

My money, my right Session at ITJA

Relevant principles

1. Equality and non-discrimination

2. Right to participation, information, transparency

3. ESCR:

Maximum available resources

Progressive realization

Non-retrogression

4. International cooperation and assistance for the achievement of human rights

Widening the tax base (I)

Are revenues enough to realize human rights?

In many States there is room to raise considerable additional revenue by widening tax base.

But widening should also be human rights-compliant ways – those who can least afford are not asked to pay more.

Some areas of inquiry:

- Tackling tax evasion
- Taxing natural resources
- Taxing financial sector
- Corporate incentives

Civil and political rights

Tax decision-making processes (design, implementation, evaluation)

Broadest, effective, meaningful participation

Access to all relevant information in transparent and accessible format

→ (transparency of tax incentives)

Need for capacity-building and fiscal literacy

Asymmetries of power, expertise and interest

International (extraterritorial) dimension

Individual State action → limited effect in the absence of adequate international tax cooperation

“Globalization and increased cross-border flows of goods and capital have vastly increased the chances that one State’s actions or omissions may affect another State’s ability to raise public revenues”

“High-income states that enable or fail to tackle tax abuse and illicit financial flows must shoulder some responsibility for the shortcomings of the tax and public finance systems in developing countries and related . . . lack of enjoyment of human rights and economic inequalities.”

No	Case	Year began	Summary
1	Exxon Mobil vs Russia	2015	The multinational seeks reimbursement of \$500m in taxes it paid related to its Sakhalin-1 oil and gas project
2	Hanocal vs Korea	2015	Former majority shareholder in Hyundai Oilbank, an oil refinery in the city of Seosan, sues over taxes levied on the 2010 sale of its controlling stake in the project
3	Poltava Gas vs Ukraine	2015	Investors sue over state measures including legislation adopted in July 2014 that temporarily raised royalties on gas production
4	Total vs Uganda	2015	French oil company sues via its Dutch subsidiary over a tax dispute related to its sale of oil and gas blocks in the Lake Albert Rift basin
5	Longyear vs Canada	2014	US investors sue over a dispute with the Ontario government about tax incentives for their logging operations
6	Vodafone vs India	2014	British telecoms giant sues, via its Dutch subsidiary, over a multi-billion dollar retrospective capital gains tax bill related to its acquisition of an Indian mobile phone business
7	Gunes Tekstil vs Uzbekistan	2013	Investors sue over alleged seizure of their shopping centres by Uzbek authorities investigating customs, import and taxation offences. (Investors' claims include allegations of human rights abuses)
8	Federal Elektrik Yatirim vs Uzbekistan	2013	Energy investors sue over alleged wrongful prosecution, denial of justice and expropriation by government authorities investigating tax evasion offences
9	Tullow Oil vs Uganda	2013	UK oil giant Tullow Oil sues Uganda in a dispute over a \$400m capital gains tax bill
10	Heritage Oil vs Uganda	2012	Canadian oil company sues over capital gains tax dispute with Uganda
11	Bogdanov vs Moldova	2012	Investors in a paint-manufacturing company sue over tax and environmental policy changes, which they say negatively impact their business
12	Lao Holdings vs Laos	2012	Casino and hotel investors' claims target a range of state actions including an 80% tax on casino revenues
13	LSF-KEB vs Korea	2012	Investors challenge state actions including imposition of allegedly arbitrary capital gains taxes on the sale of the claimants' stake in Korea Exchange Bank
14	Orascom vs Algeria	2012	Investors accuse government of interference and harassment including tax reassessments
15	Bidzina Ivanishvili vs Georgia	2012	Billionaire and politician Bidzina Ivanishvili, who is a French citizen, says new tax laws were specifically designed to target his investments in commercial banks, resulting in significant losses

16	Ryan and others vs Poland	2011	Investors claims that Poland had acted with bias in improperly levying taxes and sanctions on their company, leading to its bankruptcy
17	Bozbey vs Turkmenistan	2010	Investor's claim includes challenge to the imposition of taxes and fines by Turkmenistan tax authorities, despite allegedly receiving a 21-year tax exemption under a special presidential decree
18	Maersk vs Algeria	2009	Danish multinational challenges government's imposition of a tax on windfall profits, allegedly contravening the terms of a oil production sharing contract
19	MTN vs Yemen	2009	Mobile phone giant's claims include complaint over Yemen's alleged refusal to grant it exemptions on profits' tax and customs duties on machinery and equipment transported into the country
20	Bogdanov vs Moldova	2009	Claimants challenge actions of Moldova's customs department, including disputed customs fees related to activity in a "free economic zone"
21	Perenco vs Ecuador	2008	Oil company sues after the state introduced a new tax on windfall oil profits
22	Burlington Resources vs Ecuador	2008	Energy company sues over new taxes on oil revenues, and other state actions
23	Paushok vs Mongolia	2007	Investors challenge new laws including the introduction of a tax on windfall profits from the sale of gold
24	Mobil vs Venezuela	2007	Investor's claim includes allegation that Venezuela damaged its investments by increasing royalty rates and taxes on income from oil projects
25	Tza Yap Shum vs Peru	2007	Shareholders in a Peruvian company engaged in the purchase and export of fish flour to Asian markets sue over the seizure of the company's bank account due to tax debt and other alleged actions by Peru's tax authorities
26	ConocoPhillips vs Venezuela	2007	Investors challenge state measures including increased royalties and income taxes on oil projects
27	Oostergetel vs Slovakia	2006	Investors say the government had previously taken a relaxed approach to the their tax arrears, before changing position and taking actions that led their bankruptcy proceedings
28	Spyridon vs Romania	2006	Investors cite tax liabilities and penalties allegedly imposed on their frozen-food warehousing company, among other state actions triggering their claim
29	Nations Energy vs Panama	2006	Investors claims centre around a dispute with the government over the transfer of fiscal tax credits to third parties
30	Quiborax vs Bolivia	2006	Investors say Bolivia expropriated their property after it rescinded their mining concession citing the company's lack of cooperation with customs officials and alleged tax evasion
31	Micula vs Romania	2005	Investors challenge early termination of Romanian tax incentives, including exemptions from customs duties and payment of corporate profit tax
32	Cargill vs Mexico	2005	US grain giant sues over Mexico's 2002 adoption of a new tax on beverages containing high fructose corn syrup