

Vienna LL.M. News



Itai Grinberg



Steven Kohart



I. Grinberg, M. Lang, S. Kohart, A. Schnitger

KLAUS VOGEL LECTURE - PILLAR 2 AND THE FUTURE OF GLOBAL MINIMUM TAX ENFORCEMENT

Prof. Itai Grinberg, the Carmack Waterhouse Professor of International Economic Law at Georgetown University, delivered the 2024 Klaus Vogel Lecture on the topic "Pillar 2 and the Future of Global Minimum Tax Enforcement". Prof. Grinberg reflected on the historic significance of the OECD's 2-pillar international tax deal reached in 2021 that he described as the most consequential international economic agreement of the 21st century thus far. While initially celebrated as a major diplomatic success for the G20's role in global economic governance, the deal now faces numerous uncertainties, particularly regarding enforcing the global minimum tax otherwise known as "Pillar 2."

Prof. Grinberg highlighted two pivotal challenges. First, implementing and enforcing Pillar 2's key mechanisms – the IIR and the UTPR – have increasingly become initiatives pursued almost exclusively by OECD Member States, limiting broader global participation. Second, the future role of the United Nations as a potential forum for international tax discussions incites questions regarding the OECD's continued primacy as the leading venue for global tax policymaking.

The OECD's credibility as a central forum for international tax governance as argued by Prof. Grinberg is now cohesively connected to Pillar 2's success as the initiative represents a critical test for the OECD for securing its position. The organization must revitalize its historic "Committee on Fiscal Affairs" (CFA) which is a forum traditionally focused on fostering collaboration among tax officials from OECD Member States. Reinstating the CFA as a central entity for Member State dialogue could enhance the OECD's effectiveness and align its operations with its founding mission of promoting economic and social welfare in its member countries.

Prof. Grinberg further noted that both Europe and the United States risk achieving suboptimal outcomes regarding Pillar 2 unless the current Inclusive Framework structure is either significantly supplemented or replaced by the CFA's reinstatement as a robust, member-focused platform. He pointed to issues such as the implementation of the UTPR and discussions around QDMTT safe harbors which would benefit from stronger coordination at the CFA level.

Comments

Following the lecture, comments were presented by Steven Kohart, Principal at PwC US Tax LLP, who emphasized the inherent complexity of Pillar 2, particularly in its implementation. He noted that the significant data processing required for compliance demands substantial resources and highly skilled personnel. He advocated a potential solution of simplifying the rules and introducing permanent safe harbors to ease compliance and also enhance predictability.

Discussion

The lecture concluded with a panel discussion featuring Dr. Arne Schnitger, Partner at PwC Germany, alongside Prof. Grinberg and Mr. Kohart. The panel delved further into Pillar 2's regulatory complexities while emphasizing the importance of strengthening dialogue between taxpayers and tax authorities as a pathway toward addressing the system's challenges.

Giuseppe Moramarco

Teaching and Research Associate

Institute for Austrian and International Tax Law WU

The next Klaus Vogel Lecture is scheduled for October 3, 2025. Please save the date.

TAX LUNCH TALKS – A SERIES TO BE CONTINUED

A series of Tax Lunch Talks were held in the previous months bringing together LL.M. students and researchers of the Institute for Austrian and International Tax Law. Among others, they covered recent tax developments in Türkiye and Colombia.

EXPLORING TAX TREATY INTERPRETATION IN TÜRKIYE: THE FORD MOTOR COMPANY CASE

International agreements, including double taxation treaties (DTTs), fill a special position within the legal hierarchy in the Turkish legal framework. Duly ratified international treaties prevail over conflicting domestic legislation pursuant to Article 90 of the Turkish Constitution. However, Turkish domestic law does not provide explicit rules on the interpretation of international treaties thereby leading courts and tax authorities to often rely on the Vienna Convention on the Law of Treaties (VCLT) and the OECD and UN Model Commentaries to alleviate this deficiency.

This absence of clear interpretative guidelines was a critical factor in the Ford Motor Company case. Ford Otomotiv is a Turkish subsidiary partly owned by Ford Motor Company (USA) that benefitted from an investment incentive scheme in 2008. Turkish Tax Authorities classified the incentive as taxable business income and consequently subjected it to a 19.8% withholding tax (WHT). When Ford Otomotiv subsequently distributed profits to its US parent company, Ford Motor Company sought a refund of the withholding tax by arguing that the total WHT exceeded the 15% maximum rate stipulated under the Turkey-US DTT. The Turkish courts delivered inconsistent judgments regarding the nature of the withholding

tax: while some chambers treated the WHT levied on investment incentives as part of dividend taxation, others disagreed which subsequently created significant legal uncertainty. In response, Ford brought the matter before the Turkish Constitutional Court. This court found that the conflicting rulings violated both the constitutional right to property and the right to a fair trial. It emphasized the duty of judicial bodies to ensure coherent and consistent interpretations, particularly in taxation where uncertainty can impose heavy financial burdens. The court referred the case back to the Council of State's Fourth Chamber for retrial. The Ford Motor Company decision is regarded as a landmark in Turkish tax law and specifically for investment protection and judicial consistency. It accentuates that courts must provide legal certainty, especially in international tax matters. Furthermore, by recognizing constitutional protections in cases of judicial inconsistency, the decision strengthened the confidence of cross-border investors in the Turkish legal framework.



Gülce Akkaya, Türkiye, Full-time 2024/25

SIGNIFICANT ECONOMIC PRESENCE TAXATION IN COLOMBIA

In 2022, Colombia introduced a new nexus source-based income tax rule applicable to non-residents with a significant economic presence (SEP) in the country.

These can be summarized as follows:

1. **Subject:** Any non-resident with an SEP in Colombia.
2. **Scope:** Applicable to any good sold and any service rendered by non-residents to clients or users in Colombia.

It is not limited to digital services.

3. **SEP is determined when:**

3.1 The non-resident (i) interacts with 300.000 or more clients in Colombia, (ii) displays its prices in Colombian pesos, or (iii) allows payments in Colombian pesos.

3.2 **Threshold:** The non-resident in scope should obtain revenue exceeding EUR 300,000 for goods sold to clients in Colombia.

4. **Exceptions:** If the service is covered by another more special rule, the other rule applies (e.g., technical services) or if a DTC prevents applying these rules (usually through Article 7).

The rules offer the non-resident the possibility to fulfil their tax obligation in Colombia through a 10% withholding over the

payments that are encompassed within the scope of the SEP rules in Colombia or, alternatively, to file an income tax return taking into account the gross revenue in scope and a 3% fixed tax rate. To withdraw the 10% withholding tax rate, the non-resident who renders or provides inscope goods or services should deliver a certification to the user or client in Colombia stating that he does not fulfill the criteria to have an SEP and should therefore not be subject to the 10% withholding applicable such an entity. In B2C transactions that involve users who are not withholding agents in Colombia, the issuer bank, payment service provider, or the remaining operators of the payment international network bear the responsibility of the withholding. To be subject to the SEP regimen, the non-resident must earn more than EUR 300,000 yearly for goods sold to clients in Colombia which excludes non-resident companies that exclusively provide services in the country regardless of the amount of income arising there.



**Tomás Peñuela Ortiz,
Alejandro Pinzón Naranjo,
Colombia, Full-time 2024/25**

In Class

ANOTHER BOOK PUBLISHED

Students not only attend a vast number of courses for which they prepare papers and case studies as well as sit numerous examinations, but they also write their master's theses. These are a prerequisite for the academic degree Master of Laws (LL.M.). The program follows a scheme under which the master's theses of one particular program all examine various aspects of the same general topic.

MASTER THESES FULL-TIME 2023/24: THE GLOBAL MINIMUM TAX – SELECTED ISSUES ON PILLAR 2

Hardly any other topic has been discussed as intensively in recent times as the OECD's global minimum tax. Following the momentum of the OECD's BEPS project, the OECD is attempting to establish a new global tax system based on two pillars, and the second pillar is the subject of this book. However, given the novelty of the topic, only limited academic literature is at hand – and there is a dire need for further inquiry on the foundations and technical aspects of this new system. For this reason, this book aims to comprehensively analyze the legal framework of Pillar 2 from several different angles. It strikes a balance between addressing general topics and specific technical issues of the global minimum tax.

Part I of the volume is devoted to selected "general issues", part II of the book is devoted to the scope of GloBE. Parts III to VI are devoted to the charging provisions, the calculation of the GloBE income or loss, the calculation of the amount of adjusted covered taxes, and, finally, the calculation of the ETR, respectively. The last and final part of the book is dedicated to administrative topics of Pillar 2.



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WU BALL



Students of the 2024/25 cohort

Attending the WU Ball was a truly unique experience, especially for the international students in our program. The event occurred at the Hofburg Palace in Vienna — a breathtaking venue that added a special ambience to the night. The Hofburg is a massive structure with several differently designed rooms and dance floors each offering a distinct atmosphere and style of music. It felt almost surreal to walk through such historic, beautifully decorated halls. The ball is a wonderful experience for anyone who enjoys dancing.

However, since the event is extremely popular, it can be a bit difficult to find space to do so freely at times. For those who stay until the very end, though, the atmosphere changes: only a few people remain, mostly professional dancers, and watching them gracefully fill the main room feels like stepping into a movie scene. It is an unforgettable way to close the night.

Overall, the WU Ball is not just an event — it is a dreamlike immersion into a cultural tradition that feels straight out of a fairytale.

Vitória Rolim Perez, Brazil, Full-time 2024/25

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Alumni

CHILE ALUMNI MEETING



A few months ago, as alumni of the WU International Tax Law program, we had the pleasure of welcoming Prof. Pasquale Pistone to Santiago de Chile while he was attending an academic activity in our country. During a dinner that we organized with other Chilean alumni at Cristóbal Pérez Jarpa's residence, we had the opportunity to both meet again with Prof. Pistone in person within an informal context and to share some experiences we have all had during our time in Vienna. We all agreed that studying our LLM at WU Vienna was one of the best choices we could have made from both a personal and academic standpoint. One thing I could highlight from the attendees to this dinner is that, after completing our LLM in International Tax Law, most Chilean students came

EVERYTHING STARTED IN VIENNA



The LLM in International Tax Law at WU was the biggest first step into my academic career and a game changer for my future professional prospects. After a number of years working as a tax advisor in a law firm and finalizing an LLM in Corporate Taxation at Universidad de los Andes (UAndes) Chile, I knew

that I had an academic dream to follow but that it had to be combined with specialized practical knowledge in international, tax treaty, and comparative tax law. Without any doubts, the LLM at WU was the first-best option due to the high-level professors and the strong specialized team as well as the plethora of lectures on tax treaty application, EU tax law, tax compliance, worldwide case law, and comparative international tax systems, among many others. While there, I met experts - now good friends - from all around the globe, and I received the practical knowledge that opened doors to obtain access to the jobs that I wanted. However, beyond these practical tools that were gained, the challenging task of writing a high-level master thesis as part of the LLM Program was

back to Chile and currently occupy leading and diverse positions in the tax local market (i.e., academia, in house tax advisor, specialized law firms, etc.). The latter certainly contributes to enhancing the WU network and prestige in Chile as well as place the WU LLM in International Tax Law program at the top of the applications of prospective students.

Chile is not a large country, and our geographical location does not enable visiting Vienna as often as many of us may expect. Despite these circumstances, we have a continually-growing number of students who are going to Vienna to pursue their LLM in International Tax Law which is something very remarkable.

As Chilean WU alumni, we strongly encourage former students of other parts of the world to continue meeting in your home countries and enhance personal connections with each other. You will certainly find many things that you have in common after completing the program in Vienna and discover that friendships remain despite the years. In this respect, in the case of Chile, there have been some initial talks within our LLM alumni community aimed at formalizing a WU Alumni Club In Chile. The idea is to begin meeting on a regular basis and perhaps start contacts with other WU alumni in the Latam region. To be continued...

Tomás Alvarez Palacios, Chile, Full-time 2020/21

the decisive point and first step on the path to follow my academic dream. Right after the LLM, I continued that track of pursuing a PhD in the Doctoral Program in International Business Taxation (DIBT) at WU and became a Research and Teaching Associate at the Institute for Austrian and International Tax Law which was another extraordinary Viennese experience. What began as a one year plan ended up being more than five years of academic training.

After the PhD, I came back to Chile where I joined the Faculty of Law at UAndes as a full-time professor of national and international tax law and the Faculty of Business Management where I teach comparative international law at the International Business Program. Moreover, I am the co-director of the LLM Program in Corporate Taxation at UAndes where I was a student long ago. I am also a director of the Scientific Committee of IFA-Chile, a rapporteur for IBFD, and a professor of several tax law and international tax law courses in post-graduate programs and an active participant in specialized conferences. Furthermore, I am pursuing a Diploma in University Teaching at UAndes.

Looking back, everything started in Vienna, even finding my wife, Sofia, along with the best decision I made in life: the LLM in International Tax Law at WU.

Cristóbal Pérez Jarpa, Chile, Full-time 2017/18