

IMPROVEMENT OF THE EFFECTIVE JUDICIAL PROTECTION OF TAXPAYERS IN SPAIN IN THE LIGHT OF COMPARATIVE LAW



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FONDERACIÓN PARA EL FOMENTO DE ACTIVIDADES DE LA INVESTIGACIÓN CIENTÍFICA APLICADA Y LA TECNOLOGÍA



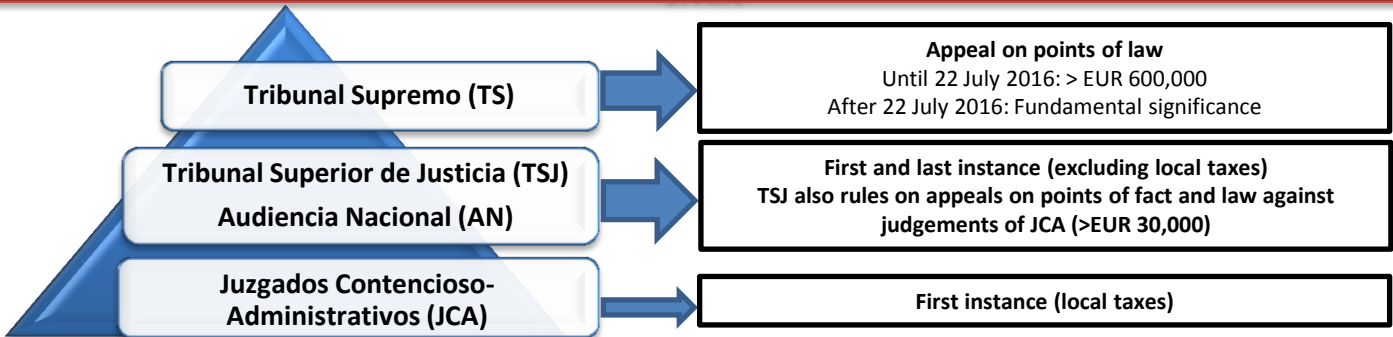
Plan de Ciencia, Tecnología e Innovación de Asturias



Unión Europea

Fondo Europeo de Desarrollo Regional

SPAIN



COMMON LAW

ENGLAND

(Excluding Tax Credits and Council Tax)

Supreme Court

Permission to appeal on points of law (general public importance)

Court of Appeal

Permission to appeal on points of law
Test second-Tier: important point of principle or practice, or compelling reasons

Upper Tribunal (Tax and Chancery Chamber) Permission to appeal on points of law

First-tier Tribunal (Tax Chamber)

USA (FEDERAL SYSTEM)

Before payment

Supreme Court (writ of certiorari)

US Courts of Appeals

Tax Court

After payment

Supreme Court (writ of certiorari)

US Courts of Appeals

US Court of Appeals for the Federal Circuit

District Courts

US Court of Federal Claims

At the choice of the taxpayer

CIVIL LAW

FRANCE

Conseil d'Etat

(Appeal on points of law: serious grounds)

Cours administratives d'appel

(Second instance: excluding most of local taxes)

Tribunaux administratifs

(First instance: direct taxation, taxes sur le chiffre d'affaires or similar taxes (VAT and others))

Cour de Cassation

(Appeal on points of law)

Cours d'appel

(Second instance)

Tribunal de Grande Instance

(First instance: registration, stamp duties, indirect taxes or similar taxes)

GERMANY

Bundesfinanzhof

(Appeal on points of law: fundamental significance, development of law/uniformity of jurisprudence or procedural shortcoming)

Finanzgerichte (First instance)

- Successful preliminary administrative complaint
- Local taxes: see also VwGO

PORTUGAL

*Fiscal jurisdiction *stricto sensu*

Supremo Tribunal Administrativo (Secção de contencioso tributário)

(Second instance - minimum amount: only grounds of law)

(Appeal on points of law: fundamental significance/ implementation of law)

Tribunais Centrais Administrativos (Secção de contencioso tributário)

(Second Instance - minimum amount: grounds of fact or grounds of fact and law)

Tribunais Tributários (First instance)

ITALY

Corte Suprema di Cassazione

(Appeal on points of law)

Commissioni Tributarie Regionali

(Second instance)

Commissioni Tributarie Provinciali

(First instance)

*Its judgements can be appealed (per saltum) to the «Corte Suprema di Cassazione» (if agreement and breach of law)

PROPOSALS FOR IMPROVING THE SPANISH JURISDICTION OVER TAX MATTERS

- Generalization of first instance before JCA and, as far as possible, second instance before TSJ or AN
- Establishment of tax courts or tax chambers within administrative courts
- ADR and improvement of the preliminary administrative complaint (German model)