International Conference On Taxpayer Rights

Criminal investigations and civil tax audits
Who decides about the tax debt?

(!) two different administrations and courts
- One decides about the criminal sanction, if somebody evades tax (prosecutor / ordinary court)
- One decides about the question whether there is a tax due (financial administration / financial court)
Who decides about the tax debt?

(!) sometimes it is “only” a legal question, if a tax is owed or not -> who can decide about that?

- The first one?

- Both, but independent?

- Only the financial administration?
Who decides about the tax debt?

(!) timeline

- Complicated legal tax question -> two instances
  (plus sometimes the CJEU) -> it needs time...
- Ordinary courts decided meanwhile, that there is a
tax crime (sometimes with horrible reasoning)
Who decides about the tax debt?

(!) taxpayer rights?

- Tax court decides 5 years later, that there is no tax owed
- Without a tax dept there cannot exist a tax evasion
- Not every wrong understanding of tax law is a crime...
Who decides about the tax debt?

(!) solution

- If it is a **new or unsolved legal question** that there exists a tax owed to the state -> then the ordinary courts have to wait till it is clear, that there was a tax debt that was evaded

- Otherwise somebody is in jail “for murdering even if it is unclear that the victim is dead...”
Criminal investigations and civil tax audits

Thanks for your attention