

# CHANGES IN POLISH TAX LAW IN RESPONSE TO THE COVID-19 PANDEMIC AGAINST THE COMPARATIVE LEGISLATIVE CHANGES IN THE CZECH REPUBLIC AND SLOVAKIA

## ZMENY POLSKÉHO DAŇOVÉHO ZÁKONA V REAKCII NA PANDÉMIU COVID-19 V POROVNANÍ SO ZMENAMI LEGISLATÍVY V ČESKEJ REPUBLIKE A NA SLOVENSKU

*Dominik J. Gajewski<sup>1</sup> - Adam Olczyk<sup>2</sup>*

<https://doi.org/10.33542/SIC2024-1-05>

### ABSTRACT

*The article describes the most important characteristics of legislative changes made in the Polish tax law in connection with the COVID-19 pandemic. They undergo comparison with changes made in this branch of law in the Czech Republic and Slovakia. This juxtaposition serves the authors to show that the main trend was, in the first place, to suspend the deadlines in tax procedures. It was an ad hoc change and did not affect any significant changes in tax procedures in the long run. The authors also point to certain restraint of the Polish legislator as regards adoption of serious changes to substantive tax law during the period under examination and touch upon the issue of transferring certain competences (in terms of exemptions) from the legislative authority to: (1) local governments or (2) the executive branch.*

### ABSTRAKT

*Článok popisuje najdôležitejšie charakteristiky legislatívnych zmien vykonaných v poľskom daňovom zákone v súvislosti s pandémiou COVID-19. Prechádzajú porovnaním so zmenami vykonanými v tomto odvetví práva v Českej republike a na Slovensku. Táto juxtapozícia slúži autorom na preukázanie, že hlavným trendom bolo v prvom rade pozastavenie lehôt v daňových konaniach. Išlo o ad hoc zmenu, ktorá z dlhodobého hľadiska neovplyvnila žiadne významné zmeny v daňových postupoch. Autori tiež poukazujú na určitú zdržanlivosť poľského zákonodarcu, pokiaľ ide o prijatie závažných zmien hmotného daňového práva počas skúmaného obdobia, a dotýkajú sa otázky prenosu určitých právomocí (pokiaľ ide o výnimky) zo zákonodarnej moci na: (1) miestne samosprávy alebo (2) výkonnú zložku.*

---

<sup>1</sup> Prof., dr hab., Szkoła Główna Handlowa w Warszawie, Polska  
SGH Warsaw School of Economics, Warsaw, Poland.

<sup>2</sup> Dr., Ph.D., Szkoła Główna Handlowa w Warszawie, Polska  
SGH Warsaw School of Economics, Warsaw, Poland.

## I. INTRODUCTION<sup>3</sup>

The COVID-19 pandemic is one of those unprecedented events in the modern world that has had an unexpected and difficult to overestimate impact on the extremely broad spectrum of social reality. The circumstances surrounding introduction of changes to the law are meaningful and fit into the mould of our times. Starting around March 2020, the whole world has been facing the challenge of making rapid changes in the existing legal regulations. The belief in the necessity of having a reasonable and balanced legislative process and avoiding hasty solutions, which has been well-grounded in the legal discourse for years, had to be confronted with the difficult conditions brought about by the spreading coronavirus.

The effects of the actions taken by states have been very different. In the UK, for example, there have been effects in terms of considering the legal responsibility of the state, which must take actions that are more transparent from the point of view of the citizen<sup>4</sup>. Abuses regarding the struggle against pandemic in tax law can affect many spheres, also such as human rights<sup>5</sup>.

During the period under consideration, there were no doubts that the state had to act in an accelerated fashion. Changes to the law could not have been subjected to public consultations – because there was no time for that (and it was difficult to carry them out due to restrictions arising from the pandemic as well) – and had to be made hastily in response to the urgent needs emerging from the current epidemiological situation in the country and across the globe. In Poland, perhaps the most noticeable manifestation of this type of trend was most likely the denial of public access to state forests<sup>6</sup>. What is now often recalled as a manifestation of legislative officiousness seemed to be an immediate response to the current problem at the time.

In tax law, stability of the introduced changes, proper design of the amendments as well as preparation of the taxpayer for the new solutions are particularly important. This has been repeatedly highlighted by the Polish Constitutional Tribunal that stressed, among other things, that the tax legislator cannot design legal regulations that would create a kind of a trap for the taxpayer.<sup>7</sup> By the way, it is worth noting that recent regulation of the anti-avoidance rule in Poland has been found to have been introduced against the required standards precisely because it entered into force during a tax year<sup>8</sup>.

The aim of this article is to compare the most important amendments introduced in tax law in response to the COVID-19 pandemic in Poland with the changes made in the Czech Republic and Slovakia. However, the goal is not to contrast specific mechanisms, but the underlying schemes

---

<sup>3</sup> This article is the result of scientific research carried out as part of the grant from the National Science Centre on Tax Authorities and Administrative Courts during the Business Cycle – Law&Economics Perspective (No. 2018/29/B/HS5/00260).

<sup>4</sup> SIAN, S. – SMYTH, S.: Supreme emergencies and public accountability: the case of procurement in the UK during the Covid-19 pandemic. In: *Accounting, Auditing and Accountability Journal*, Volume 35, Issue 1, 3 January 2022, DOI: 10.1108/AAAJ-08-2020-4860, pp. 146-157.

<sup>5</sup> HEFFRON, R. – J. SHEEHAN, J.: Rethinking international taxation and energy policy post COVID-19 and the financial crisis for developing countries. In: *Journal of Energy & Natural Resources Law*, 2020, 38(4), DOI:10.1080/02646811.2020.1796315, pp. 465-473.

<sup>6</sup> Doubts about the form of such restrictions were raised, among others, by the Ombudsman; Letter of the Ombudsman of 7 April 2020, No. V.7200.12.2020.MŻ [online]. The Ombudsman's Public Information Bulletin [op. cit. 23 November 2023]. Access at: <https://bip.brpo.gov.pl/sites/default/files/RPO%20do%20Ministra%20C5%9Arodowska%20ws%20wst%20C4%99pu%20do%20las%20las%20B3w%20C%207.04.2020.pdf>.

<sup>7</sup> Judgement of the Constitutional Tribunal of 25 November 1997, ref. No. K. 26/97.

<sup>8</sup> Judgements of the Supreme Administrative Court of 9 November 2023, ref. No. II FSK 163/22, II FSK 620/22, II FSK 1277/23, II FSK 1637/23; judgements of the Supreme Administrative Court of 9 November 2023, ref. No. II FSK 1227/23, II FSK 1293/23; case law of Polish administrative courts is available at: <https://orzeczenia.nsa.gov.pl/>.

behind the response in its essence. Just the perception of legal changes implemented as a result of the pandemic depended on a number of factors, such as demographic differences<sup>9</sup>.

This comparative model is intended to show the trends shaping the efforts undertaken at that time and the differences in law-making in these countries. The analysis serves, among other things, to answer the question of what changes made in such a particularly hasty manner should rather focus on: the provisions of procedural or substantive tax law? The following considerations are intended to contribute to answering the question (which we do not do here) as to what mechanisms are quite appropriate under such circumstances and also whether the tax legislator is able to foresee such extraordinary situations, which – as evident from the recent times – may happen again. Is it possible to design the right regulation predicting the most important threats or are we forced to act like the authorities did in the years 2020-2021 to fight the pandemic of the coronavirus by way of making key decisions in the form of directly responding to the current most acute problems? In this regard, the question can be raised as to whether the legal changes undertaken in the face of the pandemic have made a significant breakthrough in tax law, or whether they were just a one-off, quick response to an extraordinary situation.

The research question raised in this article is therefore: what is the nature of the legislation that the legislatures of selected countries changed (introduced) in connection with the pandemic, what do they have in common, and whether these legal changes permanently transformed the shape of tax law or were a one-time response to an exceptional situation.

The first research papers elaborating on the response of the tax policy to the pandemic highlighted the lack of relevant literature on the issue. The situation has recently improved and now there are more studies available on changes in tax law introduced in selected countries due to the COVID-19 pandemic. We already have analyses that attempt to evaluate the actions taken<sup>10</sup>. Therefore, a paper such as this one does not have to be limited to analysis of the provisions of the law exclusively, as it was the case in the first period.

However, legislative changes and the content of legal acts are analysed first and foremost. It should be noted that taxpayers' circumstances during the COVID-19 pandemic were shaped not only by acts of law but also by orders and regulations. In Poland, in practice, consequences were sometimes brought about by the sole oral statements of the representatives of the authorities expressed during press conferences. It made a difference when they advised, e.g., the Polish tax authorities to be more favourable when considering applications for tax relief (i.e., make tax or tax arrears payable in instalments, defer tax payment deadlines or remit tax payments or tax arrears).<sup>11</sup>

Therefore, the analysis performed in the article is, first of all, based on the content of legal provisions, and, second of all, on the available research on the topic. At the same time, one should note that no other similar study was found in the relevant literature, which would compare the mechanisms introduced in response to the COVID-19 pandemic in Poland, the Czech Republic, and Slovakia. The studies we mention, which have been published in recent years – even if they present the arrangements of different countries – do not compare them. They present specific solutions adopted in each country.

---

<sup>9</sup> KIREÇTEPE, B. O. – AÇIKGÖZ, B.: Effect of COVID-19 Pandemic on Tax Perception: An Empirical Study. In book: *Pandemnomics: The Pandemic's Lasting Economic Effects*, DOI:10.1007/978-981-16-8024-3\_7, pp.117-150.

<sup>10</sup> CAKOCI, K. – ČERVENÁ, K.: Vplyv pandémie covid-19 na verejné financie v SR. In: *Univerzita Pavla Jozefa Šafárika v Košiciach*. 2022, DOI 10.33542/SPF22-0145-2-01, pp. 10-23.

<sup>11</sup> Wspieramy podatników w czasie pandemii Covid-19 [We Support Taxpayers During the COVID-19 Pandemic] [online]. Ministry of Finance [op cit. 23 November 2023]. Access at: <https://www.gov.pl/web/finanse/wspieramy-podatnikow-w-czasie-pandemii-covid-19>.

Michal Radvan and Tereza Svobodová presented an interesting discussion of the nature of the law changes. They pointed out that the changes in the law were primarily political in nature and were not tools for fighting the disease<sup>12</sup>. Some of the articles were analysis of a very specialized scope - such as the compilation of transfer pricing regulation and Covid 19. Some of the articles were analysis of a very specialized scope - such as the compilation of transfer pricing regulation and Covid 19<sup>13</sup>. There was also a very interesting analysis of the Covid 19 pandemic activities and their impact on local government financial management<sup>14</sup>.

A certain attempt in this regard is the SGH Report<sup>15</sup>, but it deals with more general issues, because it focuses on tax policy and the analysis carried out is more about the economic dimension. It does not provide a description of specific legal mechanisms. Secondly, the scope of the study is different, because in our article the analysis concerns the analysis of Polish regulations in comparison with those of the Czech and Slovak Republics, while the indicated study considers the Visegrad Group.

First of all, we are interested in the changes directly undertaken, and we mainly are writing about them. Such a timeframe applies (not without exception) to the first months of the coronavirus pandemic in 2020. As we are interested in changes to the law in response to covid-19, we focus on procedural regulations.

Adoption of the methods of analysis of primary and secondary data, subsequent juxtaposition of those with the use of the comparative method, and subjection of them to induction processes allowed to draw conclusions presented at the end of the paper. The authors assume that the changes to the tax law undertaken at that time were a direct response to current problems and did not constitute a source of transformation of the tax law. They did not even fully affect the acceleration of the processes that resulted in the digitalization of taxpayers' communication systems.

The article uses the comparative legal method most of all. During our work, we operated on the standard steps of this method used in similar cases, that is:

- (1) setting research objectives;
- (2) choice and selection of equivalent objects of comparison;
- (3) their juxtaposition;
- (4) classification;
- (5) drawing general conclusions and their justification<sup>16</sup>.

We implemented the above assumptions by posing a research question about the nature of the legal changes in Part I of the article. We also described the background of the changes under consideration and the current literature. In the following sections, we grouped the fundamental changes in the law that we noted into three sections. In each of them, we begin by first describing what the legislature has done in the sphere in question, that is, how Polish regulation compares

---

<sup>12</sup> RADVAN, M. – SVOBODOVÁ, T.: Reformy daňového práva v (ne)souvislosti s COVID-19. In: *Studia Iuridica Cassoviensia*. 2021, , ročník 9, číslo 2, <https://doi.org/10.33542/SIC2021-2-06>, pp. 69-84.

<sup>13</sup> CHOMA, A., - RAKOVSKÝ, P. Transferové oceňovanie a COVID 19. In: *Slovensko-české dni daňového práva: zdaňovanie virtuálnych platidiel a digitálnych služieb: COVID-19 a iné aktuálne výzvy pre daňové parvo*. Košice (Slovensko): Univerzita Pavla Jozefa Šafárika v Košiciach, 2021, DOI: 10.33542/SCD21-0043-1-12, pp. 185-194.

<sup>14</sup> VARTAŠOVÁ, A. - ČERVENÁ, K. Finančné hospodárenie mesta Košice v kontexte pandémie Covid-19. In: *Slovensko-české dni daňového práva: zdaňovanie virtuálnych platidiel a digitálnych služieb: COVID-19 a iné aktuálne výzvy pre daňové parvo*. Pavol Jozef Šafárik University in Košice, <https://doi.org/10.33542/SCD21-0043-1-29>, pp. 384-398.

<sup>15</sup> GAJEWSKI, D. – KARWAT, P., – OLCZYK, A. – WERNER, A. – WIERZBICKI, J.: The reaction of Polish tax policy to the crises related to the pandemic in comparison with the Visegrad Group countries. Warsaw: Oficyna Wydawnicza SGH, 2021, DOI: 10.33119/978-83-8030-469-7.2021, pp. 189-223.

<sup>16</sup> SZYMCZAK, I.: The Comparative Law Method and Its Correct Application as a Prerequisite for Obtaining Reliability of Research Results. In: *Teka Komisji Prawniczej PAN Oddział w Lublinie*, 2021, vol. XIV, no. 2, DOI: <https://doi.org/10.32084/tekapr.2021.14.2-33>, pp. 469.

with that of the other two countries. Then we describe what the countries' actions in this area have in common. At the very end, we summarize our considerations.

## II. CHANGES TO DEADLINES

As far as traditional modes of communication are concerned, the pandemic of the coronavirus has paralysed the world. At the same time, a very interesting observation is that the pandemic has increased public trust in policies that target tax changes to counter COVID-19<sup>17</sup>. People locked in their homes had contact with others limited to the furthest extent possible. The consequence of adopting such a method of combating the virus was disruption of the hitherto accepted paradigms assuming that the citizen (and the taxpayer) has practically unlimited possibilities of contacting not only other citizens, but also – and perhaps above all – the state.

The consensus existing until that moment (or rather the standard) was that the citizen could always contact the authority, i.e., a broadly understood apparatus of public authorities. In this respect, there are two fundamental exceptions allowed in the law, which are a deviation from the normal course of operation and everyday practice as regards the requirements imposed on the citizen in connection with the necessity to meet the legal time limits. These are institutions such as:

- (1) State of emergency;
- (2) Reinstatement of the term.

In the first case, this is an exception allowed by the law (namely, the Constitution), which is concerned with extraordinary situations taking place on a macro scale. The Polish Constitution mentions:

- martial law;
- state of emergency;
- natural disaster<sup>18</sup>.

However, the institution of deadline reinstatement is treated individually – it applies to a specific entity. The Polish tax law procedure requires the taxpayer to substantiate that the failure occurred at no fault of their own.<sup>19</sup> This is set out similarly in the subsequent administrative court proceedings.<sup>20</sup> It is worth noting that this is an exceptional regulation. As often highlighted by administrative courts: *“A party may only be found to be at no fault, if there is a real cause that resulted in failure to meet the deadline and this cause was outside the party’s control, and even if the party exercised utmost diligence, they would be unable to overcome the obstacle. At the same time, it is assumed that a party to the proceedings may be expected and required to exercise special diligence in dealing with their business and any negligence disqualifies the possibility of reinstating the deadline.”*<sup>21</sup> For this reason, the courts note that: *“In this context, the legislator has provided for a criterion (...), which is usually treated fairly rigorously in case-law.”*<sup>22</sup>

---

<sup>17</sup> LACHAPPELLE, E. – BERGERON, T. – NADEAU, R. – DAOUST, J.-F. – DASSONNEVILLE, R. – BÉLANGER, É.: Citizens' Willingness to Support New Taxes for COVID-19 Measures and the Role of Trust. In: Politics and Policy, Volume 49, Issue 3, June 2021, DOI: 10.1111/polp.12404, pp. 534-565.

<sup>18</sup> Article 230 of the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997 No. 78, item 483). Article 162, section 1 of the act of 29 August 1997 – Tax Ordinance<sup>19</sup> (Journal of Laws of 2022, item 2651, as amended) hereinafter referred to as “Tax Ordinance”.

<sup>20</sup> Article 87, section 2 of the act of 30 August 2002 on proceedings before administrative courts (Journal of Laws of 2023, item 1634, as amended).

<sup>21</sup> Judgement of the Supreme Administrative Court of 16 May 2023, ref. No. I FSK 748/20.

<sup>22</sup> Decree of the Supreme Administrative Court of 15 February 2017, ref. No. II FZ 986/16.

The pandemic of the coronavirus has also led to the introduction of another dimension of ‘time disturbance,’ which was adopted due to the fight against the virus; namely, deferral of entry into force of legal regulations owing to the pandemic.

### III. SUSPENSION OF DEADLINES IN TAX LAW

In the countries under examination, numerous regulations were introduced that suspended the deadlines in tax law.

In Poland, the following deadlines for payment were changed: deadlines for payment of instalments of property tax; deadline for submitting the PIT return; deadline for submitting the declaration on the amount of the solidarity levy; deadline for submitting information on transfer prices; deadline for submitting information on the beneficial owner to the relevant register; deadlines for payment of advances on income tax<sup>23</sup>.

In Slovakia, one of the most important changes was the implementation of the possibility of suspending tax control at the request of the taxpayer<sup>24</sup>. The legislature also introduced the possibility of suspending tax proceedings at the request of the taxpayer. Tax enforcement during the pandemic has been deferred, such as deadline for filing tax return. The legislator also decided to postpone of the deadline for submitting declarations regarding local taxes (e.g., as regards property tax or the tax on slot machines and the tax on games on slot machines).

Whereas, in the Czech Republic, legislator decided to establish temporary exemption from the obligation to pay interest on late payment in income tax on natural and legal persons<sup>25</sup>. Sanctions have been abandoned for late declarations. Fines for late submission of an inspection report been abolished. Flat-rate exemption from the administrative fee for filing a request for deferral or refund of tax were instituted. The state has adopted a policy undertaking control activities with adherence to the rule of ‘maximum tolerance’ and focusing on advisory activities of the tax authority.

As regards important changes made in Poland, it should be emphasized that the introduced regulations also affected the duties of state authorities. For example, the time limit for issuing an advance tax ruling was extended. Additionally, a legal regulation was introduced that suspended the procedural and judicial deadlines in certain cases (including, in tax inspections, customs and fiscal inspections, tax proceedings, and administrative court proceedings) for the duration of the COVID-19 pandemic. During that period, the procedural and judicial deadlines in the types of proceedings enumerated above did not begin to approach and if they did, they were suspended.

The latter raised many doubts of interpretation. A particularly serious legal problem turned out to be the interpretation of the following wording regarding suspension of deadlines that are “provided for by administrative law.” This has sparked a vivid discussion as to whether tax law is part of administrative law understood in such a way. In practice, this caused numerous discrepancies, which were resolved by a resolution of the Supreme Administrative Court of 27 March 2023, ref. No. I FPS 2/22, which contained a special kind of decision. The court ruled that it cannot be ultimately decided whether tax law is part of administrative law. It was found that both the legal provisions on the matter are sufficiently vague, and it is futile to seek answers to this question in court case law or the doctrine of tax law. Therefore, the ruling eventually stated that doubts in this respect must be settled... in favour of the taxpayer. And so, the legal regulation in question did not suspend the deadlines for the tax authority to issue a decision (because it was not

<sup>23</sup> GAJEWSKI, D. – KARWAT, P., – OLCZYK, A. – WERNER, A. – WIERZBICKI, J., *ibidem*, pp. 207-208.

<sup>24</sup> ŠTRKOLEC, M.: Tax Law in Slovakia under the influence of pandemic, Digital Transformation and Inflation. In: Public Governance, Administration and Finance Law Review. 2023. Vol. 8. No. 1, DOI: DOI: 10.53116/pgaftr.6496, pp. 10-96.

<sup>25</sup> Tax measures in response to COVID-19 [online]. PwC [op. cit. 23 November 2023]. Access to: <https://www.pwc.com/gx/en/assets/tax/covid-19-global-master-master-document-tax-measures-web.pdf>, p. 39.

clear whether administrative law includes tax law). However, the deadline for the taxpayer to submit an application for the assertion of overpayment of tax was suspended under these regulations, because, in the opinion of the Supreme Administrative Court, they should be interpreted in favour to the taxpayer.<sup>26</sup>

The actions described above were all ad hoc in nature; the governments had to react quickly to the spreading pandemic. And so, for example, the changes introduced in Slovakia ought to be regarded as creation of a certain ‘time vacuum’ in which the deadlines that had begun to approach were to be deemed non-existent. Simultaneously, the scope of obligations ultimately imposed on the taxpayers – within the framework of the mechanisms indicated here – has not been significantly reduced. In the end, the taxpayers were still required to fulfil their obligations towards the state. An exception may be the Slovak regulation regarding employers’ obligations to collect and pay in social and health insurance contributions as well as taxes imposed on employees’ salaries. Some remunerations were exempted from specified taxes, which was the case with employers who were unable to allocate work to employees as a result of an order to stop or close business issued as a preventive measure taken to counteract the COVID-19 pandemic.<sup>27</sup>

Similar measures – as regards deadlines – were taken in Poland. The obligations imposed on the taxpayers (or sometimes the tax bearers) were delayed in time. There were, of course, changes reducing the amount of tax actually incurred introduced as well, yet it was achieved through other means, i.e., regulations directly related to substantive law. In addition to some exemptions from VAT (i.e., introduction of a 0% tax rate, e.g. in the case of free donations of certain computer equipment, which were intended to support school education, and in the case of donations to the health care system – for certain medicinal products or supplies of tests and vaccines), significant changes took place in the form of the so-called ‘shields’ concerning income taxes. Such solutions included exemptions on revenue from buildings, the prohibition of recording contractual penalties and damages as tax deductibles, deductions of loss incurred in 2020 from income earned in 2019 or the possibility of deducting donations intended to help counteract the pandemic.

The Czech Republic adopted a somewhat different approach and did not as much focus on ensuring the taxpayers had the opportunity to meet their obligations in a timely manner, but simply lifted a number of sanctions for non-compliance with the deadlines. Examples of such solutions have been mentioned above. Among others, strictly punitive regulations were abolished in case of late submission of a declaration or an inspection report and as regards the requirement to pay interest for late payment of income tax.

This is consistent with other measures adopted in the Czech Republic within the framework of counteracting the pandemic. It may be concluded that this country adopted particularly extensive tax exemptions. It should be noted that these were systemic changes. The Czech authorities assumed that the right thing to do, first of all, was to discharge from tax liabilities. The relevant literature brings attention to the straightforwardness of the adopted scheme of action.<sup>28</sup> It allowed the Czech legislator to avoid the extended legislative procedure and react to specific problems on an ad hoc basis. At the same time, such measures supported the operation of the fiscal apparatus that was also being paralysed by the anti-pandemic restrictions. Since it was not necessary for the tax authorities to address the individual situations of the taxpayers due to collective actions of the

---

<sup>26</sup> Judgement of the Regional Administrative Court in Warsaw of 26 May 2023, ref. No. III SA/Wa 2002/22.

<sup>27</sup> Overview of some useful information in the area of taxes and contributions as well as aspects of labour law in relation to COVID-19 [online]. PWC [op. cit. 23 November 2023]. Access at: <https://www.pwc.com/sk/en/tax-news/overview-of-some-useful-information-in-the-area-of-taxes.html>.

<sup>28</sup> KOZIEL, M.: Taxes in the Czech Republic at the Time of COVID-19. In: *Analyses and Studies CASP*. 2021. Vol.1, Iss. 2, DOI:10.33119/ASCASP.2021.2.3, p. 23.

executive authority, it was possible to avoid getting entangled in the details of individual facts, which could actually paralyse the operation of public administration.

#### **IV. DEFERRAL OF THE APPLICABILITY OF THE PROVISIONS OF TAX LAW**

The mechanisms under elaboration, which were intended to protect the taxpayer from the negative effects brought about by tax law, also consisted in postponing the date of entry into force of certain legal regulations. In Poland, for example, the applicability of the following regulations was delayed:

- 1) Provisions on retail sales tax;
- 2) Provisions on the introduction of a new VAT matrix;
- 3) Provisions on reporting tax schemes (MDR);
- 4) Provisions on the entry into force of the new system of Standard Audit Files for Tax (VAT reporting).

Essentially, the pandemic in Poland has led to the suspension of changes in tax law that would be striving to any somewhat ambitious goal. All major projects have been halted. The reasoning was that in the exceptional situation of the pandemic taxpayers should not be posed with an additional problem of having to familiarize themselves with and apply new regulation. It is telling that there was a widespread belief that the upcoming changes in tax law would not make it easier for taxpayers to understand the regulations or, in other words, they would not simplify the law. Among the changes made to the Polish (substantive) tax law in recent years, there have been none – that in the context of an exceptional situation such as the pandemic of the coronavirus – could be characterized as simplification or would contribute to greater clarity of the obligations imposed on the taxpayers.

The Czech authorities presented a distinctively different approach when they introduced a number of important legal instruments in the context of combating the pandemic. The highlights are the changes in terms of communication between the taxpayers and the tax authorities as well as and above all digitalisation of the tax administration system. Act No. 283/2020 Sb. – amending the Act No. 280/2009 Sb., Tax Ordinance, as amended, and other related acts – seems to be of particular importance in this case. This change included broadening of the scope of obligations related to the requirement of having an electronic mailbox. The requirement covers professional entities, e.g. lawyers and tax advisers. Electronic mailboxes are also mandatory for public authorities. Another important element of the introduced provisions was change in the methods of conducting tax audits, which were intended to speed up and streamline controls and procedures that resolve doubts. One of the system improvements was the possibility to obtain a partial VAT refund before completion of the control procedures in the case of the amounts that had been undisputed throughout the proceedings. These were not the only changes made at that time.

#### **V. SOLUTIONS IN SUBSTANTIVE LAW**

In addition to the above, the Czech tax law has undergone considerable changes in terms of substantive law. There was a regulation introduced which provided for a deduction of health and social insurance contributions from the tax base in personal income tax. Within the framework of simplification of the tax system, the tax on the acquisition of real estate was abolished as of 26 September 2020. Furthermore, a new form of flat-rate tax was introduced.

In connection with the pandemic of the coronavirus, the Polish legislator has not decided to introduce systemic support for entrepreneurs through changes in substantive tax law. The changes strictly related to the pandemic were temporary; they introduced a gap in the general principles of tax law for a very limited time. However, one should note that we are talking about the general



approach of the state, as some changes have in fact directly affected the severity of the burden shouldered by the taxpayers. Perhaps the best example of such activity is expansion of the competence of municipal councils achieved by way of resolutions on exemptions from payment of property tax and extensions of deadlines for such payments, which were passed as part of the so-called anti-crisis shields.<sup>29</sup>

This action also shows the direction the changes followed; the Polish legislator has actually decided to transfer decisions on that matter (and the burden of responsibility they came with) onto the local authorities. The direct exemption from public burdens and decision-making in this respect have been decentralized. It is noteworthy that interesting solutions as regards local taxes have been adopted in Slovakia. However, there were doubts expressed in the relevant literature as to the quality and reliability of the legislative process followed in this case.<sup>30</sup>

As far as the above-mentioned context of transfer of responsibility outside the legislative authority is concerned, it should be pointed out that such measures were also taken by the Czech authorities. They, however, decided that the basic aid should be granted to the taxpayers not through acts issued by the local government (as in Poland) but through actions of the executive authority. The manifestation of that was mass discharge from tax liabilities. Such basic aid granted to the Czech entrepreneurs was tax-based – it was the Minister of Finance who made the decisions to discharge them from tax liabilities and other administrative fees, especially during the first wave of the pandemic (though the tax liabilities and administrative fees that were crucial for the fight against the pandemic were discharged later as well).<sup>31</sup>

Another noteworthy and one of the most important means of supporting the entrepreneurs by the Czech authorities was the system of granting the so-called compensatory bonuses.<sup>32</sup> They were granted through the application of tax regulations. Control in this respect was also the same as in the case of taxes. In Poland, in turn, the fundamental support was pay out of funds under the so-called anti-crisis shields, which were essentially separate from the tax regulations.

## VI. CONCLUSIONS

It can be noted that the schemes adopted in Poland, the Czech Republic, and Slovakia in order to combat the pandemic, first and foremost, consisted in ‘freezing’ the deadlines. In other words, procedural deadlines were suspended. Taxpayers (as well as the state administration) were thus offered additional time to deal with the new situation.

There have been no significant changes in substantive law, that is, ones that would stay with us for a longer period of time. On the other hand, strictly procedural changes in tax law have proved defective, as the example of the suspension of the statute of limitations in Poland has shown.

Different models were adopted as far as streamlining tax procedures is concerned, which is particularly visible when comparing Poland with the Czech Republic. The Polish authorities refrained from introducing any more complex legal mechanisms – in any aspect. It can be assumed that this was grounded on the conviction that the situation of the taxpayer should not be made complicated further. What is more, even during the pandemic, changes assessed by the taxpayers as highly disadvantageous – such as taxation of limited partnerships – were introduced on 1 January

---

<sup>29</sup> PAHL, B.: Resolutions of the Municipal Councils on Exemptions and Deadline Extensions for Payment of Property Tax within the Framework of the So-Called Anti-Crisis Shields: A summary attempt. In: *Analyses and Studies CASP*. 2021. Vol. 1, Iss. 2, DOI:10.33119/ASCASP.2021.2.4, pp. 33-43.

<sup>30</sup> KUBINCOVÁ, T.: Miestne dane a miestne poplatky v kontexte opatrení prijatých v súvislosti s chorobou COVID-19. In: *Univerzita Pavla Jozefa Šafárika v Košiciach*. 2021, DOI:10.33542/SCD21-0043-1-16, pp. 221-234.

<sup>31</sup> KOZIEL, M., *ibidem*, p. 24.

<sup>32</sup> *Idem*.

2021. It can be argued that these provisions, which evidently aggravated the situation of these entities, were not complicated and objections as to their vagueness were rather not the ones being raised.

As a matter of fact, Poland has been going through a far-reaching process of tightening of the tax system since 2015, which involved numerous changes in tax law regulations. This has caused the Polish tax system to be perceived as illegible, complicated, and giving rise to uncertainty.<sup>33</sup> Under such circumstances, the legislator somewhat naturally refrained from additional actions that could only make this unclear system even more complicated. The belief that in an emergency state it is best to avoid major changes (as they inherently lead to complications) should perhaps encourage reflection, especially considering the examples of Poland's southern neighbours. Additionally, the major reform of the Polish tax law, which was going to take place soon and contribute to recovery from the COVID-19 pandemic, was also not met with enthusiasm and due to its shortcomings was heavily modified in the very first year of its applicability.<sup>34</sup>

Furthermore, reflection upon the changes made in the Czech Republic and Slovakia also suggests that the pandemic of the coronavirus was not in itself an impulse to adopt wide-ranging amendments to tax law. For example, further digitalisation of the Czech tax law – although very useful in the era of the pandemic – was a consequence of the processes initiated earlier and would probably only slightly differ, if the pandemic had not occurred.

From this perspective, the pandemic of the coronavirus is a kind of gap in the legislative processes as regards tax law. It would be unjustified to claim that it had initiated processes that would somehow really modify the design of the substantive legal norms of tax law. At the same time, procedural changes linked to the pandemic – although often beneficial for the taxpayers<sup>35</sup> – do not seem to be closely linked to the long-term response of the tax policy to crisis situations.

Among the *de lege ferenda* postulates, perhaps we should point to one that would be useful in the current – relatively peaceful times – to provide for procedural institutions that would be useful in states of crisis. The coronavirus pandemic unequivocally demonstrated that current legal mechanisms were insufficient in this regard. General regulations (often constitutional) on extraordinary states were not created with the assumption of responding to such delicate issues as the nuances of modern, extremely multi-layered tax law. Considering the advances in technology – we are in a completely different place today than we were in the 1990s when crucial decisions were made about the structure of the tax system – it would be reasonable to consider the introduction of mechanisms that are flexible, ones that, in an emergency situation, will already be ready to apply.

## KEY WORDS

COVID-19, tax law, changes in law, tax policy, deferral of deadline

---

<sup>33</sup> Polski system podatkowy według uczestników X Kongresu Podatków i Rachunkowości KPMG [The Polish Tax System According to the Participants of the 10th KPMG Tax and Accounting Congress] [online]. KPMG [op. cit. 23 November 2023]. Access at: <https://assets.kpmg.com/content/dam/kpmg/pl/pdf/2020/03/pl-raport-kpmg-w-polsce-pt-polski-system-podatkowy.pdf>.

<sup>34</sup> The regulation in question is provided for in the Act of 29 October 2021 amending the Personal Income Tax Act, the Corporate Income Tax Act, and some other acts (Journal of Laws of 2021, item 2105).

<sup>35</sup> Such solutions, which have been introduced during the pandemic and remain in force today, include holding a significant portion of hearings before the Polish administrative courts that settle disputes concerning tax law remotely with no actual presence of the representatives (or the parties themselves) in court required. They are evaluated very positively by tax practitioners (e.g., tax advisers) as they made their communication with the judiciary more flexible.

**KLÚČOVÉ SLOVÁ**

COVID-19, daňové právo, zmeny v zákone, daňová politika, odklad lehoty

**BIBLIOGRAPHY**

1. CAKOCI, K. – ČERVENÁ, K.: Vplyv pandémie covid-19 na verejné financie v SR. In: Univerzita Pavla Jozefa Šafárika v Košiciach. 2022, DOI 10.33542/SPF22-0145-2-01.
2. CHOMA, A., - RAKOVSKÝ, P. Transferové oceňovanie a COVID 19: Transfer pricing and COVID 19. In: Slovensko-české dni daňového práva: zdaňovanie virtuálnych platidiel a digitálnych služieb: COVID-19 a iné aktuálne výzvy pre daňové parvo. Košice (Slovensko): Univerzita Pavla Jozefa Šafárika v Košiciach, 2021, DOI: 10.33542/SCD21-0043-1-12.
3. GAJEWSKI, D. – KARWAT, P., – OLCZYK, A. – WERNER, A. – WIERZBICKI, J.: The reaction of Polish tax policy to the crises related to the pandemic in comparison with the Visegrad Group countries. Warsaw: Oficyna Wydawnicza SGH, 2021, DOI: 10.33119/978-83-8030-469-7.2021.
4. HEFFRON, R. – J. SHEEHAN, J.: Rethinking international taxation and energy policy post COVID-19 and the financial crisis for developing countries. In: Journal of Energy & Natural Resources Law, 2020, 38(4), DOI:10.1080/02646811.2020.1796315.
5. KIREÇTEPE, B. O. – AÇIKGÖZ, B.: Effect of COVID-19 Pandemic on Tax Perception: An Empirical Study. In book: Pandemnomics: The Pandemic's Lasting Economic Effects, DOI:10.1007/978-981-16-8024-3\_7.
6. KOZIEŁ, M.: Taxes in the Czech Republic at the Time of COVID-19. In: Analyses and Studies CASP. 2021. Vol. `1, Iss. 2, DOI:10.33119/ASCASP.2021.2.3.
7. KUBINCOVÁ, T.: Miestne dane a miestne poplatky v kontexte opatrení prijatých v súvislosti s chorobou COVID-19. In: Univerzita Pavla Jozefa Šafárika v Košiciach. 2021, DOI:10.33542/SCD21-0043-1-16.
8. LACHAPPELLE, E. – BERGERON, T. – NADEAU, R. – DAOUST, J.-F. – DASSONNEVILLE, R. – BÉLANGER, É.: Citizens' Willingness to Support New Taxes for COVID-19 Measures and the Role of Trust. In: Politics and Policy, Volume 49, Issue 3, June 2021, DOI: 10.1111/polp.12404.
9. Overview of some useful information in the area of taxes and contributions as well as aspects of labour law in relation to COVID 19 [online]. PWC [op. cit. 23 November 2023]. Access at: <https://www.pwc.com/sk/en/tax-news/overview-of-some-useful-information-in-the-area-of-taxes.html>.
10. Letter of the Ombudsman of 7 April 2020, No. V.7200.12.2020.MŽ [online]. The Ombudsman's Public Information Bulletin [op. cit. 23 November 2023]. Access at: <https://bip.brpo.gov.pl/sites/default/files/RPO%20do%20Ministra%20%20C5%9Arodowisk%20ws%20wst%20C4%99pu%20do%20las%20%20B3w%20C%207.04.2020.pdf>.
11. PAHL, B.: Resolutions of the Municipal Councils on Exemptions and Deadline Extensions for Payment of Property Tax within the Framework of the So-Called Anti-Crisis Shields: A summary attempt. In: Analyses and Studies CASP. 2021. Vol. 1, Iss. 2, DOI:10.33119/ASCASP.2021.2.4.
12. Polski system podatkowy według uczestników X Kongresu Podatków i Rachunkowości KPMG [The Polish Tax System According to the Participants of the 10th KPMG Tax and Accounting Congress] [online]. KPMG [op. cit. 23 November 2023].

13. RADVAN, M. – SVOBODOVÁ, T.: Reformy daňového práva v (ne)souvislosti s COVID-19. In: *Studia Iuridica Cassoviensia*. 2021, ročník 9, číslo 2, <https://doi.org/10.33542/SIC2021-2-06>.
14. SIAN, S. – SMYTH, S.: Supreme emergencies and public accountability: the case of procurement in the UK during the Covid-19 pandemic. In: *Accounting, Auditing and Accountability Journal*, Volume 35, Issue 1, 3 January 2022, DOI: 10.1108/AAAJ-08-2020-4860.
15. SZYMCZAK, I.: The Comparative Law Method and Its Correct Application as a Prerequisite for Obtaining Reliability of Research Results. In: *Teka Komisji Prawniczej PAN Oddział w Lublinie*, 2021, vol. XIV, no. 2, DOI: <https://doi.org/10.32084/tekapr.2021.14.2-33>, pp. 469.
16. ŠTRKOLEC, M.: Tax Law in Slovakia under the influence of pandemic, Digital Transformation and Inflation. In: *Public Governance, Administration and Finance Law Review*. 2023. Vol. 8. No. 1, DOI: DOI: 10.53116/pgafnr.6496.
17. VARTAŠOVÁ, A. - ČERVENÁ, K. Finančné hospodárenie mesta Košice v kontexte pandémie Covid-19. In: *Slovensko-české dni daňového práva: zdaňovanie virtuálnych platidiel a digitálnych služieb: COVID-19 a iné aktuálne výzvy pre daňové právo*. Pavol Jozef Šafárik University in Košice, <https://doi.org/10.33542/SCD21-0043-1-29>.
18. Wspieramy podatników w czasie pandemii Covid-19 [We Support Taxpayers During the COVID-19 Pandemic] [online]. Ministry of Finance [op cit. 23 November 2023]. Access at: <https://www.gov.pl/web/finanse/wspieramy-podatnikow-w-czasie-pandemii-covid-19>.

#### CONTACT DETAILS OF THE AUTHOR

**Dominik J. Gajewski,**

Professor, Head of Tax Law Department  
judge at the Supreme Administrative Court  
Warsaw School of Economics (SGH)  
al. Niepodległości 162, 02-554 Warsaw  
Phone number: +48 609 666 290  
E-mail: [dgajews@sgh.waw.pl](mailto:dgajews@sgh.waw.pl)

**Adam Olczyk, Ph.D.**

attorney at law, lecturer,  
Warsaw School of Economics (SGH)  
Phone number: +48 698 964 434  
E-mail: [aolczy@sgh.waw.pl](mailto:aolczy@sgh.waw.pl)