

On the successful integration of the implemented principles into the fiscal legislation

PhD Student Valerijs JAKUŠEVŠ¹

Abstract

The study is carried out within the boundaries of the research “Taxation policy of the Republic of Latvia within the context of the principle of equity”. The objective of the study is to prepare a theoretical basis for the successful implementation of the state taxation policy considering the presently widespread usage of electronic means of data processing, transfer and storage, as well as to develop the legislative principles of self-regulation for the fiscal legislation in order to prepare it for working with quantum physics-based data processing hardware. The study is based on the legislative practice of the Republic of Latvia, with special regard to the period of economic recovery following the economic recession of 2009-2012. The study relies on legal literature, judicial practice, state planning documents and the researches ordered by the government and carried out by private contractors, as well as on statistics. The data collection does not confine itself to the research of phenomena and the systematization of the new knowledge and the knowledge acquired before, but mostly uses the empiric scientific method – observations, surveys. The study also employs the theoretical scientific method by analyzing the aforementioned documents and literature and using these as a basis for developing the theory and suggesting hypotheses, as well as through scientific (conceptual) modeling. Relying on the acquired data, the author verifies the forecasting power in order to achieve the objective of the study.

Keywords: tax, law, justice, the principle of justice, taxation, fair taxation, wealth creation, a living wage, the effective tax.

JEL Classification: K34

I. Lisbon Treaty and standart of living

Latvia is an independent democratic republic.² Democracy (Ancient Greek δημοκρατία — “reign of the people”, derived from δῆμος — “the people” and κράτος — “reign”) — a political regime based on the method of collective decision-taking with an equal extent of influence exerted by each participant on the outcome of the process³ or on its essential stages⁴. One of the general signs of democracy is that the people (a community of citizens) are the only source of legitimate SOVEREIGN power in the country. Pursuant to the Constitution of the Republic of Latvia, the sovereign power of the State of Latvia is vested in the

¹ Valerijs Jakuševs - Department of doctoral studies program „Science of Law”, Riga Stradins University, the Republic of Latvia, valerijs@tempus.lv

² Конституция Латвийской Республики, статья 1: закон Латвийской Республики. – доступен в сети по адресу <http://likumi.lv/doc.php?id=57980> 28 октября 2013 года.

³ Hyland J. L. Democratic Theory: The Philosophical Foundations. Manchester: Manchester Univ. Press, 1995.

⁴ Christiano T. Democracy // Stanford Encyclopedia of Philosophy. 2006.

people of Latvia⁵. As it is known, a constitution is the fundamental law of a country, governing the main procedures occurring within the realm of state politics. Laws regulate and stipulate social and socially-governmental relations in every aspect of social life, economics and politics, which the governmental authority strives to control. One of the principles of the government system is the obligation of a citizen to comply with the prescriptions of the law and act within the boundaries allowed legally. The constitution does not provide expressly for the obligation of a person to comply with the law, yet this obligation is beyond any doubt. Such obligation and posture of affairs is natural in the modern civilized countries and therefore is not discussed, provided for or reminded about expressly. It seems natural and conventional that people, having crossed the border of a country, adhere to the provisions of the law effective within the territory of that country. A spectacular example of that would be a road sign with the main traffic regulations adopted within the state's territory. Apart from everything else, for the purposes of facilitating mutual understanding between countries and maintaining general order, countries make agreements with each other, which are equally binding for all the people of the member states of an agreement in the territory of their country of residence and within the territory of other member states alike.

Similar to how the provisions and stipulations for natural persons are regulated, obligations also exist between countries. The international public law sets the principles for the diplomatic mutual relations between states. A union between states is inherently special. It is founded within the boundaries of an international agreement, and its provisions prevail over the diplomatic traditions and are binding for all member states. This does not imply any total subordination of a state to the directives; that cannot be. The very nature of a union – the need to maintain certain balance between sovereign authorities; it is initially voluntary, therefore the deviation from the regulations binding for the members of a union may result in penalties, many of which are stated initially in the union treaty. One of such union treaties is the Lisbon Treaty, amending the Treaty on European Union and the Treaty establishing the European Community, signed by His Majesty the King of the Belgians, the President of the Republic of Bulgaria, the President of the Czech Republic, Her Majesty the Queen of Denmark, the President of the Federal Republic of Germany, the President of the Republic of Estonia, the President of Ireland, the President of the Hellenic Republic, His Majesty the King of Spain, the President of the French republic, the President of the Italian republic, the President of the Republic of Cyprus, the President of the Republic of Latvia, the President of the Republic of Lithuania, His Royal Highness the Grand Duke of Luxembourg, the President of the Republic of Hungary, the President of Malta, Her Majesty the Queen of the Netherlands, the Federal President of the Republic of Austria, the President of the Republic of Poland, the President of the Portuguese Republic, the President of Romania, the President of the Republic of Slovenia, the

⁵ Конституция Латвийской Республики, статья 2: закон Латвийской Республики. – доступен в сети по адресу <http://likumi.lv/doc.php?id=57980> 28 октября 2013 года.

President of the Slovak Republic, the President of the Republic of Finland, the Government of the Kingdom of Sweden, Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland, signed on December 13th, 2007, effective since December 1st, 2009 and to the present day⁶ (hereinafter referred to in the text and in the references as the Lisbon Treaty).

Article 1. A of the Lisbon treaty states that “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”. Paragraph 1, Article 2.A determines that the Union's aim is to promote peace, its values and the well-being of its peoples. Paragraph 2 specifies that Union shall establish an internal market, which shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. Subparagraph 4 therein provides that it shall promote economic, social and territorial cohesion, and solidarity among Member States. Such a treaty infers unconditionally that the principles used to develop the internal economic relations must also be similar for each member state. In particular, such principles – in this case, the author refers to the principles of justice, increased well-being and sustainable development – may not allow for the impoverishment of the country's people and the infringement of certain social groups, in this case – the underresourced (indigent) ones, who are, apart from that, socially vulnerable due to the course of actions of the state itself. As to what does the author mean by the socially vulnerable citizens, it shall be explained further, when describing the Latvian taxation system. The author assumes that such disparities may also persist in other countries, but the author hasn't yet studied this issue. The author assumes that the economic influence exerted on a country's development by the introduction of a certain aspect to the fiscal legislation system is possible neither experimentally, nor theoretically, yet the author states that the government, based on the principle of justice in regard to taxation (which, in case of taxes, would be the proportionality), must make every effort to prevent any logical and obvious injustice, as such will eventually lead to an economic downfall or civil disobedience. The author concludes so, having determined the ideal aspirations of the principles of taxation policy and the permissibility limits, as a tax (i.e. the alienation of a certain share of a citizen's income in profit of the state) has a tendency to reach certain limits, beyond which it starts infringing the basic rights and freedoms of a taxpayer – the right of existence, for example. The author suggests eliminating the possible contradiction – having a certain extent of

⁶ Доступен в электронной сети интернет по адресу <http://likumi.lv/doc.php?id=203206> 28 октября 2013 года - официальная публикация на латышском языке. Официальная публикация ЕС на английском языке: доступен в электронной сети интернет по адресу <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2007:306:SOM:EN:HTML> 28 октября 2013 года.

economic autonomy, a citizen has the right to be indigent (in the ordinary literal sense of the word). A person may be brought into such condition by a series of different circumstances, both internal (pertaining to the personality) and external, however, the discussion of these circumstances does not comprise the topic or the subject of the study. Yet the liability of a person raising revenues within the legally acceptable boundaries to taxation (i.e. the expropriation of a certain share of income) is a different issue. From the standpoint of the principles mentioned above, it is emphatically inappropriate to impose taxes upon (expropriate) whatever that's below the income level required in order to survive (in the ordinary sense of the word as we perceive it). The author relies on the point that within the boundaries of the economic system currently adopted by the democratic republics of the European Union, a person uses money to survive, raises money through legally gaining income, therefore the loss of a share of income below the subsistence minimum through the actions of the government is absolutely unacceptable in principle. Otherwise, impoverishment is caused, i.e. a person is systematically (through legal actions) is stripped of the subsistence minimum raised by this person through economic activity or from any other legal source of income and gets poorer, which contradicts the principles, goals and objectives of the member states of the European Union as stipulated by the Lisbon Treaty. The Lisbon Treaty entails something new for the Latvian legal system – a written legal confirmation of the supremacy of law, the legitimization of the purpose of developing a country's well-being. This inevitably implies a new concept – the living standard, which may improve or degrade for a specific individual through his own actions, but by no means may it decrease directly due to the actions of the legislator (the state). It may depend on the economic situation a country is experiencing, but not on any direct actions of the legislator (the state). One must discern between what ensues from a person's biological characteristics and what's yielded by its economic activities.

How great is the importance of the general principle of law at the axiological level? We do often hear that the law provides for the protection, support and recognition of the customs of specific regions or those spread throughout the entire state's territory. Aside from a certain level of competence pertaining to their professional realm or the road traffic regulations, general population, i.e. not lawyers, seldom have the knowledge of the content of law. Most of their knowledge about law is comprised of somehow reproduced legal expert advice or the interpretation of laws provided by periodicals. This, however, not in the least means that these people may not be law-abiding citizens. On the contrary, they are unlikely to violate the provisions of, for instance, the criminal law, as its observation is possible given just the knowledge of certain basic principles – for instance, what exactly is prohibited by the law, which kinds of punishment for illegal actions of different character does the law provide for. A person determines the legitimacy of a certain action reposing on the acquired ideas (principles) of the purview of this specific law. Most people know, for instance, that no one may claim the life of any other person or inflict physical suffering upon

such. One may not express the judgment of a person in public, unless it is confirmed by compulsive evidence, etc. It is also generally known that the failure to comply with these norms is an infraction of law, punishable by severe sanctions on the part of the executive branch. Thus it is easy to determine the value of the principle in governing a state (implementing the state politics).

“As we have brought nothing into this world, we can’t take anything out of it as well”⁷. In this sense, a person’s revenues and expenses throughout his entire life are equal.

II. The importance of the principle of justice in fiscal policy

The principle of justice is not just a category of tax legislation (financial sciences – author’s supplement, (hereinafter – a.s.), but also a moral category, the concept of the necessary, as the correspondence between the action and the requital is a fundamental idea that serves as a basis for creating the entire system of legal regulation. (*“moral category <...> as the idea of what’s due, the correspondence between the action and the requital is the fundamental idea, upon which any system of legal regulation is based”*)⁸.

In V. Pushkaryova’s opinion, the historical dispute on the priority of taxation principles has been going spirally from the formulations of justice by A. Smith to the modesty principle by A. Wagner, and back to the justice principles in the taxation systems of the industrially developed countries of the 20th century⁹ (this is elaborated on in the section “The history of taxes”).

The agenda of justice is also a problem of ethical nature. As specified by Bryzgalin with a reference to M. Alekseyenko, by implementing taxes, people strive to achieve “justice”, yet the concept of such “justice” is relative and depends upon the social and political structure¹⁰.

From the standpoint of economic ideas, the justice principle means that state taxes and expenses affect the distribution of income, encumbering some and privileging others. The aspects to discern here are the horizontal justice principle, according to which all taxpayers are made equal and pay equal taxes, based on their income, and the vertical justice principle, which implies that taxpayers are in unequal positions *a priori* and those who consume more benefits provided by the state should pay more taxes (the profit principle), or that the unequal positions are determined by solvency – the indigent ones are granted lower tax rates¹¹.

“Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged

⁷ 1Тім 6:7.

⁸ Там же. с. 72.

⁹ В.М. Пушкарева. *История финансовой мысли и политики налогов*. – Москва: Финансы и статистика, 2003. с. 97.

¹⁰ Налоги и налоговое право. Под редакцией кандидата юридических наук А.В.Брызгалина. Москва: Аналитикапресс, 1997, с. 72

¹¹ Там же. с. 73.

must be reformed or abolished if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. Therefore in a just society the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining or to the calculus of social interests. The only thing that permits us to acquiesce in an erroneous theory is the lack of a better one; analogously, an injustice is tolerable only when it is necessary to avoid an even greater injustice. Being first virtues of human activities, truth and justice are uncompromising¹².

The content of the principle of justice is versatile, ambiguous and broad, therefore it requires a special research¹³. For instance, in his article "Observation of the justice principle in levying the personal income tax on the revenues of the population", Jānis Lazdiņš, while substantiating the fact that the Republic of Latvia, as an independent democratic republic, undertakes the duty of upholding human rights, and studying the aspects of human rights related to the just policy pursued by the state in regard to such concepts as the tax-free allowance, the minimum monthly wage and the minimum subsistence level, comes to the inference that the justice principle, while upholding the obligation of paying the taxes imposed by the state, still obliges a democratic country to ensure that its population is guaranteed the living conditions compliant with human dignity¹⁴. Jānis Lazdiņš concludes that "Even despite the provisions of clause 107 of the Constitution of the Republic of Latvia, imposing the duty of safeguarding every employee's right to receive a wage not lower than the officially determined minimum wage level on the state, it is quite dubious that a minimum wage below the minimum subsistence level may guarantee the living conditions compliant with human dignity"¹⁵. "[...] from the author's point of view, a just fiscal policy is the one that would (at least) exempt the minimum subsistence wage from income tax, and the justice principle would prevail over the equality principle as pertains the duty of paying the income tax. If this is not observed in this collision, the legal confidence in the financial policy implemented by the state is compromised, while the budgeting process violates the justice principle, as the chosen methods of filling the budget are not adequate to the target objective – to ensure the financial solvency of the state, as it allows the living conditions of a certain share of the society to drop below the minimum standards"¹⁶.

¹² Ролз Дж. *Теория справедливости*. Доступен: <http://kant.narod.ru/rawls.htm>, см. 12.04.2010. 18:59

¹³ *Налоги и налоговое право*. Под редакцией кандидата юридических наук А.В.Брызгалина.- Москва:Аналитикапресс, 1997, с. 67.

¹⁴ Lazdiņš J. Taisnīguma principa ievērošana iedzīvotāju ienākumu aplikšanā ar iedzīvotāju ienākuma nodokli.// *Latvijas Universitātes raksti*. 2008., 740. sēj.: Juridiskā zinātne. 96., 100.lpp.

¹⁵ Lazdiņš J. Taisnīguma principa ievērošana iedzīvotāju ienākumu aplikšanā ar iedzīvotāju ienākuma nodokli. *Latvijas Universitātes raksti*. 2008., 740. sēj.: Juridiskā zinātne. 96., 104.lpp.

¹⁶ *Ibid.* 102.lpp.

The inference made by the author from the aforementioned is that the observance of the justice principle in state administration is one of the critical basic principles of operation of a democratic country. As it has not been observed up till now, this obviously compromises legal confidence and may entail negative consequences in regard to the law, for instance, more numerous breaches of the law, fiscal evasion, lack of citizens' trust to the actions taken by the legislator and the government, etc. The author of this study has also come to the conclusion that the law itself may not be just or unjust. The concept of being just or unjust only applies to the actions of the persons involved in the procedure of implementing the budget policy and applying the laws. Therefore it is essential to understand the history, intentions and objectives of enacting the fiscal law in order to discuss its justice. One should also discern certain indicia that would be used to make inferences on the compliance of the fiscal policy with the justice principle in the course of the budget process.

Discussions on the justice of fiscal policy are incessant. Taxation is known to have been frequently used as a weapon of political struggle. For example, "The first manifestation of progressive taxation was the imposition of extraordinarily high property taxes. The progression reached as high as 50 percent, and the Medici (a Florentine family, played a considerable role in the medieval Italy) were using that as a weapon of political struggle against their adversaries"¹⁷. In turn, Jean-Jacques Rousseau, based on the theory of equivalents, proves the necessity of a progressive taxation system, as "the government fervently guards the large holdings of the wealthy, whilst being reluctant to give a poor man a chance to preserve his cabin that he built with his own hands"¹⁸. Jean-Baptiste Say, when proving his thesis with the numerical method, admits that "I'm not afraid to state that only a progressive tax is a just one"¹⁹.

Based on the justice principle, Michael Devereux, with reference to Caldor, suggests abandoning the income tax in favour of the maximum tax avoidance by imposing a tax on expenses instead²⁰. Therefore Michael Devereux considers expenses to be a more effective criterion for comparing the well-being of individuals than revenues.

As yet another argument for the assumption that taxes should be imposed on expenditure and that would be more just, Devereux provides an example involving the taxation of deposits, which implies that a person consuming more in his young days would actually pay less taxes than the one increasing his consumption by elderly age, which is an obvious testimony to the standpoint that as many expenses as possible should be subject to taxation.

From the examples provided above, the author has inferred that the discussions on the justice of taxes are still going on and that there is a roughly

¹⁷ Пушкарёва, В. М. *Теория финансовой мысли и теории налогов*. Москва: Финансы и статистика, 2003., с. 120.

¹⁸ *Ibid.* с. 121.

¹⁹ *Ibid.*

²⁰ Девере, М. *Экономика налоговой политики*. Москва: ФИЛИНЪ, 2002. с. 26.

equal number of arguments for and against each specific taxation model, which allows the conclusion that a tax may not be substantially just, as long as it doesn't make sure that the minimum subsistence level is not taxable and is not paid voluntarily. And whilst a voluntarily paid tax is more of a utopia, the taxation of expenses increases the degree of "voluntariness".

"The moral category of justice as the idea of what's due, the correspondence between what's given and. In the meantime, the justice principle, despite the controversy regarding its content, has been one of the principal reference points in the tax systems of civilized countries for over two hundred years already"²¹. The principle of justice is studied from both the economic and the legal aspect. Within the legal meaning, the principle of justice is derived from how well-grounded are the changes made by the legislator to the procedure of collecting the property from taxpayers and what are the relations between the state collecting taxes and the persons paying those²².

As pointed out by the Constitutional Court of the Russian Federation in its verdict No. 9-П of April 4th, 1996, just taxation is substantiated by the constitutional law of the Russian Federation, and citizens may not be stripped of the opportunity to fulfil their constitutional rights (rights to property, accommodation, etc.). At that, the taxation that prevents people from fulfilling their constitutional rights is to be deemed inadequate²³.

The Constitutional Court of the Federal republic of Germany also concludes that no taxpayer is liable to cover government expenses before he has satisfied his vital existential needs or ensured himself a minimum subsistence level²⁴.

From the aforementioned, the author has inferred that the observance of the principle of justice is a vital precondition for the budget process and the implementation of fiscal policy.

Here, in the author's opinion, an inference should be made that not only is the justice principle essential in regard to taxation, but it entails yet another principle to be observed by modern legislators. This is the solvency principle – respectively, no one may be stripped of whatever ensures his existence. This was described by Jānis Grasis in his publication in the "Latvijas avīze" (the Latvian Newspaper) newspaper of August 14th, 2006, and later – by Jānis Lazdiņš in his article "Observation of the justice principle in levying the personal income tax on the revenues of the population" (Articles of the University of Latvia. 2008, vol. 740: Legal science). This, in turn, is derived from the obligations undertaken by Latvia in accordance with the International Covenant on Economic, Social and Cultural Rights of 1966, ratified by the High Council of the Republic of Latvia.

²¹ Налоги и налоговое право. Под редакцией кандидата юридических наук А.В.Брызгалина. Москва:Аналитикапресс, 1997, с. 72.

²² *Ibid.* с. 75.

²³ Citēts pēc: Налоги и налоговое право. Под редакцией кандидата юридических наук А.В.Брызгалина. Москва:Аналитикапресс, 1997, с. 75.

²⁴ Citēts pēc: Lazdiņš J. Taisnīguma principa ievērošana iedzīvotāju ienākumu aplikšanā ar iedzīvotāju ienākuma nodokli. *Latvijas Universitātes raksti.* 2008., 740. sēj.: Juridiskā zinātne. 103.

The translation of the Covenant has not been published in any official newspapers of the Republic of Latvia, yet its Latvian translation is available on an electronic resource²⁵. Article 7 of the International Covenant on Economic, Social and Cultural Rights stipulates that:

“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”

Therefore the satisfactory existence is the remuneration to the workers as provided by the government by means of a series of regulatory acts.

On 16 April in Riga, after having made an entry of accept in minutes No. 21, §7, Cabinet of Ministers of the Republic of Latvia issued the ordinance No. 25 “Initial report of the Republic of Latvia of 16 December 1966 regarding the implementation of International covenant on economic, social and culture right within the Republic of Latvia to 1 January 2002²⁶ (hereinafter – the report). In paragraph 1 of the report the Cabinet of the Republic of Latvia certifies once more that the covenant on economic, social and culture right is binding for Latvia since 14 July 1992 that the report is prepared in accordance with article 16 of the paragraph. In paragraphs 128-184 of the report the Cabinet of the Republic of Latvia reports in the name of State of Latvia on the issues related to fair salaries. Among them, paragraph 131 announces: “Aim for determination of minimum monthly salary is to guarantee at least survival minimum for all employees – both for workers in private and state sectors. So the minimum salary is determined unified in the whole country and it is compulsory for all employers irrespective of their status and form of property. Upon determining the minimum monthly salary at state level, the survival minimum determined by the state within the respective period is taken into account. This standard is anticipated in Latvian Labour Law

²⁵ „Starptautiskais pakts par ekonomiskajām, sociālajām un kultūras tiesībām”, pieejams: <http://www.humanrights.lv/doc/vispaar/escpakc.htm>; skatīts 2011. gada 5. janvārī plkst. 12.15.

²⁶ 2003. gada 16. aprīļa Latvijas Republikas Ministru kabineta rīkojums Nr. 225 „Latvijas Republikas sākotnējais ziņojums par 1966. gada 16. decembra Starptautiskā pakta par ekonomiskajām, sociālajām un kultūras tiesībām izpildi Latvijā laikposmā līdz 2002. gada 1. janvārim”:// Latvijas Vēstnesis, Nr. 60 (2825), 2003. gada 17. aprīlī.

code paragraph 83: "Minimum monthly salary within the framework of normal work time in principal work cannot be less than the survival minimum determined by State within the respective period.", and in paragraph 84: "minimum salaries cannot be less than the survival minimum determined by the state." But paragraph 132 of the Report determines: "Survival minimum by assignment of the Cabinet is calculated by the Central Statistics Board and in accordance with the Latvian Labour Law code it should serve as the base for determination of minimum salary in the country. Considering the limited possibilities of state budget to fund the budget area to be sustained from it, year after year the Cabinet determines the minimum salary below the survival minimum..."

Here the author of the paper sees deliberate deception on the part of the Cabinet of the Republic of Latvia or complete disorientation in state administration issues. Contradiction is hidden in the assessment and conviction made by the Cabinet that aim of determination of salary is to guarantee at least survival minimum for all workers. In December 2002 according to data of the Central Statistics Board the survival minimum in the Republic of Latvia was LVL 89.29 per one inhabitant of the country. But in Cabinet Regulations No. 125 "Regulations regarding the minimum salary and minimum hourly rate" section 1 sentence 2 of 28 May 2002 it is stated the minimum monthly salary within normal working hours is 60 lats. In accordance with paragraph 1 of Cabinet Regulations No. 65 of 12 March 1996 "Regulations regarding the amount of monthly non-taxable minimum when calculating the personal income tax": "As of 1 July 1996 the non-taxable minimum when calculating the personal income tax as per Law on Personal Income Tax" (Reporter of Higher Council and Government of the Republic of Latvia, 1993, No. 22/23; *Latvijas Vēstnesis*, 1994, No. 7, 130; 1995, No. 34, 94), is determined to be 25 lats". These regulations were effective to 1 January 2004. Author of the paper clearly points to the fact that Cabinet of the Republic of Latvia determines the minimum salary in amount of 40-60% of the survival minimum in the name of the State of Latvia pleading to the difficult financial situation thus not only admitting that formally the law is not complied with and reasonable survival possibilities are not ensured within the territory of the Republic of Latvia, but it lies also to the secretary of the Organization of United Nations concealing about such important parameters as tax deductions (from minimum monthly salary that doesn't reach the survival minimum in the country), reporting in front of nation and united nations with figures that have nothing to do with the real salary of persons, actually imposing taxes not on the fruit and increase of welfare, but the property of a person, taking away the funds for existence.

The Official Statistics Law section 3²⁷ stated that the official statistics must be objective, reliable, useful, efficient, it shall be based on the principles of statistic confidentiality and frankness. The official statistics must truly reflect the occurrences and processes to be researched. Acquisition of data and processing

²⁷ Valsts statistikas likums//: *Latvijas vēstnesis*, 306/307 (1021/1022), 25.11.1997; 28.01.1999. likums ("LV", 45/46 (1505/1506), 17.02.1999; 50 (2998), 31.03.2004; 164 (3112), 15.10.2004.; 53 (3421), 31.03.2006.; 195 (3771), 05.12.2007.; 27 (4013), 18.02.2009.

methods and procedures must be scientifically substantiated. Users of statistics must be informed on them and also on data sources. Methodology to be used in official statistics and prepared information must be objective and independent of political processes and groups of interests. It could be so unless the contrary is not proved and the salary must be clearly attached to the survival minimum in the country, but the provisions of the covenant leave great area for interpretation and great possibilities for corrections regarding the financial standing of the country. According to the opinion of the author of the paper, the most important factor not reflected by the Cabinet of the Republic of Latvia in the Report is that tax are deducted from the minimum salary in the Republic of Latvia (more details see in chapter 2.3 Parameters for tax principle observation) thus no attention of paid to problem issues of tax calculation base. (more details see in 2.2 Tax System of the Republic of Latvia). Elements of system that are just in their terms don't guarantee that tax system in general will pass the "test for fairness". So the principle of fairness is of great importance not only when analysing the individual parts of the system, measures of implementation, but also when making joint reports and inspection of the total system. In some respect it is a universal principle that is applied for individual levels of system, subsystems and elements and for legal system in general.

Here, according to the opinion of the author, one more important factor must be named: "Branch of philosophy that is called by the analyst as the continental [in contradiction to analytic philosophy the founders whereof are the British Bertrand Russell and the Austrian Ludwig Wittgenstein – remark of the author], and that to great extent has emerged from German metaphysical tradition, has decided in general that the issue on reality has no content and the science is rather the reflection of properties of our collective cognition to one or another stage of public development than a possible reality, judging whereof is not useful"²⁸. When judging about whether in 21st century the science is ready to describe our planes and concept of civilization existence, general theory, Alexei Tsvetkov exactly answers "Scientism is such application of definition is justified, starts where we are lead beyond the boundaries of possible experiment and by means of pure mathematics, that is to say without any nails, tries to explain once and forever the structure of Universe. Here the opponents of scientism are entitled to specify that we already have such explanation – this is the Holy Writ and they are much pleasing than the theory of super strings"²⁹. Author of the paper agrees and concludes that any theory about the model of fair world is a theory until it is proven experimentally or verified – and the fact whether it will be the leading, depends on the number of followers and considering the understanding of a person about the fairness and tendency to achieve it, before another better theory appears that would explain the same. That is why the understanding about the fairness that is discussed

²⁸ Алексей Цветков. Человек, отгадавший все загадки. О том, как знаменитый британский физик-теоретик Стивен Хокинг попытался создать «общую теорию всего» и почему ему это не удалось. // «Вокруг света». Январь 2011. № 1 (2844), стр. 132.

²⁹ *Ibid.* с. 135.

by the author within the framework of contemporary understanding of society and within the framework of contemporary legal system and one of the versions that is not perfect and correct at all, and also not complete. But as soon as a person can see unfairness with recognized scientific methods, it is subject to replacement liquidation with a better from the available solutions.

In 2000 in Riga a wide collective research was issued with the title "Human Right in the World and in Latvia" that is suggested as a book for university students, experts and interested persons in edition of Dr. Ineta Ziemele. According to the opinion of the author it is interesting to mark that irrespective of wide political and civil research of right, one subchapter of the book is devoted to economic, social and cultural right and at the same time an opinion is expressed: "Economic and social rights were contradictory from the very beginning. <...> Opponents to these rights deny often that economic and social rights really are human right, they reserve the status of human right only to civic and political right, because: these rights don't have obvious important of civic and political right (!) <...> they are a burden for governments and taxpayers that is too troublesome (!)..."³⁰. Yet not denying the importance of social right, the author of the paper states that the Organization of United Nations works at it and afterwards focuses on problems of defining the cultural right. Author of the paper assumes the civil and political right are of great importance at stage of constituting, but their provision without provision of subsequent social and economic rights is more than a fiction – human right without balanced state economic environment is like a book with white blank pages. On the moment the mentioned book is issued, the eighth year of actual independence of the Republic of Latvia went on when Latvia has prepared to join the European Union. So according to the opinion of the author the fact is awkward that the men of law left paid no special attention to the social right.

III. Inferences on the development of a new theory

The agenda has been defined clearly enough. In order to figure out a consistent solution for the situation, quality changes in the constitutive law of the country and regulatory acts of a new kind are required. The former shall ensure the compliance with certain standards, for instance, the prohibition of the taxation of already existing property instead of the yield and increase in well-being, unless such property is directly used for producing the future benefits, as well as the prohibition to impose taxes upon the minimum subsistence income. Ensuring the observance of the justice principle in the lawmaking process requires the usage of just one tax function to be restricted – that would be the fiscal function, i.e. the replenishment of public treasury. The limitation and planning functions are equally important for taxation. Therefore, practical guidelines for preparing regulatory acts should be developed. These must be implemented into a series of legislative acts governing the operation of the Parliament and the State Chancellery. For example,

³⁰ „Cilvēktiesības pasaulē un Latvijā”, Rīga: „Izglītības soli”, 2000.

these may provide for the requirement to conduct a possibly comprehensive research of the initial situation, involving experts from various branches, before passing any law on tax policy, in order to determine the future appropriateness of the regulatory act, its influence on the income of separate statistically average households, so that the permissible tax burden would not be exceeded; discussions on the appropriateness of regulatory acts essentially restricting the rights of taxpayers must be held mandatorily. In order to ensure the enforceability of such regulatory act, a rigorous internal control system must be implemented, so that in case a certain scope of quantitative values is achieved during the process of assessing arguments, the respective law would be restricted from being submitted for consideration to the Parliament. In general, this theory is highly compatible with the information theory of democracy³¹, which, in turn, fits well into the concept of creating public benefits suggested by C. K. Prahalad and Venkat Ramaswamy³². One must consider an opportunity to revise the outdated theory and replace with a new one, which would take scientific progress into consideration and be in tune with the global vision. The development of such theory is not a purpose of this research, yet it's easy to forecast that the creation of such theory would be a great asset to the feasibility of developing special electronic or quantum systems that require a thoroughly planned method and the access to the required premade source data in order to operate. The suggested guidelines could become a prototype for laying the foundation of the operation principles for the systems employing the principles of horizontal democracy.

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³¹ Абдеев Р.Ф. Философия информационной цивилизации. Москва: ВЛАДОС, 1994. стр. 96-97.

³² Prahalad, C.K., Ramaswamy, V. *The Future of Competition*. Boston: Harvard Business School Press, 2004