible to tax the latter more lightly in the as they come from a source that wears out over time, unlike the former. This discourse is contradicted by many

rules of positive law that global economic tensions have dictated to States to retain or attract capital on their territory.

2.3 PERSONALIZATION OF TAX

The appeal to contributory faculties is analyzed as a celebration of the personalization of the tax. It will have practical implications for the system of so-called "personal" taxes , i.e. those whose structure takes into account the personal equation of the taxpayer and not only the economic base of the tax (tax on income and housing tax mainly). Indeed, such a tax respects the constitutional precept only if it reduces the burden of the contribution according to the family responsibilities of the taxpayer. In other words, it is the family nature of the tax which is prefigured here [the family quotient system in contemporary income tax]. However, this constitutional framework also admits in advance the possibility of reducing the tax burden for taxpayers who have incurred social utility expenses (in the form of donations, life insurance subscriptions or real estate investments, for example).

The practical impact of this principle is not negligible: any law claiming to contradict this provision would be manifestly unconstitutional, and some even consider that Article 13 requires the progressive nature of income tax. The debate is interesting but without a solution to date since it is clear that the actors of the time did not imagine such a mode of imposition (Condorcet in particular), and even if the scope of the standard can take on a contemporary meaning larger than the original one, the Constitutional Council has never had to intervene on this issue.

2.3.1 Article 34, paragraph 2, of the Constitution of October 4, 1958

It specifies that "the law establishes the rules...concerning the base, the rate and the methods of recovery of taxes of all kinds". In other words, it lays down the principle of the legality of the tax, in line with article 14 of the Declaration of 1789. If the constitutional provision does not mention tax law as such, it favours a broad conception of taxation, the definition of the regime which it reserves for Parliament. This attribution of competence is theoretically total since it intervenes under the paragraph of article 34, which entrusts to the law a complete normative competence and not under paragraph 3, which only gives the legislator the task of determining fundamental principles. Beyond the largely nominal nature of this distinction, the result is, in any case, an almost total impossibility for the autonomous regulatory power of Article 37 to intervene in the matter. The law will therefore constitute the basic tax text.

2.3.2 Article 55 of the Constitution of October 4, 1958

This provision gives treaties duly ratified, that is to say, incorporated into the internal legal order by a vote of Parliament, a legal value superior to that of laws provided that the other States parties to the treaty also apply it. International treaties in tax matters will therefore form the second level of the pyramid of standards. This superiority does not extend to international custom (CE, Ass ., June 6, 1997, Aquarone, req . n ° 148683, concl . G. Bachelier, Dr. fisc. 1997, comm . 836). This desire of the constituent reflects a concern for openness to the world since it integrates into the national legal order, at a high level, standards that have been the subject of concerted development with other sovereign States. It is, therefore, a monist system that is in force.

These transnational texts fall into three categories. There are, first of all, bilateral conventions tending to avoid double taxation, which uses the model developed by the OECD, such as the Franco-Chilean convention of 2004. Then there are two multilateral conventions: the January 25th, 1988 convention on the automatic exchange of information relating to

financial income (ratified to date by 141 States) and the BEPS convention of 7 June 2017 (of which 95 States are signatories at the end of 2020). Then there is European Union law, derived from the Treaty on the Functioning of the European Union (TFEU). On its basis, the Council of the Union adopts directives in its areas of competence, which oblige the States to comply with them by adopting the national laws necessary to achieve the goals set by each directive. In fiscal matters, the Union is competent to unify customs duties, harmonize taxes on consumption, and coordinate the architecture of taxation on income and profits. The Court of Justice of the Union interprets the provisions of the European treaties to verify the conformity of national legal provisions. In other words, the French Constitution, like that of its 26 partners, authorizes the submission of significant sections of national tax legislation to transnational rules which are superior to this legislation.

3 THE CASE LAW OF THE CONSTITUTIONAL COUNCIL

The Constitutional Council is often asked to rule on conforming tax laws with the Constitution. Its intervention is within the framework of examining the texts of law adopted but not yet promulgated (art. 61 al. 1 of the Constitution), exceptionally in that of the detection of texts of a regulatory nature taken in legislative form (art. 37(2) and many since 2010 in response to priority questions of constitutionality (QPC) referred to it by the Court of Cassation and the Council of State based on Article 62 of the Constitution. Concerned about the intelligibility of the norm (Dec. 29, 2013, 685 DC), it thus pronounced on the compliance of new tax laws with the principle of equality (1). It allows the enactment of discriminations on the condition that they are justified by the concern to fight against tax evasion (2); in the same spirit, it requires the proportionality of tax sanctions (3) and limits the possibilities of retroactivity of the law (4). It also had the opportunity to comment on the implications of the non bis in idem principle (5). Finally, its role is reinforced by the introduction of the QPC procedure (6).

3.1 THE SCOPE OF THE PRINCIPLE OF EQUALITY

The equality that taxpayers dream of is a guiding principle. Its meaning is imprecise since it is general. It is declined, over the decisions of the constitutional judge, in different variants, without the judge himself taking the trouble to explain the meaning and scope of each of them.

3.1.1 Equality before the law

It was invoked for the first time in the decision of December 27, 1973 (51 DC), to censure a provision of the finance law for 1974 which instituted discrimination between taxpayers by prohibiting holders of high incomes the possibility of providing evidence contrary to an official taxation decision of the administration concerning them. The Constitutional Council relied here on Article 13 of the Declaration of Human Rights and on the preamble of the Constitution. It is permissible to question the relevance of the reference to equality before the law to justify this decision. The judge's approach here is a little impregnated with the essence of tax law and is probably groping in search of the appropriate principle. But the plasticity of its content allows it to use again (Dec. 19, 2013, 682 DC; January 17, 2020, 2019-820 QPC).

3.1.2 Equality before public offices

It was invoked for the first time in a decision of July 12, 1979 (107 DC) and obliges the legislator to respect a general framework within which he can arrange differences,

provided that they do not entail a rupture characterized by status between taxpayers (200 DC, 16 Jan. 1986) but that they remain based on "objective and rational criteria according to the goals that he proposes" (453 DC, 27 Dec. 2001). In other words, different situations can be applied to different rules, provided that the resulting difference in regime is not exaggerated, even between different categories of citizens: "if the principle of equality is not an obstacle to a law establishing non-identical rules with regard to persons in different situations, this is only so when this non-identity is justified by the difference in the situation and is not incompatible with the purpose of this law" (209 DC, July 3, 1986). It thus validates the "tax shield" by considering that "the requirement resulting from article 13 of the Declaration of 1789 would not be respected if the tax were of a confiscatory nature or imposed an excessive burden on a category of taxpayers regard to their contributory faculties" (555 DC, August 16, 2007). The constitutional judge pushes his control to audacious limits, since he recognizes here the power to appreciate the threshold beyond which the differentiation operated by the law becomes too discriminatory to remain in conformity with the Constitution and does not hesitate not to verify in passing whether the provisions of a law already promulgated are constitutional (256 DC, July 25, 1989), this before the institution of the priority question of constitutionality. As part of this procedure, it validates the granting of tax advantages by the legislator to encourage the development of economic activities by applying objective and rational criteria according to the objectives sought (29 Apr. 2011, 121 QPC; 9 August 2012, 654 QPC).

3.1.3 Equality before taxes or before the tax law

It was invoked for the first time in a decision of December 30, 1981 (133 DC). It is obviously much more specific, endowed with a narrower meaning. This is probably the reason why the constitutional judge will resort to it so late and with so much circumspection. Its basis is, however, given by the aforementioned article 13 of the Declaration of the Rights of Man and of the Citizen. However, the judge knows too well that, in a neoliberal and developed State, it is essential to leave to the public authorities a faculty of the orientation of behaviour, particularly in the economic field, by means of tax incentives. Who says incentive says discrimination, thus induces a certain rupture in the equality of the citizens in front of the tax. In the name of the general interest, this break is considered more useful than the quasi-arithmetic respect imposed by a strict conception of equality before taxes. But the judge's approach then resembles the exploration of a narrow path traced in a sinuous way between these two pitfalls, which would constitute, respectively, the excess of tolerance for attacks on the principle and the excess of fundamentalism. However, he does not hesitate to justify setting the threshold for holding a company's capital at 25%, beyond which only this holding is qualified as professional property and consequently benefits from the exemption from tax on large corporations and fortunes. The threshold effect here is brutal, and the level of its fixation is debatable. But the Constitutional Council justifies them, considering that "the legislator based his assessment on objective and rational criteria in this matter; that, therefore, this tax is established in a regular manner with regard to the rules and principles of constitutional value and, in particular, taking into account the contributory faculties of citizens" (164 DC, 29 Dec. 1983; 405 DC, Dec. 29, 1998; 419 DC, Nov. 9, 1999 and 437 DC, Dec. 19, 2000).

This understanding of an orderly breach of equality before taxes also allows him to admit the inequality that will result from the adoption, by the legislator, of a provision removing a tax advantage with immediate effect: he thus validates the provision of the finance law for 1984 which reduces from twenty-five to fifteen years the duration of the exemption from property tax on built properties which benefited new dwellings. The constitutional judge pointed out that the difference in the legal regime between the taxpayers

results from their difference in the situation, that is, the date on which they built the dwelling (168 DC, 20 Jan. 1984).

On the other hand, the legislator violates the principle of equality before tax when he claims to discriminate against family quotient to the detriment of single or divorced taxpayers (385 DC, 30 Dec. 1996). This assessment is always carried out by examining "each tax taken separately" (285 DC, 28 Dec. 1990).

3.1.4 Equality among taxpayers

The Council invokes it in a decision of December 28, 1995 (369 DC), to stigmatize the attack that would bring to this principle a legislative provision partially exempting from transfer duties free of charge the transmission of professional assets to donees, "on the sole condition that they keep these assets for a period of five years, without requiring them to exercise any management function within the company... the law has established vis-à-vis the other donees and heirs of the differences in a situation which are not directly related to the objective of general interest... that under these conditions and having regard to the importance of the advantage granted, its benefit is likely to lead to a significant breach of equality between taxpayers. The concept of equality between taxpayers is an extension of equality before taxes but has the advantage for the judge of placing the provision examined in a more global, more political and less technical environment, thus loosening the straightjacket too strict arithmetic to be adequate for the exercise of his function by the constitutional judge. Recourse to one or the other version of the principle of equality remains erratic, however, since in December 1997 it was in the name of disregard of the principle of equality before tax that the Council declared unconstitutional the provision of the finance law for 1998 which purported to limit the reimbursement of the tax credit: the difference in treatment between its beneficiaries is not justified by any difference in situation in relation to the very purpose of the tax credit, intended to neutralize for the shareholder the taxation already suffered by the profits distributed (395 DC, 30 Dec. 1997). In other words, the Council allows the tax legislator to make differentiations only if these are based on objective and rational criteria "according to the goals that it proposes" (404 DC, 18 Dec. 1998). This approach can end up stigmatizing provisions as "contrary to the principle of equality before tax" (442 DC, 28 Dec. 2000). The development of priority questions of constitutionality (QPC) leads the Board to respond to each of the versions of equality raised by the person liable (eg May 24, 2019, No. 2019-784 QPC, Sté Cofibel Premium, Dr. Fisc 2019 n° 42 comm . 409, note A. Maitrot de la Motte).

3.2 THE POSSIBILITY OF DISCRIMINATION JUSTIFIED BY THE CONCERN TO FIGHT AGAINST TAX EVASION

Beyond the differences accepted for different situations or for different professional activities, the Constitutional Council relies on the need to repress tax evasion. In his first decision relating to tax searches (164 DC, 29 Dec. 1983) he bases this necessity on article 13 of the Declaration of 1789, and specifies that this fraud can in no way be excused by the exercise of the rights and individual freedoms (confirmed by 97-395 DC, prec .). In this perspective, it validates discrimination that the finance law establishes by requiring payment by check of any payment greater than €1,500 made by a non-commercial individual (184 DC, 29 Dec. 1984). The difference in tax regime based on the location of the domicile – depending on whether it is in France or outside France – is justified by the same concern to fight against fraud (ibid.), which is found in the difference in treatment instituted by article 168 of the CGI between taxpayers whose lifestyle is disproportionate to their declared income and other taxpayers (2010-88 QPC, 21 Jan. 2011). The fight against tax evasion

constitutes "an objective of constitutional value" (638 DC, 28 July 2011 and 2011-166 QPC, 23 Sept. 2011).

3.2.1 Verification of proportionality in tax penalties

The Constitutional Council has clearly set out the extent and the limits of its control in a matter that falls within the repressive sphere and has a partially criminal connotation: it will not replace the legislator to measure the "necessity" of the penalty. Within the meaning of Article 8 of the Declaration; he will nevertheless censure the manifest error of assessment. It extends this control to administrative penalties imposed in tax matters and will censure a legislative provision which imposes a tax penalty manifestly disproportionate to the seriousness of the omission or inaccuracy observed (237 DC, 30 Dec. 1987; 395 DC, prec .). In this last decision, his analysis is refined, and he outlines in advance the framework that will be imposed on the authorities:

"… When an administrative sanction is likely to be combined with a criminal sanction, the principle of proportionality implies that in any event the total amount of any sanctions imposed does not exceed the highest amount of one of the sanctions incurred; whereas it will therefore be for the competent administrative and judicial authorities to ensure compliance with this requirement; that, subject to this reservation, the V of article 85 is not contrary to the Constitution". On the other hand, an automatic penalty, such as the publication and posting of judgments of a criminal conviction for tax evasion provided for by article 1741, paragraph IV of the CGI, is contrary to the principle of individualization of penalties (n° 2010-72 /75/82 QPC). On the other hand, although comprising only one increase of 40%, the former article 1759 of the CGI is in conformity with the Constitution because the possibility of cumulating this increase with those provided for by article 1729 offers the judge the possibility of proportion the penalties according to the nature and seriousness of the acts committed by the taxpayer (Cons. const., 10 Feb. 2012, no. 2011-220 QPC). The message is imbued with pedagogy, like the lesson administered in 1983 (164 DC, prec .) but fits into the landscape initiated by the European Court and the Court of Cassation case law.

3.3 LIMITS TO THE RETROACTIVITY OF TAX LAW

No constitutional provision precludes a tax law from being retroactive since the principle of non-retroactivity only has constitutional value in criminal matters by virtue of Article 8 of the Declaration (184 DC, Dec. 29, 1984; 391 DC, Nov. 7, 1997). Consequently, a new tax law can lengthen prescriptions (369 DC, Dec. 28, 1995), but also validate an administrative doctrine that the legislator has just put in place by subordinating legislative validation to five conditions. The validation must pursue a goal of sufficient general interest – which cannot be a simple financial interest – it must respect court decisions that have become final, within the meaning of article 500 of the Code of Civil Procedure, otherwise said even if they are the subject of an appeal in cassation. Validation must respect the principle of non-retroactivity of penalties and sanctions (Declaration of 1789, art. 8). The validated act must not disregard any rule or principle of constitutional value unless the aim of the general interest targeted by the validation is itself of constitutional value (2010-19/27 QPC, July 30, 2010). Finally, the scope of validation must be strictly defined.

The Council establishes a relationship of proportionality between the infringement of individual rights and the general interest put forward by the legislator. Along the way, the control carried out by the constitutional judge becomes more demanding. In a decision of December 19, 2013 (682 DC, pt 17), he agrees to recognize the validity of the legitimate expectation of a taxpayer to continue to benefit from a special tax regime linked to compliance with a legal duration , which the legislator could not therefore reduce for past life

insurance contracts. It is the beginning of an evolution. All in all, the Constitutional Council's approach here leaves the legislator a wider margin of appreciation than that attributed to it by the European Court of Human Rights, the interest for the aggrieved taxpayer to situate himself on the conventional ground rather than on the constitutional ground.

3.4 ADJUSTMENT OF THE NON BIS IN IDEM PRINCIPLE

This principle prevents the pronouncement of two condemnations of a citizen, and in this case of a taxpayer, on the basis of the same facts. As will be explained below, the question arose with particular intensity for taxpayers sentenced by the tax judge to pay a contested tax and be liable for the offence of tax evasion on the basis of the same facts before the tax judge repressive. The Council's position is set by two decisions of June 24, 2016 (2016-545 and 546 QPC), in the following terms: "The principle of the necessity of offences and penalties does not prevent the same acts committed by a same person may be subject to different prosecutions for administrative or criminal sanctions under different sets of rules. If the principle of proportionality implies that in any event the overall amount of any penalties imposed does not exceed the highest amount of one of the penalties incurred". This interpretation does not completely coincide with that developed by the European Court of Human Rights.

3.5 THE AMPLIFICATION OF ITS ROLE BY THE PRIORITY QUESTION OF CONSTITUTIONALITY (QPC)

The evolution is represented by the constitutional law n° 2008-724 of July 23, 2008, which introduces a new article 61-I in the Constitution. This text gives citizens the possibility of asking the judge to put a priority question to the Constitutional Council, with filtering at two levels, firstly that carried out by the judge questioned who will check whether the legislative provision in question has not already been declared constitutional by the Constitutional Council and if the question asked is not manifestly unfounded. He will then transmit, if necessary, the question to the Supreme Court of his Order (Council of State or Court of Cassation). The latter will then check whether the preliminary question is serious or new. If this is the case, it will forward it to the Constitutional Council. The latter will render a decision within two months, which will be notified to the interrogating Supreme Court. The new article 62 also provides that the Constitutional Council determines the conditions and the limits under which the effects produced by the provision thus repealed are likely to be called into question (Cons. const. 25 oct. 2013 n° 351 QPC). This new control system makes it possible to declare legislative provisions unconstitutional after their promulgation. The practice developed since 2010 shows that both the Council of State and the Court of Cassation rigorously assume their role of filter, and the control exercised by the Constitutional Council relates to the point of knowing whether a legislative provision infringes the rights and freedoms guaranteed by the Constitution. Consequently, the Council rejects the pleas based on the negative incompetence of the legislator when the applicant claims that the latter would not have used the competence attributed to him by article 34 of the Constitution (June 18, 2010, SNC Kimberly Clark, No. 5 QPC, RJF 10/10.940), unless the legislative provision in question infringes a constitutionally guaranteed right (for the property right: 22 Sept. 2010, No. 33 QPC). It should be noted that the Council of State contributes in particular to the establishment of the procedure - as befits the main tax judge - not hesitating to examine and then transmit a QPC to the Constitutional Council, even though it was incorrectly seized of an appeal in cassation in tax litigation (CE, 29 Apr. 2013, No. 364240, AJDA 2013. 953).

The introduction of the QPC procedure has changed the place of the Constitutional Council in the French jurisdictional structure. For the Council of State, these decisions are henceforth vested with the absolute authority of res judicata, as a result of which the

disregard of this authority by the trial judges is a means of public order for the cassation judge is responsible. office (CE, May 15, 2013, no. 340554, AJDA 2013. 1639, concl . A. Lallet).

The French Republic is a democracy, and it is a State of law practising the hierarchy of norms under the control of judges. Transposed to tax matters, these general characteristics imply that the taxpayer is endowed with a protective status. The hierarchy of norms of the French legal system establishes this status. This concern constitutes the tax aspect of the rights of the citizen, since the taxpayer is most often a national; if he is a foreigner, he will be called upon to pay his contribution because of the links he has with France, either as a tax resident or because of the exercise of economic activity or the possession of a heritage in this country. Assuming tax obligations and paying taxes has the counterpart of granting guarantees to the taxpayer. The thickness of this protective status is made necessary by the exorbitant nature of tax law, its despoiling nature in the eyes of classical doctrine and, correlatively, the risk of infringement of public freedoms that its very existence represents. The magnitude of the economic weight of taxation and the sprawling dimension of the tax administration in contemporary societies, the degree of awareness and requirement of citizens also militate for granting statutory guarantees.