

EATLP 2015 Milan Congress

Academic Topic: “Peer review of scientific publications in tax law”

Spanish Report¹

Introduction

This questionnaire collects relevant information on peer-reviewing practices in tax law, develops a common reference framework for evaluating scientific tax legal publications and elaborates on the future role and use of peer-reviewing in this domain.

The working group, coordinated by Ana Paula Dourado (Portugal)² and Pasquale Pistone (Italy)³, includes William Barker (United States)⁴, Cécile Brokelind (Sweden)⁵, Joachim Englisch (Germany)⁶, Judith Freedman (United Kingdom)⁷, Isabelle Richelle (Belgium)⁸, Miranda Stewart (Australia)⁹.

When answering the questionnaire, the participating colleagues are kindly invited to refer to the existing peer-reviewing practice of scientific publications in the field of tax law in a specific country, taking into account their personal experience as peer-reviewer, or the general perception

¹ María Amparo Grau Ruiz, Professor at the Faculty of Law at the University Complutense, acting as National Reporter thanks Professors Ramón Falcón and Carmelo Lozano for their useful guidance, as well as all the experts who have generously devoted time to discuss the questionnaire: Enric Benavent and Rosalina Díaz (CARTA TRIBUTARIA, WOLTERS KLUWER), Prof. Francisco Escribano (CIVITAS REVISTA ESPAÑOLA DE DERECHO FINANCIERO), Marisa Marín (CRÓNICA TRIBUTARIA, INSTITUTO DE ESTUDIOS FISCALES), Prof. Susana Aníbarro (NUEVA FISCALIDAD), Henar del Olmo (QUINCENA FISCAL, THOMSON REUTERS ARANZADI), Prof. Alejandro Blazquez (REVISTA DE CONTABILIDAD Y TRIBUTACIÓN-CEF), Alejandro Puyo (REVISTA TÉCNICA TRIBUTARIA, AEDAF), Faustino Martínez (FORO: Revista de ciencias jurídicas y sociales, continuing since 2004 the old Revista de la Facultad de Derecho de la Universidad Complutense born in 1971), Manuel Cardador (IUSTEL), Chris Christoffersen (MARCIAL PONS) and Manuel Moreno (TECNOS). It is worthwhile to note the recent mergers carried out by several Tax Law Reviews to cope with the context of economic restrictions. Some classical periodicals, such as Quincena Fiscal (Aranzadi) and (Lex Nova) were a joint review since 2014 named Quincena Fiscal. This trend continues in 2015, Tribuna Fiscal (CISS), Impuestos (La Ley) and Carta Tributaria (CISS) are being from April on converted into only one new Carta Tributaria (Wolters Kluwer). For more details on each Review, it is possible to check the free online database DIALNET, available at http://dialnet.unirioja.es/servlet/listarevistas?tipo_busqueda=SUBMATERIA&clave_busqueda=1880

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in the national community. Reference may also be added to peer-reviewing practice in other fields of law or of social sciences whenever such practice is relevant.

All answers will be elaborated by the working group and presented at the EATLP 2015 Milan Congress.

Part one – Fact finding about peer-reviewing

1. Peer reviewing in tax law journals¹⁰

1.1. What is peer reviewed?

Mainly, all articles are reviewed, as usually decided by the Editorial Board and the assessment committees (if existing). Most of the times there is an external reviewer (sometimes, two).

Other comments, notes or studies related to case Law are subject to external review too, though in those cases an internal reviewer may be in charge of it quite often. If some well-known Professors are in charge of permanent sections for a certain period, there is no peer review. This also happens when an external expert is personally asked to make a written contribution, or a jury previously has granted a prize.

1.2. How are the reviewers chosen?

The Directors and the members of the Editorial Board in each Review usually chose them.

In case of mergers, taking into account the previous reviewers in the old journals (among University Professors or Tax Officials, for instance). In transitional phases, the Director is in charge to develop this function.

The names of the members that belong to the Editorial Board are published in the Review. In some cases, the review is carried out internally distributing the works to assess among them with rotation. In addition there is often an internal list of external reviewers, kept by the secretary. The members of the Editorial Board or the secretary look for experts in each subject to evaluate the manuscripts received. They consider their fields of expertise.

1.3. Is it done “double blind”?

The review is always blind. In general, it is done by an internal and another external reviewer.

Exceptionally, only in case of discrepancy or doubts, a third external reviewer is sought to receive an additional opinion. Therefore in that case is double blind.

¹⁰ Thematic reporter: Judith Freedman.

If there is controversy, the Director or the most experienced professors in the Board will decide in certain cases.

At the University, for instance, contact is usually made with academics from other Universities.

Sometimes, the review is always blind for the author (who remains anonymous), but not necessarily among the reviewers.

1.4. Does the journal always follow the advice of the reviewer?

Yes, that is the common practice (though an exception has been found).

If some changes are required, the author has to consider them and send again the original text with the necessary amendments. This usually happens and the authors follow the reviewers' recommendations, without any problem.

1.5. Are open access requirements ("Open Access": <http://www.openaccessweek.org/>) being introduced in your country for research assessment purposes?

The National Research Plan, in the latest calls, has recently introduced this sort of requirements in order to apply for public funding in a research project.

1.6. If yes, is there a reaction of existing PR\ ranked law journals?

The existing PR/ranked tax law journals do not publish in an open manner. They mainly include on their website only the editing rules, and sometimes the abstracts.

1.7. If yes, what is their reaction?

They do not usually publish free electronic versions. They only provide online services to their clients through IT means (i.e. Proview and Insignis Westlaw, or Smarteca platform) with password. Recently, efforts have been made by one editor to make all the works printed (still preferred by 95% clients) available on line too, whilst other are directly published through the electronic platform.

The same applies for an association that distributes free of charge some publications to its affiliates. There is a search for balance (i.e. only the works that have been granted the AEDAF biennial award are spread free of charge and can be accessed through the web, or even the printed version may be ordered.

Some editors publish news related to the fiscal area, making reference to specific articles in the tax journals. They refer to practical issues (Wolters Kluwer), not typically deep studies.

The Ministry of Finance publishes at the Instituto de Estudios Fiscales website, free of charge, some articles dealing with international taxation. Its Review Cronica Tributaria has

also an electronic version, spread as a Bulletin on line (“Boletín de Actualidad”). There is also a series of working papers on line (“Documentos de Trabajo del IEF”).

Where a part is disseminated permitting open access, the purpose with this strategical decision is to attract the attention to subscribe for the whole publication.

Sometimes, the newsletter (CEF) -sent each fortnight, contains references to the courts’ decisions, the tax administration’s criteria and the articles published by its own journals. Additionally, in the printed journal appear some references (title and index) to other articles with are only digital ones (available through Normacef database).

1.8. Are universities, institutes or research centers setting up their own e-journals?

Many academic and research centers have their own e-journals (though some were set up years ago). The University Publication Services may pay attention to basic research and more theoretical approaches. Their drawback is, quite often, the distribution. Occasionally, some agreements with Commercial Editors can be reached for that purpose (i.e. Tecnos).

In some cases, the printed version is subject to a standstill period (“embargo” for six months) and after a certain date there is open access to a pdf file with the contents of the volume previously published (i.e. Pons).

In addition, preliminary texts for discussions are published in institutional repositories as open archives (i.e. Eprints UCM).

When a professor publishes an article in the Journal of his/her own University, with purpose of fighting endogamy, it is usually not very well assessed. Once the peer review mechanisms are correctly in place, this bias should disappear.

1.9. If yes, how is publication quality controlled?

The Universities often check the amount of downloads of each work published in their institutional reviews and repositories (monthly, annually and geographically)¹¹.

In general, the control is carried out, in Law Reviews, by each specific area, through the assignment usually made by Editorial Board.

2. Peer-Reviewing in Tax Law Books

2.1. Monographs¹²

2.1.1. Is peer review of monographs frequent?

2.1.1.1. In general regarding monographs?

2.1.1.2. In the field of taxation?

¹¹ See, for instance, <http://eprints.ucm.es> or <http://revistas.ucm.es/main.php?materia=Ciencias%20Sociales%20%3E%20Derecho>

Informe de Revistas Científicas Complutenses, Número de descargas de artículos 2014. FORO. Revista de Ciencias Jurídicas y Sociales total 2014: 26109 (por meses de enero a diciembre: 2085, 2728, 2572, 1465, 1689, 1788, 2154, 1961, 2714, 2088, 2628, 2237).

¹² Thematic reporter: Joachim Englisch.

Peer review of monographs in the field of taxation is not frequent.

2.1.2. If your answer to question 2.1.1 is negative, what are in your view the main reasons for this?

The editors care about the profitability and the commercial system. Contents are not subject to peer review *stricto sensu*. Quite often they rely on the internal experts' advice, within the editorial board, or take into account if the work has already won a prize granted by an independent jury.

Sometimes the originals received are PhD thesis. Despite their assessment by an academic committee at the University, they need to be adapted. Their acceptance is sometimes subject to certain conditions (i.e. Departments or research projects financing a co-edition). Other editors do not follow this policy.

As Tax Law changes periodically, apparently there are many opportunities to publish new works, but their feasibility in the market must be studied through marketing and commercial tests. Some editors look for interesting current professional solutions in daily life, assessing the sales expectations.

In case of a public institution, like the Ministry of Finance, the decision depends on the General Director and the Director of Studies at the Institute for Fiscal Studies, with a previous report made by other official bodies in some cases.

If the book is a translation of another previous relevant publication elsewhere, additional peer reviewing is not necessary.

2.1.3. To the extent that peer reviewing of books is carried out, does it apply:

2.1.3.1. primarily to academic theses (in particular, PhD theses)?

2.1.3.2. primarily to other types of academic writing?

2.1.3.3. to both categories?

Sometimes the editor decides to apply peer reviewing only in order to include the book in certain collections.

2.1.4. Can you perceive a trend towards more / less peer reviewing of monographs?

With the economic crisis, the editors have been more reluctant to publish PhD thesis. The economic criteria have been imposed, trusting the editor's nose on the new legislation passed. Both categories are assessed regarding the specialization, the number of pages or the price, among others, to determine its inclusion in the editorial catalogue. Information on the new titles is often included at the end of the journals.

There is less peer reviewing of monographs than of scientific journals. The proportion of monographs peer reviewed is very small (i.e. when a prize is given, the Jury reviews the work).

However, some editors recognize that there is a trend towards more peer-reviewing.

2.1.4.1. If any of such trends can be recorded, please indicate what are in your view the drivers?

The desire to contribute to certain collections' prestige.

Due to the political situation in Spain, many acts and urgent decrees have been adopted in tax matters during the last years. The uncertainty created due to continuous changes makes it difficult for the editors to risk to use paper printing.

2.1.5. Indicate whether books are reviewed internally (for instance because the editors are academics themselves), or by external reviewers?

In some collections the books are reviewed internally (i.e. "manuals" edited for many years), whilst in other cases external experts are (always or eventually) consulted.

2.1.5.1. If there is peer-reviewing by external reviewers, do editors have discretionary powers as to whether proceed with such procedure (e.g. reserving it for the sole monographs whose assessment requires special expertise), or is peer-reviewing carried out on a standard/ regular basis?

Yes, both practices are followed depending on the editors.

2.1.5.2. If there is peer-reviewing by external reviewers, will they usually receive guidance and/or criteria for evaluation from the editors?

No, they are independents, although they usually know the editorial line.

2.1.6. To the extent that peer reviewing of books is carried out, is it common practice to carry out a single-¹³ or double¹⁴-blind peer-review?

The reviewer's opinion is important, but the editor adopts the final decision, depending on the economic costs, and the capacity to recover the investment –which are analysed in parallel. The orthography and semantics checks are part of the internal quality controls too.

Sometimes, when sending the manuscript, the author him/herself has to fill in a basic form, explaining the features of his/her work, to whom it is addressed, from what perspective and how the analysis is made.

In the cases where a peer review is carried out, it is usually "double-blind".

2.1.7. Will peer-reviewing usually be carried out by just one, by two or even by more reviewers?

2.1.7.1. If more than two reviewers are involved:

¹³Under single-blind peer-reviewing the reviewer(s) know the identity of the author.

¹⁴ Under double-blind peer-reviewing neither the identity of the reviewer(s), nor that of the author(s) is revealed. Accordingly, peer-reviewers only come to know the identity of the author(s) to the extent that the book is published.

2.1.7.1.1. What is common practice in case the reviewers disagree / come to different conclusions? Choose one of the possible options:

2.1.7.1.1.1. One or more reviewers are asked to review the book as a tie-breaker? If so, to the extent that such information is available to you, please indicate how this occurs and what impact such additional review(s) has on the other reviews

2.1.7.1.1.2. The book is rejected even if there is only one negative vote. Indicate if this option is available only for some publications and, to the extent that such information is available, whether this is done in order to keep high quality standards of publication

2.1.7.1.1.3. Alternative solutions apply, with or without the involvement of the editors.

In most cases, peer reviewing is carried out by just one reviewer, except for the works that have won some prize, where the jury has discussed about them.

In case of more than two reviewers are involved, decision derives from the majority rule (when they are uneven). However, in practice, disagreement is not common.

The Editorial board or the Director of a specific collection may take the final decision in a case where different conclusions have been reached.

2.1.8. If there is peer-reviewing by external reviewers, do editors usually feel bound by the conclusions of the reviewer?

2.1.8.1. Is there any official editorial policy in this respect?

2.1.8.2. In the affirmative, is it publicly stated?

2.1.8.3. If the answer to 2.1.8.1.2 is negative, are the authors and reviewers informed about it?

The editors usually do not feel bound by the conclusions of the reviewer, unless a framework agreement is applicable (i.e. consensus should be reached on the economic requirements for a joint co-edition).

The authors and reviewers are informed if this happens.

2.1.9. If there is peer-reviewing by external reviewers, what are the criteria for choosing them (academic seniority, objective grounds for familiarity with the topic, etc.)

Their expertise in practice, and in the academic field.

2.1.10. If there is peer-reviewing by external reviewers, how frequently are they in average chosen from other countries?

Almost never, because they are not usually fluent in Spanish. The articles are in Spanish and most of them deal with national issues.

- 2.1.10.1. If the answer to question 2.1.10 is affirmative, please indicate whether this more frequently occurs for the sole publications on European and/or international tax law, or whether, by contrast, the involvement of foreign reviewers is meant to determine the potential international validity of scientific analysis contained in the book.
- 2.1.11. If there is peer-reviewing by external reviewers, how frequently are referees from different fields of law and/or social sciences? Please indicate in what situations their involvement is more frequent.

The external reviewers are not referees from different fields of law and/or social sciences, they are specialists in Tax Law.

- 2.1.12. What is the average duration of peer-reviewing procedure? Please indicate the time from the moment of submission of the request for publication to the time in which the book is published, excluding cases of disagreement between reviewers or special problems that may delay the publication process.

It usually takes six months (minimum), though could reach two years (maximum). In other case, if there is no unexpected delay, it could take three or four months.

The average duration (according to the responses gathered) ranges from six months until one year (if some change is required).

- 2.1.13. Are reviewers requested to provide their assessments in written form?

- 2.1.13.1. If your answer to question 2.1.13 is affirmative, please indicate how extensive the written assessment will usually be, i.e. whether it should contain a detailed motivation?

They usually prepare a succinct report with entire freedom or in the form provided. Occasionally they have an oral discussion within the editorial board. A detailed motivation is requested when granting an award. Sometimes the Directors previously make an assessment of these judgments in order to notify them to the author. These arguments may help him to improve his/her text.

- 2.1.13.2. If your answer to question 2.1.13 is affirmative, please indicate whether the publisher and/or editor gives the reviewer a specific assessment form in order to achieve a standard level of evaluation among all books submitted for publication.

Some editors give a specific assessment form to the reviewers.

2.1.14. May reviewers suggest publication only after amendments?

Yes, it happens from time to time. They can make observations to shorten a chapter (i.e. on the historical evolution).

2.1.15. Would you have a perception of average success/failure quota of peer-reviewing in your country and /or in some specific peer-reviewed book series of particular scientific prestige?

Most editors perceive a quota of success (more than 50%). The Director of the series/collection usually asks for peer reviewing if the work is worthwhile. Sometimes tax books are included in other collections (i.e. tax fraud in a Criminal Law series)

Generally speaking, good works fail less, but they do not guarantee success.

On the one hand, the editorial industry suffers with piracy and the lack of institutional acquisitions for libraries. On the other hand, Universities when publishing are not necessarily bound by profitability criteria.

2.1.16. Is peer-reviewing regarded by the scientific community of tax law in your country an instrument that enhances the impartial evaluation of publications?

Sometimes

2.1.16.1. In the case of an affirmative answer to question 2.1.16, will the fact that the monograph has been successfully peer-reviewed matter for the academic career of the author? ¹⁵

Yes

2.1.16.2. In the case of an affirmative answer to question 2.1.16, will it be an aspect to be taken into consideration in case of an application for funding for research projects?

Yes

2.1.16.3. What other positive implications might a successful peer review have in your country?

See 4.

2.2. Collective works ¹⁶

Please now answer again all questions from 2.1.1 to 2.1.16 also in respect of collective works, i.e. of books including chapters drafted by different authors. Furthermore,

2.2.1. In your country, is it common to publish tax research in a monograph or edited book? Does this vary by discipline (eg tax law, economics, accounting)? Are there any trends, eg increased or decreased use of books?

¹⁵ This topic will be further developed under 4.

¹⁶ Thematic Reporter: Miranda Stewart.

In Law it is common to publish thoroughful comments to an act or reform, deeply analyzing each provision. Multiple authors often share this hard task.

In addition, there are *Liber amicorum* and Conference proceedings.

Some editors publish more collective works than individual works (when it is not the case of a prize).

Budgetary restrictions and lack of personnel may affect to the total circulation of copies, and sometimes books with many pages appear only in an electronic format (instead of a printed version).

2.2.2. If tax research is published in a monograph or edited book, is it usual to peer review or referee the research in some way? Please respond to the above questions (a) to v)) concerning refereeing or review of tax research in journals, as applicable to book format.

No, it is not usual to peer review or referee the research to publish a monograph or edited book. The Editorial Board may decide to do so.

The editors usually take the result previously reviewed in its origin. That is the case for some Congressess or Seminars (with their own referees that accept the papers to be presented) or in official institutions (where the research project has to be already approved for funding it).

2.2.3. [Regarding OPEN ACCESS/ELECTRONIC] Is it usual to publish books or edited collections in electronic (eBook) format as well or instead of print format? Are books or edited collections ever made "open access" electronically?

This is not usual. Sometimes the index or one chapter is available. For a commercial publisher the price has to be paid. When subscribing to a database, some books or edited collections are included. Some free downloads would be possible only when there is no more market for the product. Some editors have decided to publish everything both electronically and in paper; others exceptionally offer pdf files.

3. How does peer reviewing in tax law journals and books compare?¹⁷

3.1. Are tax research books or chapters in edited collections recognised as equivalent for University or peer review purposes as journals? Please discuss any differences or limitations on recognition of tax research in books or edited collections.

No.

4. The relevance of peer reviewing in academic career development¹⁸

4.1. What is "research"?

¹⁷ Thematic reporters: Joachim Englisch, Judith Freedman and Miranda Stewart.

¹⁸ Thematic reporter: Isabelle Richelle.

The Spanish Royal Academy (“Real Academia Española de la Lengua”) defines research (investigación, from Latin *investigatio*, *-ōnis*) as the action and effect of the intellectual and experimental activities carried out systematically with the objective of increasing the knowledge on a certain subject. And science (Ciencia, from Latin *scientia*) is the set of knowledge obtained through the observation and reasoning systematically structured, deducting principles and general rules from them.

It is similar to the one provided by the Oxford Dictionary: the systematic investigation into and study of materials and sources in order to establish facts and reach new conclusions.

4.1.1. Has your Faculty / University / country developed a definition of “research” in the field of law?

There is no particular definition of research in the field of law. The general legislation applies.

4.1.2. Has your Faculty / University / country developed a definition of “research” in the field of tax law?

No

4.1.3. In the case of an affirmative answer to questions 4.1.1 and/or 4.1.2., what is the definition of “research” in the field of (tax) law?

No

4.1.4. In the case of a negative answer to question 4.1.1 and/or 4.1.2, how would you characterize “research” in the field of law and tax law?

In Spain the basic legal framework is the **Science, Technology and Innovation Act 14/2011**, of 1 June 2011, that substitutes the 1986 Law on the Coordination and Promotion of Science. Science, technology and innovation policies are a cornerstone in the development of modern societies due to the relationship between a country’s ability to create knowledge and to innovate and its competitiveness and economic and social development. The Spanish Strategy on Science, Technology and Innovation 2013-2020 defines the main objectives during 2013-2020. These objectives are aligned with the ones highlighted by the European Union under Horizon 2020 and it contributes to promote the participation of the Spanish System of Science, Technology and Innovation stakeholders into the European Research Area¹⁹. Spain’s National Plan for Scientific and Technical Research and National Innovation Plan defines the funding instruments on the RDI activities during the 2013-2016 period.

In addition, the **Universities Organic Act 6/2001**²⁰ comprises in its article 1.1, among the functions of the University: the public service of the higher education through research (understood as creation, development, transmission and critique of the science, the technique and

¹⁹ It was produced jointly by the General State Administration and the Regional Administrations. The following have also been taken into account in drafting the Strategy: (1) the baseline conditions and the true situation of the Spanish Science, Technology and Innovation System; (2) the need to direct RDI activity towards the major challenges of the future; (3) commitment to sustainability and the strengthening of the available RDI capacities and **the search for the right balance between basic research, guided research, applied research and innovation**, and (4) the elimination of existing barriers between research and innovation through dialogue and collaboration between all the stakeholders in the System, thereby enabling the generation of a natural flow of communication between basic research and its potential technological applications, in addition to disseminating.

²⁰ Ley Orgánica 6/2001, de 21 de diciembre, de Universidades, «BOE» núm. 307, de 24/12/2001.

the cultures), teaching and study. Its article 39 states that scientific research is essential pillar for the teaching and an important tool for the social development. The University has a key role to generate knowledge, and stimulate critic thinking, necessary in every scientific process. It must pay attention to basic and applied research. Article 40.1 recognizes the right and the obligation to do research for the University professors.

Other detailed definition of research is found, for fiscal purposes, in article 35.1.a) of the **Corporate Income Tax Act**²¹, when regulating the deduction for R&D. There is a clear concept of research: “original planned investigation that pursues the discovery of new knowledge and a higher understanding in the scientific and technological field”. Development is “the application of the research results or any other scientific knowledge to produce new materials or to design new processes, or a sustantive technological improvement”.

4.1.5. If no definition of “state of the art” “research” exists in your country, please give one that corresponds to your own view?

The state of the art research makes a compilation of the existing level of knowledge, based on the past experience.

4.1.6. Would “research” only cover “prospective” research, thus excluding the “state of the art” work?

No.

4.1.7. If it first benefits teaching activities and/or practitioners information, should such analysis not qualify as “research”?

No.

4.1.8. Is a “prospective” research possible in the field of (tax) law?

Yes.

4.1.8.1. In the affirmative, please give your own definition.

The prospective research in tax law tries to anticipate problems and advance possible solutions for the future. It is creative and requires a harder work than a mere “state of the art research”.

4.1.9. What are in your view the scientific methods for research in the field of (tax) law?

The legal methodology, checking the positive law (International, European, comparative and domestic), the case-law of European and national courts, the decisions of administrative authorities and the scientific literature.

It may be combined with other branches of law (i.e. constitutional, administrative or commercial law), and take into account some data provided by the economic analysis and the political science.

4.2. Evaluating research

The evaluation of research in tax law can be done through specific evaluation process by experts, or by publishing articles in recognized journals.

²¹ Ley 27/2014, de 27 de noviembre, del Impuesto sobre Sociedades, «BOE» núm. 288, de 28 de noviembre de 2014.

4.2.1. Is research evaluated in your country by:

4.2.1.1. Academics (with PhD)

Yes.

4.2.1.2. Peers, including recognized practitioners

No.

4.2.1.3. Others, indicate which and in what cases

There are agencies for quality assurance²². The Spanish Universities Act stipulates in Article 31 that the functions of evaluation and those leading to certification and accreditation are incumbent on the **National Agency for Quality Assessment and Accreditation of Spain (ANECA)** and the evaluation bodies with the corresponding jurisdiction established by regional Autonomous legislation. Since ANECA was established in 2002 the evaluation academic staff has been one part of its core activities²³. It has established threshold criteria for different academic positions to evaluate individual candidates to apply subsequently to the positions offered by the Spanish public universities. The candidates get a positive evaluation according to individual research activity (measured up to 50, 55 or 60 %, depending on the position), teaching and learning experience, management experience and education.

The **National Research Assessment Commission (CNEAI)** is a unit dependent on the Ministry of Education and Science. Its work consists of evaluating the research work of civil servant university teaching staff and the various grades of scientific personnel with the Higher Council for Scientific Research (Consejo Superior de Investigaciones Científicas, CSIC) for the recognition of productivity-based salary bonuses in terms of quality research accomplished, awarded on a six-year basis (“sexenio”). Besides, there are other indirect consequences affecting not only his/her personal career, but also his/her environment (research group, department, teaching involvement, etc).

The establishment of the evaluation of the research productivity in 1989 represented a big step forward in the improvement of the scientific production and in the internationalization of Science in Spain. CNEAI has generated reference criteria for 14 knowledge areas (i.e. Field 7. Social, Political, Behavioral and Educational Sciences. Field 8. Economic Sciences, Management and Administration. Field 9. Law and Jurisprudence²⁴). They have evolved smoothly throughout the years and are published in each call. In each call at least 95 specialists are mobilized. All of them are University professors or researchers from CSIC (Consejo Superior de Investigaciones Científicas, the Spanish Council of Scientific Research) with at least 3 six-year periods (‘sexenios’) granted. The maximum time of permanence for the

²² ANECA SELF-EVALUATION REPORT ACCORDING TO THE STANDARDS AND GUIDELINES FOR QUALITY ASSURANCE IN THE EUROPEAN HIGHER EDUCATION AREA. REV.: 01, 28/03/2007, p. 15. It refers to regional agencies in the following Autonomous Communities: Andalusia, Aragon, Canary Islands, Castilla y León, Castilla-La Mancha, Catalonia, Madrid, Valencia, Galicia, Basque Country, and the Balaeric Islands.

²³ Rafael van Grieken Salvador (Director of ANECA): “Teaching, research and beyond”, International Workshop TEACHING AND RESEARCH EVALUATION IN EUROPE, Rome, 4th-5th December 2014.

²⁴ Example of assessment criteria: Among the contributions, there will be preferably assessed the articles published in renowned journals, being accepted as such the ones that hold important positions in the corresponding list of scientific category in the Journal Citation Reports (JCR), the books or book chapters ...

members of the advisory committee is 2 years, although presidents can work in the committee for 3 years. Every year a 45-65% of the advisory committee is renewed. Members of the advisory committees are selected among renowned researchers from all over the Spanish territory.

The **National Evaluation and Planning Agency (ANEP)** is a unit dependent on the Ministry of Education and Science. Its mission is to carry out, on an objective and independent basis, the scientific and technical evaluation of research proposals, teams of researchers and units requesting funding in order to participate in research and/or technology programmes and projects. It also follows up the results of actions that have been funded and evaluates all scientific and technical proposals entrusted to it. Furthermore, the ANEP carries out studies and prospective analyses on scientific research and technological development.

4.2.2. Which of those categories of persons should in your own view evaluate scientific research in the field of tax law?

Academics (with PhD).

4.2.3. Insofar as you have indicated in the answer to question 4.2 that research is evaluated by non-academic peers, what should their qualifications be?

4.2.4. (Tax) law applies within one territory and most of the research is of national interest, while as regards other sciences, research per se reaches international audience and recognition. In your opinion, does the fact that the audience is mostly national affect the quality of the research or its recognition?

No.

4.2.5. When an academic researching in the field of law is compared to his/her colleagues of other disciplines, schools or faculties, is he/she treated in the same manner for evaluating his/her research, or is it in your view more difficult to him/her to convince of the quality/interest of his/her works?

Yes, he/se is treated in the same manner. Some differences may arise with typical Science scientists, because they are able to know perfectly the impact of their work.

4.2.6. Is research in the field of international aspects of law better recognised, compared to research relating to national aspects of law?

No.

4.2.7. How do you think that research in the field of national (tax) law could get peer recognition at international level (both towards lawyers and non-lawyers communities)?

The EATLP might publish a list of recognized national journals.

4.3. Publication

For the purpose of assessing the academic career development, it is now important to provide additional information on how publications are regarded in your country.

4.3.1. Please list the scientific journals publishing in the field of tax law in your country?

Aranzadi Jurisprudencia tributaria
Carta tributaria. Monografías
Civitas. Revista española de derecho financiero
Crónica tributaria
Documentos - Instituto de Estudios Fiscales
Gaceta fiscal
Impuestos: Revista de doctrina, legislación y jurisprudencia
Nueva fiscalidad
Quincena fiscal
Revista de Contabilidad y Tributación
Revista técnica tributaria
Tribuna Fiscal: Revista Tributaria y Financiera

4.3.2. These journals cover²⁵:

4.3.3. National and local taxes

Yes

4.3.4. International tax law

Yes

4.3.5. European tax law

Yes

4.3.6. Comparative tax law

Yes

4.3.7. Other

There are several regional journals (such as Hacienda Canaria, Zergak: gaceta tributaria del País Vasco)

4.3.8. Does the tax law scientific community of your country have an official or informal ranking of such journals?

Yes, there are quality indicators of the journals in which the researcher has published²⁶. The assessment agencies value the journals in which the authors publish their works. Some quality indexes (for example, JCR, Scimago Journal & Country Rank, IN-RECS) analyse the citations of the articles indexed to its databases for calculating a series of indicators such as the impact factor, the Scimago Journal Rank or the *h* index. Additionally there are other tools for the assessment of scientific production: Latindex,

²⁵ A journal may cover more categories.

²⁶ <http://www.uv.es/uvweb/libraries-documentation-service/en/services/research-scientific-publishing-support/research-support/-evaluating-publications-researchers/magazine-quality-evidences-1285876050062.html>

DICE, MIAR, etc. They use alternative indicators (formal aspects, of publishing management, quality content, dissemination, etc.) for assessing the journals. Their objective is to increase the visibility of scientific publications with little representation in the international indexes and to promote the citation possibilities of the articles.

4.3.9. In the affirmative, it is relevant for academic career development?

Yes.

The National Agency for Quality Assessment and Accreditation of Spain, ANECA, is a Foundation whose aim is to provide external quality assurance for the Spanish Higher Education System and to contribute to its constant improvement through evaluation, certification and accreditation²⁷. It has several programmes, such as ACADEMIA (evaluates CVs of applicants to access civil-servant academic staff bodies) and PEP (evaluates the CVs of applicants to access non-civil servant academic staff bodies).

The Royal Decree 1312/2007 established the national assessment for joining the University Teaching Bodies. In ACADEMIA the interested parties apply to ANECA for evaluation, indicating the teaching body for which they want to be assessed and their branch of knowledge. Together with their application, they must provide their curriculum, which must include documentary justification of the merits that they have stated. The evaluations are carried out by the assessment committees and by a panel of experts from all the scientific fields. To join that panel, the experts must comply with the same teaching and research quality requirements as those for being a committee member and they must previously accept and sign ANECA's ethics code.

The Academic Staff Recruitment Assessment Programme (PEP) assesses academics' teaching and researching performance as a compulsory requirement for hiring by public or private universities.

4.3.10. How do such publications compare to the scientific general law journals for academic career development purposes?

In the field of Legal Science, preferential consideration is usually given to papers published in prestigious journals with widespread academic and professional dissemination. Reviews received or published in specialised scientific journals and translations into other languages are also considered.

For the assessment of scientific publications in this field, the following factors, among others, are taken into account: they develop new perspectives of legal regulations; they involve original research on the historical, social or cultural evolution of law; they introduce relevant proposals for the improvement of law in relation to the Spanish and European constitutional system; they provide expertise and analytical and conceptual tools to improve the efficiency of legal regulations and the fulfilment of the objectives pursued by them; they offer solutions to problems of interpretation, faults and contradictions in Spanish, European and international law; they are generally recognised to be referenced within a discipline or involve progress in organising a poorly structured issue, provided they are first editions or editions that involve relevant changes to previous editions.

²⁷ Additionally there are some salary bonuses awarded by the competent regional authority or other incentives to encourage better teaching and research, awarded by the central government.

As a quality benchmark for Spanish publications, the DICE database is used.

Particularly relevant books and book chapters in various fields of knowledge and disciplines are considered, taking into account the number and quality of citations, when possible (or other measures of importance), as well as the international prestige of the editorial, publishers, the collection in which the work is published, reviews in scientific journals, extent, and translations into other languages. Only books with ISBNs that are published in renowned specialist publishers that can ensure a rigorous selection and evaluation process of the originals are considered.

In the field of Legal Science, the following are not be considered: legislation and case law compilations and their combinations; textbooks and manuals except those that are very markedly innovative; conference papers and communications that were not published in the proceedings as well as opinions and projects.

4.3.11. How do such publications compare to the scientific journals in other fields of social sciences, including the interdisciplinary ones?

In general, the same patterns apply. Papers are usually divided into two separate sections, depending on which have been published in indexed journals (catalogues that assign a quality index to each journal among a set of journals belonging to the same category) or in other journals²⁸. In any case, contributions that appear as articles in journals of well-established prestige are preferred; accepting as such those that occupy top positions in the lists based on scientific fields in the "Subject Category Listing" in the Journal Citation Reports of the Social Sciences Citation Index (SSCI) or similar. Among other aspects, the impact index and the place the magazine occupies among those that correspond to the same field of knowledge will be considered in the assessment of scientific publications. Journals included in other databases, specific to certain fields of knowledge, are considered as a benchmark of quality. Electronic journals are valued based on the same quality criteria mentioned above.

In scientific fields where it is not so usual to disseminate research results in journals covered by relative quality indexes, other journals may be considered that can be covered by other quality indexes.

4.3.12. How do publications in national journals rank in your country as compared to the ones with international relevance²⁹?

²⁸ ANECA's programme MENCION evaluates PhD programmes, candidates to a Quality Label towards Excellence. For assessment purposes the research file of academic staff and researchers who have directed doctoral theses is taken into account. It refers to the four most relevant scientific contributions (publications in journals, books and book chapters, papers, etc.) of each lecturer in a certain period. It distinguishes many different cases: scientific publications in indexed journals with relative quality indexes; publications in prestigious journals and included in catalogues of the type of Journal Citation Reports or equivalent, in each speciality; scientific publications in non-indexed journals or those without relative quality indexes; articles published in non-indexed journals or those without relative quality indexes, that are well established in the speciality; articles published in professional journals; files in catalogue sheets and mentions in dictionaries and encyclopaedias; publications in electronic format.

²⁹ Please note that this expression does not necessarily indicate a journal publishing on European and/or international tax law, but rather a journal with scientific international recognition in the national or international community.

In principle, there is no difference. The Spanish journals do not appear in the International rankings and the International Journals do not appear in the Spanish rankings.

4.3.13. How would you rank those journals? For the sake of standardising your answers and facilitating the further analysis, please use the following categories for ranking, whereby 1 indicates the one with highest ranking

4.3.14. General scientific legal journals 3

4.3.15. Tax law scientific journals 1

4.3.16. Interdisciplinary journals 5

4.3.17. State of the art journals 6

4.3.18. Journals with information on daily practice in tax law matters 4

4.3.19. Journals describing the “state of the art” on tax law 2

4.3.20. Other journals 7

4.4. Ranking: establishing a “referentiel”

In most of other scientific fields, a ranking of reviews is established for the purpose of evaluating authors and universities. The difficulty, as regards law authors and schools of law faculties is that, a significant part of research focuses on the analysis of positive domestic law, so that, there is no interest for such papers being published in international journals. This makes law research less visible – and thus less recognised? – than research in other fields of social sciences and often lead to a comparative disadvantage for academic careers as compared to the situation of colleagues from other fields of social sciences, schools or faculties.

4.4.1. Does your country, university, school or faculty make use of a (tax) law journal ranking for academic career purposes?

Yes.

4.4.2. If the answer to question 4.4.1 is affirmative, please indicate which one(s)

Journal Citation Reports (JCR) database determines the relative importance of journals within its thematic categories. It is published annually and it has two editions: JCR Science Edition and JCR Social Science Edition. In JCR you can find the following indicators: Impact factor, Category or categories in which the publication is included, Position of the journal in its category, Quartile (for calculating the quartile you must divide a list of journals ordered by high to low impact in 4 equal parts. Thus the journals with the highest impact factor will be in the first quartile. If we are asked for the tertile we should calculate it dividing by 3 the total of the journals of the category).

Scimago Journal & Country Rank (SJR) is an indicator that values the impact of a journal from the citations received considering the prestige of the journal. It is an open portal that offers a series of indicators from the information contained in the Scopus database: Scimago Journal Rank, Quartile, h index of the journal.

IN-RECJ³⁰ (Impact index of Spanish journals of Legal Sciences), **IN-RECS** (Impact Index of Spanish journals of Social Sciences) indexes allow us to know the scientific impact of journal, its evolution and position regarding to the rest of journals of its specialisation through the following indicators: Impact index, Category in which the journal is included, Position that occupies in its category, Quartile.

The **LATINDEX** catalogue³¹ offers information of the journals that meet at least 25 publishing quality criteria defined by Latindex, of a total of 33 for printed journals and 36 for electronic journals. Thus, the fundamental data for assessment in Latindex is the number of criteria met. There is information of specialised and general character databases in which the journals are indexed. The presence in these databases is also considered a quality criterion.

DICE (Dissemination and Publishing Quality of Spanish journals of Humanities and Social and Legal Sciences) is a database used by ANECA and CNEAI as a quality benchmark for Spanish publications. It is mentioned explicitly in the calls. In the publication details are recognised, if appropriate, the categories ANEP, ERIH³² and CARHUS.

MIAR gathers annually the key information for the identification and evaluation of Spanish journals in the areas of Social Sciences and Humanities. It establishes a ranking based on the ICDS (Composite Index of Secondary Dissemination), which orders the journals according to its dissemination. It shows three levels of information: basic level (ISSN, area and thematic field, dissemination index), second level (databases in which the journals are indexed), third level (catalogues of the libraries and the catalogues that index the journal).

RESH (Revistas Españolas de Ciencias Sociales y Humanas - Spanish Journals of Social and Human Sciences) offers rankings of journals in the context of its specialisation. It is based on different quality indicators: publishing process, peer review, international visibility and impact indexes. There is information about the criteria accomplished by the journal according to the requirements of CNEAI, ANECA and Latindex. It gives information about if the journal has been approved by the FECYT (Fundación Española para la Ciencia y la Tecnología), the number and name of databases where the journal is indexed, an indicator based on the opinion of experts, impact and an indicator based on the citations rate

CIRC (Clasificación integrada de revistas científicas - Integrated classification of scientific journals) integrates different evaluation products currently available in the area

³⁰ Made by University of Granada, no longer available, because the Project ended and had no more funding.

³¹ Made by the UNAM. Sistema regional de información en línea para revistas científicas de América Latina, el Caribe, España y Portugal.

³² European Reference Index the Humanities (ERIH) is an initiative of the European Science Foundation for valuing the journals of Humanities. Within each specialisation, classifies the journals in 3 categories considering the dissemination of the journal: category INT1 for journals of international projection, category INT2 for journals of a more restricted environment, category NAT for local journal.

of scientific information. There are five categories based on the citations that the journal receives and the compliance of quality publishing standards: Group A, B, C, D, E (Group of excellence-E).

In **CARHUS PLUS+ 2014** (Sistema de Clasificación de Revistas Científicas de Ciencias Sociales y Humanidades - Classification System of Scientific Journals of Social Sciences and Humanities) the journals are classified into four levels A, B, C, D depending on the compliance of certain requirements and parameters.

The citations received for the work of an author are an indicator of the impact and visibility that a researcher has in their area of research³³. The Web of Science collects the citation indexes more known and used in the evaluation of science at international level, such as the Social Sciences Citation Index; other tools are Scopus, Google Scholar Google Books and ProQuest Reference Linking.

4.4.3. If the answer to question 4.4.1 is affirmative, who has established this ranking?

They are established by the National Council for Scientific Research (CSIC), by some research groups at different Universities (i.e. Universidad de Granada, Universidad Autónoma de México), by the industry in the sector (Thomson Reuters) or by some public institutions (i.e. the European Science Foundation, or the Agency for Management of University Grants and Research and Talència - Generalitat de Catalunya).

4.4.4. Is it possible to include/exclude one or more journals?

Yes

4.4.5. If the answer to question 4.4.4 is affirmative, what is the process?

The interested journal often sends an application, and explains what criteria are fulfilled.

4.4.6. Is it possible to request a change in the ranking?

Yes.

4.4.7. In the answer to question 4.4.6 is affirmative, how does this occur? How long will it normally take? What should be the content and evidence to be given in the request?

It takes a long time and the procedure varies depending on the ranking.

4.4.8. If the answer to question 4.4.1 is affirmative, how do official rankings compare with the ones used for business, management, economics, such as: Financial Times 45 Journals used in FT research rank, ABS ranking, CNRS, ERIM, etc.)

The same national tax journal may appear in national economics rankings in a different quartile. The international ones are not usually taken into account.

³³

<http://www.uv.es/uvweb/libraries-documentation-service/en/services/research-scientific-publishing-support/research-support/evaluating-publications-researchers/received-citations-1285876050041.html>

4.4.9. Does your faculty consider this (these) ranking(s) as satisfactory?

They are not commonly used.

4.5.1. Does your faculty use the FT ranking?

No

4.5.2. What is the process for submitting for peer review? Note that, for most of “scientific” reviews, a fee (sometime high) is required from the submitting person, and another fee might be required for publication: does such a process apply for submitting and publishing (tax) law papers in your country?

No fees are required (neither for the submission nor for the publication). On the contrary, there is a payment for the author.

4.5.3. If no fee is required, would you agree with the idea of a fee to be paid for the peer-reviewing? Please give your reasons.

The peer-reviewing could be paid, irrespectively of that fee. However, it is not usual. The editors want to save costs, to keep the prices affordable, and often ask members of the Editorial Board to act as internal reviewers. Their contract may include a compensation for their tasks in this area too.

The external reviewers are not usually paid. They are asked to make a favour. Sometimes they receive in turn some interesting publication in the field.

4.5.4. In smaller countries, it might be difficult to have sufficient academics for peer review (specially papers focusing on internal law), so difficulties might arise. How does your contry deal with this problem?

There are sufficient academics for peer review.

4.5.5. Is there a peer-review process, in your country, for publication of books, conference materials?

Yes.

4.5.6. If yes, who are the reviewers?

The academic committees organizing the conference, or appointed delegates cooperating with them.

5. Criteria: formal and substantive criteria for peer reviewing³⁴

This section of the questionnaire aims at mapping the criteria currently used for peer reviewing of scientific publications in the field of tax law and at identifying the components for developing

³⁴ Thematic reporter: Pasquale Pistone

best practice. The analysis should also take into account the existing standards and benchmarks in other branches of law and other social sciences.

For the purpose of our analysis we will now list the main criteria used in the framework of peer reviewing of scientific publications and then ask you to report on your personal experience as peer reviewer in your country, which can be enriched by the information that you may have gathered by your colleagues, for instance by conducting short enquiries, also in different fields of law and/or social sciences.

A distinction is to be drawn between formal and substantive criteria.

5.5. Formal criteria

Formal criteria relate to the compliance of the research product with the standards for allowing the scientific community to verify the validity of research output.

The most frequently used formal criteria are as follows:

- a. **Documentation**, i.e. acknowledgement of sources underpinning all relevant parts of research product;
- b. **Consistency with scientific quotation standards**, i.e. a referral that allows precise and correct identification of sources;
- c. **Drafting style**, i.e. clear, concise and consistent formulation of ideas;
- d. **Linguistic proficiency**, i.e. expression, grammar, spelling or punctuation

Based on your personal experience as reviewer and on the information that you may have gathered in your country, please let us know whether:

- 5.5.1. All such criteria (or any of them) are normally regarded as relevant for peer-reviewing in tax law publications of your country. When elaborating your answers, please give a sufficiently precise description in order to explain the actual meaning and boundaries of each criterion;

All such criteria are taken into account.

- 5.5.2. Any additional formal criterion is regarded as relevant in your country;

The editing rules usually require an abstract, keywords and dates (tracking the submission and the publication). One journal has a copyeditor.

- 5.5.3. Different formal criteria apply according to the type of research product, i.e. articles, books, treatises and encyclopaedias, etc.;

The formal criteria previously mentioned always apply. They may change depending on the moment in the life of the journal (i.e. in case of re-foundation or merger). The editing rules may indicate a different acceptable length for each section in the journal (i.e. legislation and jurisprudence notes). In one journal, under the “news” or “practical examples” section, no footnotes are allowed.

In a collective work, such an encyclopaedia, due to its nature, discrepancies are detected quickly, so the coordinator must ensure the homogeneous treatment.

In the electronic bulletins, the texts are shorter than in printed journals.

- 5.5.4. Different standards, or different formal criteria apply in your country for publications of international relevance;

No. Sometimes the abstracts in English are included abroad in repertories summarizing publications. The International members of the Editorial Board also ensure the application of equivalent criteria.

- 5.5.5. An official standard for formal criteria exists in your country. In the affirmative, indicate whether this standard is provided by governmental authorities, one or more Universities, or other institutions;

There is not an explicit official standard for formal criteria, but some guidance given for the research assessment is useful. For the recognition of impact, a book or journal³⁵ must fulfil criteria related to the informative quality as a means of scientific communication (identification of the Editorial and Scientific Boards, instructions provided to the authors, information on the review and acceptance procedures, translation into English of the abstract, title, keywords); criteria referred to the quality in the editorial process (regularity, anonymous reviewers, motivated notification of the decision, advisory committee that audits); criteria on the scientific quality (more than 75% original research work, more than 75% external authors, journal indexed in international databases).

Some journals voluntarily take into account the requirements made by the rankings to be included in them.

The journal usually publishes on the website the formal criteria (agreed with the Director or the Board).

- 5.5.6. Tax law follows different standards as compared to the ones applicable in other branches of law or social sciences. In the affirmative, please indicate which and let us know about the standards applicable in such areas.

Standards are quite similar, and there is a trend to be identical as modernization reaches all the areas in the industry. The experience previously gained with other branches of law (such as Labour Law) serves to implement improvements with regard to tax publications more efficiently.

5.6. Substantive criteria

The substantive criteria relate to the content of the research product and its ability to contribute to scientific development.

The most frequently used substantive criteria are:

³⁵Appendix 1 in the Resolution of 26 Nov 2014, Comisión Nacional Evaluadora de la Actividad Investigadora, publishing the specific criteria approved for each assessment field, BOE, No. 290, 1 Dec 2014, pp. 98204 – 98219.

- a. **Methodology of analysis**, i.e. clear and consistent structure, which (i) starts from the statement of one or more research questions, (ii) provides for a complete, systematic and accurate analysis of all relevant issues, (iii) if there need be, develops arguments to critically review and confute theories that may not be reconciled with such analysis, and (iv) reaches a consistent conclusion;
- b. **Originality**, i.e. novelty of research, as to its arguments, object and results;
- c. **Impact**, i.e. ability to reach ground-breaking results that contribute to scientific development;
- d. **Consistency** of arguments and sound underpinning of ideas, i.e. development of technically valid arguments, based on a clear command of relevant literature;

Based on your personal experience as a reviewer and on the information that you may have gathered in your country, please let us know whether:

- 5.6.1. All such criteria (or any of them) are normally regarded as relevant for peer-reviewing in tax law publications of your country. When elaborating your answers, please give a sufficiently precise description in order to explain the actual meaning and boundaries of each criterion;

All such criteria are relevant. In cases of a publication derived from a prize, originality comes first. In general, attention is paid to the contribution made, how it is structured, whether it is up to date and if the most recent scientific literature is added.

A journal specifically addressed to tax advisors takes into account mainly the actual impact for practitioners, bringing their knowledge up to date.

- 5.6.2. Any additional substantive criterion is regarded as relevant in your country;

No

- 5.6.3. Different substantive criteria apply according to the type of research product, i.e. articles, books, treatises and encyclopaedias, etc.;

Not in principle.

However, books met more economic restrictions, and the tax moment in the year often conditions their possible publication. The momentum may prevail over the scientific contribution.

The economic factors have more relevance when considering the launchment of the project for a new journal, once it is well-established scientific criteria are taken easily into account.

Where case-law is commented by several authors in a compilation, the substantive criteria may suffer some alterations, due to existing limitations in a common approach.

- 5.6.4. Different standards, or different substantive criteria apply in your country for publications of international relevance;

No.

- 5.6.5. An official standard for substantive criteria exists in your country. In the affirmative, indicate whether this standard is provided by governmental authorities, one or more Universities, or other institutions;

No. Governmental authorities have provided substantive criteria for the research assessment, as explained before. In practice, they play a role for the academics reviewing works³⁶. The dissemination means are assessed, and a quality indicator is publishing with editors and journals of recognized standing. In the books quality is underpin with citations, and the inclusion in bibliographic lists not related to the author and his/her environment. Another quality indicator is publishing articles in renowned scientific journals, in the field of specialization, in Spain or abroad, if they meet the requirements of the Appendix 1. Other indicators are translations of the work to other relevant languages for the International research community, and book comments in specialized journals.

Originality, rigour, methodology, and impact are assessed. Preferred works are the ones developing new perspectives on legal thinking, original research on the historical, social or cultural evolution of rules, studies on legal policy and those making relevant proposals to improve the rules in the domestic or international legal system, those contributing with knowledge and conceptual or analytical instruments to improve the efficacy of the rules and the achievement of their goals, together with analysis offering solutions to problems in interpretation, gaps and contradictions in the Spanish or international legal order. In addition, case-law analysis clarifying the criteria applied by the courts and their evolution, and comments on certain judgments of special relevance to understand and apply the rules. The reference works in the field, that help to progress in a less structured area.

5.6.6. Tax law follows different standards as compared to the ones applicable in other branches of law or social sciences. In the affirmative, please indicate which and let us know about the standards applicable in such areas.

No, they are equivalent.

Part two – Modelling peer-reviewing in tax law

6. Balanced approach: encouraging both young and senior researchers to submit to peer-reviewing³⁷

This part of the questionnaire challenges the reporter's creativity and input is kindly requested on how to encourage peer review, especially for senior researchers. The underlying assumption is therefore that younger researchers have incentives to submit their articles to peer review as exposed in the previous discussions, and that senior researchers have lower motivation to do so (which you may want to discuss). However, the questions listed hereunder deal with peer review in a general meaning (i.e. mechanism of openness for critics) and take the stance that peer review enhances academic quality (which also can be discussed!).

6.5. Can you think of examples of peer reviews enhancing the quality of a text submitted for publication?

Yes. Quite often, recommendations help to improve the final text. There is always room for (minor) changes. In cases of recent or future amendments to the legislation,

³⁶ The criteria in the latest call were published in the Official Gazette: Resolution of 26 Nov 2014, Comisión Nacional Evaluadora de la Actividad Investigadora, publishing the specific criteria approved for each assessment field, BOE, No. 290, 1 Dec 2014, pp. 98204 – 98219.

³⁷ Thematic reporter: Cécile Brokelind.

sometimes the wording may be adapted to be coherent or take into consideration some bill. To that end, it is important to publish the date of submission and acceptance.

Occasionally, it is suggested to moderate the tone in the discourse, without affecting the substance.

Eventually, the author and his/her supervisor are both informed of the changes suggested by the anonymous reviewer.

However, where the level shown by most authors is high –as usually happens in some journals, there is less room for improvement.

6.6. Express your views on whether any of the following should be positively considered in the framework of modeling peer reviewing:

6.7. Compulsory internal seminars with discussion before publication,

Though rebuttals and sub-rebuttals could be useful, this system is not feasible because it could cause delays in periodical series, and there are not enough means to implement it. Though it would be possible in journals published on a quarterly basis, for special issues (i.e. tax reform) they cannot afford the cost.

6.8. Editorial committees' opinion on publication,

The editor, the director of the journal, or the Editorial Board, usually discuss the opportunity to deal with a certain subject. Their opinion is always followed, in case of discrepancies among reviewers.

6.9. Open access–type blog of the preliminary text for discussion before publication

This proposal is fully rejected by commercial editors.

6.10. If you distrust peer-review, what would make you trust better in peer review mechanism?

The number of good contributions previously published in a journal.

More transparency, regarding their names, allows checking the quality of the reviewers and their intellectual authority.

If the mechanism fails, a change in the partners is obliged.

In practice, there is no mistrust. When the publication of a proposed text is refused, the author admits it.

Both the reviewers and the authors should be aware of the profile required by the journal. Some journals are more focused on structural issues and other on practical ones affecting the present situation.

6.11. What can be done in order to prevent that, in particular in some small countries, the reviewers identifies the author and therefore is not entirely free in the evaluation?

To preserve the anonymity, the author data must be deleted (from the submitted text and changing the file's name). Some problems may arise with the footnotes in case of citation of his/her previous works.

6.12. What can in your view be done in order to prevent misuse of peer reviewing?

The director trusts the peer reviewers. In general, there are no complaints, because no oddities are required. Sometimes the texts are moved to a different section in the journal.

It is important to choose independent and impartial reviewers (from different Universities), with an adequate research record and well aware of the subject in their

current research line. The option to renounce has to be offered (due to conflicts of interest or due to tight deadlines that cannot be met).

- 6.13. Some Universities or schools give more research funds to researchers who publish with peer-reviewing. Would you suggest that this mechanism should be encouraged? Are there any financial incentives at your university for senior researchers to submit their publication to peer reviewing? Could you report of any further example of this kind from your country?

After having done this report, I would not suggest this mechanism at the moment. Indirectly when a professor gets a “sexenio” (six-year period of high quality research) recognized, he/she has a productivity bonus, and may reduce his/her teaching activities in the next period to better concentrate on research activities.

The amount of “sexenios” is also considered to achieve mention of excellence in the doctoral programmes and correlative funding.

Some Universities make internal assessments throughout the period, until the next “sexenio” may be submitted for recognition, and grant additional incentives in the meanwhile.

- 6.14. What is your personal view on peer review as an efficient quality indicator?

It may complicate management, but may reinforce neutrality.

It cannot be the unique quality indicator. The members of the Editorial Board, the director and the editor, ensure the quality in the editorial policy, with their experience.

It may be used only in some sections (scientific literature or opinions). Some editors believe that it is not efficient.

- 6.15. Do you think that a peer reviewed article should grant more credits in the presence of a bibliometric system?

Not necessarily. It depends on the national context, particularly, on how and who controls the system.

The problem is that the rankings consider this factor and setting a team of external reviewers may entail economic costs and administrative burdens.

Nowadays, the credits are granted to the journal, and it serves as indirect quality criteria.

- 6.16. Is there any alternative mechanism that works better than peer review or that should supplement/be part of peer-review? (plagiarism checks through data-base, qualitative control of sources by students or assistants, one opponent in charge of checking the paper in public defence, etc...)

There is a lack of resources, so any supplementary mechanism is welcome.

Some editors hold a short list with persons that have committed plagiarism and are vetoed. But in practice this serious problem does not occur frequently. Should it happen, the editor would immediately withdraw the publication from the market and alert the concerned institutions (i.e. the corresponding University Rector and the National Agency ANECA to initiate disciplinary proceedings).

Some IT means are useful to detect it, checking the number of coincidences in digitalised texts (Turnitin, EvalCOMIX, Concordator). When analysing that percentage, the way in which the quotations are inserted in the text is decisive (with or without inverted commas).

When the author submits his/her work, a sworn statement must accompany it. He/she states that the work is original material, previously unpublished, and grants permission to disseminate it through the Portal of Journals. Everyone respects these conditions. It is a matter of mutual trust.

7. Permanent monitoring and improvement of scientific criteria³⁸

- 7.5. Do you know what scientific parameters/criteria underpin peer-review and if they are similar in the different reviews submitted to peer-review?

The ones mentioned in previous sections.

They are similar, though in Economics “double blind” peer review may be more developed.

- 7.6. Are the peer-reviewing parameters/criteria different when assessing monographs and reviews/journals?

The main parameter for monographs is the opportunity of dealing with subject according the market studies.

- 7.7. Are some scientific parameters granted greater weight than others?

No. The reviewers make a general balance.

- 7.8. Are the aforementioned parameters monitored?

Yes.

- 7.9. If yes, who monitors them?

The director, the editor and/or the Editorial Board monitor them.

- 7.10. Are the aforementioned parameters revised from time to time?

Yes.

- 7.11. If yes, how often are they revised?

Sometimes they are adapted to the rankings’ requirements. Though some of them are considered extremely formal (i.e. the regularity in the series, being more important the contents published).

- 7.12. What criteria underpin the monitoring and improvement of peer-reviewing criteria (what do they want to achieve)?

The editors want to receive interesting works to publish them, and be able to compete fairly with other journals that pursue similar objectives.

- 7.13. Is improvement based on past experience or comparison of experiences and published research on the topic?

Mainly on comparison of experiences.

- 7.14. Blind peer-review requires a diversified number of peer-reviewers, who may have different subjective standards of evaluation. Therefore, the editors of journals may find out that some reviewers end up being involuntarily more frequently stricter than others. Is

³⁸ Thematic reporter: Ana Paula Dourado.

it possible to achieve similar assessment results in the peer-review process, taking into account that discretion will always be part of the process?

In practice, the young reviewers tend to be stricter than the senior reviewers. The members of the Editorial Board are flexible and know the standards usually applied by each reviewer. Anyway, if the reviewer is strict, that improves the quality.

When distributing the tasks among the reviewers it is wise to avoid cumulative requests, excessively short deadlines. The possible results are the following; accepted, accepted with recommendations, to be revised or rejected. The President of the Editorial Board usually derives the text to the specialist in the subject. A second or third reviewer may intervene and give his/her opinion, to solve a problem.

7.15. Is it advisable to achieve similar assessments by different peer-reviewers?

Not necessarily, although it facilitates management.

7.16. If yes, how is it possible to achieve similar assessments by different peer-reviewers?

In general, there is uniformity (except in case of the jury for a prize, where the members of the committee are renewed every four years).

8. Who should act as PR?³⁹

The following questionnaire primarily seeks information on national practices. We would also like you to feel free to submit your ideas and recommendations on improvements that can and should be made.

8.5. What are the qualifications for selection of a peer reviewer?

8.5.1. i. Can only academics be peer reviewers?

It depends on the type of publication.

In practice, sometimes the answer is yes (because of their research methodology) and others, no (when more emphasis is put on knowledge from many different perspectives).

8.5.2. ii. Can professionals like lawyers, judges, or administrators be peer reviewers?

Again, it depends on the type of publication. In practice, there is no consensus.

8.6. In selecting peer reviewers for tax law, must peer reviewers be specialists in tax law?

There is unanimity in a positive reply (because this is a very technical branch with continuous changes).

8.7. Alternatively, can peer reviewers include specialists in (1) economics (2) law (3) finance or business or (4) other specialties like philosophy?

Mainly reviewers are specialists in law, sometimes in economics, and from time to time in finance. Never in philosophy.

8.8. Must peer reviewers always be unaware of the identity of the author (blind reviews) or can the identity be disclosed?

They are always unaware of the identity.

³⁹ Thematic Reporter: William Barker.

8.9. What effect does a pre-existing relationship with the author have on suitability to be a peer reviewer?

It has no effect (though exceptionally it could happen).

8.10. What is the process for selection?

The Editorial Board chooses the reviewers focusing on their expertise. Quite often there are academics, professionals and officials in the Board.

8.10.1. How are reviewers selected?

Sometimes the director of the journal proposes them, and must be accepted by the Editorial Board or the Director of Publications.

The president of an association may propose an Editorial Board to its Director body, it can accept the proposal, after consulting with the director of the journal.

8.10.1.1. Is the process transparent?

The names of the reviewers are sometimes published (that is the case when they are part of the Editorial Board)

The author is informed of the process.

8.10.2. Who makes the selection, and can others participate?

The editor or secretary may choose from the list, trying not to designate reviewers from the same University where the author works.

8.10.2.1. The person or organization who seeks the review?

No, never.

8.10.2.2. Is input permitted from the author as to qualifications or recommendations for a peer reviewer?

No, never.

Do outside organizations participate and/or choose those who can be peer-reviewers?

No.

8.11. Is the purpose for the review relevant to the selection of reviewers? Comment on the use of peer review in the following situations and whether different situations affect criteria for reviewers.

No.

8.11.1. Publication of a single work.

8.11.2. Employment determinations.

8.11.3. Program evaluation.

8.12. Does the nature of the subject matter or the research effect the choice of reviewers?

Yes.

8.12.1. For example, does research on national tax law require only national experts?

Yes.

8.12.2. Does research with international implications require:

8.12.2.1. Regional experts (for example reviewers outside the authors nation but associated with the European Union).

No (language is an additional problem).

8.12.2.2. Non-regional reviewers (for example, reviewers outside the European Union).

No (the reviewer should know the context where the publication appears).

8.13. Are peer reviewers compensated, and if so, under what circumstances?

No.

There is no explicit fee for each review (unless exceptional cases in an initial phase of the journal).

Some members of the Editorial Board may receive compensations for their work as a whole.

Academic reviewers may get a certification for their CV, valuable for accreditation procedures, or some book published in the field from time to time.

8.14. Please discuss your ideas and recommendations on the selection of peer reviewers.

If professionals (other than academics) are acting as peer reviewers in indexed journals and the rankings are being used to assess academic research for our academic career, this system may lack consistency.

Part three – How do we see the future of peer reviewing in tax law?

9. The future of peer reviewing in Europe

9.5. Express your ideas on how you see the future of peer-reviewing in tax law in Europe, making reference to a short-, medium and long-term scenario

This trend will probably gain importance in a long-term scenario, as it is considered a quality index in the ranking. In a short-term scenario the EATLP could identify the weaknesses of the system and in a medium-term scenario propose sensible changes. Nowadays the editors are facing economic difficulties. Some movements have been made to adapt to the current situation, leading to mergers. There is less variety and the new journals will pay more attention to commercial interests.

9.6. Indicate how in your view peer-reviewing in tax law should evolve in Europe, making reference to the specific action, if any, that can be undertaken by the European Association of Tax Law Professors

Some common standards could be defined, to voluntarily follow them, and a list of prestigious tax law journals per country could be made. Some journals would appreciate receiving a list of possible external reviewers (showing expertise field and languages spoken).

9.7. Should there be a dialogue on peer-reviewing with other fields of law? And with social sciences?

Dialogue with other fields of law could be productive to identify best practices, but the perspective could be different from the rest of the social sciences (assessing pros and cons).

- 9.8. Is there any of the existing international standards for peer reviewing in law and social sciences that we could consider?

Not known.

10. The future of peer reviewing in EATLP activities (annual congress books)

- 10.5. Please let us know whether in your view it is desirable that the EATLP annual congress books are peer-reviewed. Give reasons for your answer.

It is not necessary as the reports are usually the result of well-structured working groups, and the conclusions are debated domestically and at a EU level, both orally and in writing.

- 10.6. Please let us know whether you would favour the establishment of a permanent EATLP observatory on peer-review of publications in tax law. In the case of an affirmative answer, please indicate what tasks this observatory should have and who should participate to its work (e.g. working groups, delegates).

The establishment of permanent observatory may be excessive at this stage (though some editors would welcome it, and another would not), but some action is needed.

Taking as starting point the effort made for this Congress in Milan, the EATLP could find a way to elaborate a sound proposal and apply for funding in the EU with a project to help building common standards (for the reviewers, the ranking's managers, and the research assessment institutions) concerning Tax Law publications, at least at a European wide-scale.