Excessive International Taxation

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Context
International Multiple Taxation
- Multiple exercises of sovereignty
- Different types of tax liability
- Concurring taxing rights exercised by multiple states
- Obstacle to development of cross-border activity

Insufficient Definition of Issue
- Unsatisfactory definition of the issue due to imprecise and impertinent criteria
- Need for pertinent delineation of problem and development of new criteria

Current (main) solutions insufficient
- Solution #1
  - Tax Treaties
  - EU (Case-) Law
- Solution #2
  - Int'l Multiple Taxation
  - Limited harmonization, CJEU generally unpersuasive
- General consensus in doctrine that international multiple taxation is not (fully) alleviated

Increasing relevance of human rights
- Insufficient taxpayer protection in tax law triggers recourse to other instruments
- Human Rights Conventions
- Fiscal Sovereignty
- Art. 38 Stat. ICJ
- New York Convention
- Declaration of Helsinki
- Council of Europe
- EU Law
- General Principles
- Fundamental Freedoms
- Charter

Research questions
1) What are the relevant external limitations to the exercise of fiscal sovereignty with a view to limiting international multiple taxation?
2) On the basis of the limitations under (1), which are the relevant criteria when dealing with cases of international multiple taxation (i.e. when is international taxation excessive)?

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