

18, 1-390, 2002 Economic Agreement and Covenant:
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Asiáin, José Antonio (Leyre, 20-1º. 31002 Pamplona): La experiencia de la Comunidad Foral de Navarra (The experience of the Statutory Community of Navarre) (Orig. es)

In: Azpilcueta. 18, 37-48

Abstract: The Government of Navarre took the initiative in the elaboration of the 1990 Settlement. It did so after coming to the conclusion that only by means of a new Settlement would it be possible for Government of Navarre to assume, without too big a cost, the state education and health services. On the Statutory Community's side the negotiating commission was integrated by practically all the political parties represented in Parliament. The will of the Statutory Government was to attain the maximum possible level of consensus and this was translated into the composition of the commission.

Key Words: Economic settlement. Taxes. Fiscal. Statutory government. Quota.

López-Larrinaga, José Ramón (Alameda Mazarredo, 15-4ºC. 48001 Bilbao): La experiencia de la Comunidad Autónoma del País Vasco (The experience of the Autonomous Community of the Basque Country) (Orig. es)

In: Azpilcueta. 18, 49-59

Abstract: The Statute of Autonomy of the Basque Country set the basis of what was to be the Settlement, it was still necessary to establish what the Settlement was to regulate and how this was to be done. It was therefore a decisive time in terms of Basque self-government. The Basque commission was presided by the person who was then Economy and Taxation Counsellor, Mr. Pedro Luis Uriarte, and integrated by representatives of the Basque Government and of the Statutory Diputations. The first part of the Settlement, concerning taxation normative capacity, was difficult to negotiate, but the second part, on the quota, was even more difficult.

Key Words: Economic settlement. Taxes. Fiscal. Quota. Basque Government.

Zubía, José Guillermo (Eusko Ikaskuntza. M^e Díaz de Haro, 11 – 1^o. 48013 Bilbao): Utilización de la capacidad normativa foral: características y valoración (Use of the Statutory normative capacity: characteristics and assessment) (Orig. es)

In: *Azpilcueta*. 18, 61-67

Abstract: The use of the fiscal normative faculty by statutory institutions, within the limitations both legally and internationally imposed to them, deserves a positive assessment. The creation of a common economic administration, the creation of instruments at the service of the economy, the economic development of the country, the proximity to the citizen... are all noteworthy achievements. Nevertheless, there are certain improvable aspects in which all of us will have to continue working.

Key Words: Economic Settlement. Normative capacity. Fiscal procedures. Fiscal harmonisation. Statutory diputations. General Taxation Law. Law of Historical Territories. Taxes. Indirect taxes. Societies tax. Income Tax.

Jurado, Nekane (Gobierno Vasco. Dpto. de Hacienda y Administración Pública. Dirección de Economía y Planificación. Donostia-San Sebastián, 2. 01010 Vitoria-Gasteiz): Utilización de la capacidad normativa foral: características y valoración (Use of the Statutory normative capacity: characteristics and assessment) (Orig. es)

In: *Azpilcueta*. 18, 69-74

Abstract: The Settlement and the Agreement are only a part of the framework of financial relations with the Spanish State and should be analysed from that perspective. Although the Settlement and Agreement recognise a certain normative capacity in taxation matters, this has proved to be constrained by limits derived from Spanish taxation legislation and by the very laws that regulate the Settlement and Agreement. The real capacity of the statutory institutions is much less than that which is usually asserted. With respect to the quota, the State is allowed to decide how much the statutory institutions should contribute, since the quota depends on what the State intends to spend.

Key Words: Economic settlement. Taxes. Fiscal. Quota. Basque Government.

Bilbao, Juan Miguel (Eusko Jauriaritza. Ogasun eta Herri Administrazio Saila. Donostia-San Sebastián, 1. 01010 Vitoria-Gasteiz): Las leyes quinquenales de cupo (The five-year quota laws) (Orig. es)

In: *Azpilcueta*. 18, 75-94

Abstract: Article 48 of the economic settlement foresees that the determination of the quotas is to be carried out through the corresponding five-year laws. These laws acquire, therefore, a substantial role in the articulation of the model designed in the settlement, configured as they are as a key element that guarantees certain stable financial relationships with the State. They constitute a compulsory point of convergence, every five years, and they are the adequate instrument set to accommodate and adapt, to the circumstances of the times, the whole of the financial relations between the State and the Basque Country.

Key Words: Economic settlement. Taxes. Fiscal. Quota. Basque Government. Five-year law.

Armendáriz, José Javier (Gobierno de Navarra. Dpto. Economía y Hacienda. Avda. Carlos III, 4. 31002 Iruñea): La perspectiva del Gobierno de Navarra (The perspective of the Government of Navarre) (Orig. es)

In: *Azpilcueta*. 18, 97-100

Abstract: The renewal of the 1969 Agreement and the approval of the 1990 Agreement were the consequence of the assumption of new jurisdictions by the Statutory Community of Navarre and of the need to proceed to harmonising adjustments to the old Agreement. With reference to the future, the Statutory Community will have to confront fiscal changes that are derived from the “New Economy” and, above all, from the dislocalisation of taxation. It will be necessary to reduce the conflict with the State Administration, clarifying problems like the concept of fiscal pressure that is being used by the State to appeal against statutory precepts.

Key Words: Economic agreement. Taxes. Fiscal. Statutory Government. Conflict.

Moreno, Javier (Diputación Foral de Gipuzkoa. Dpto. de Hacienda y Finanzas. Paseo Errotaburu, 2. 20018 Donostia): La utilización de la capacidad normativa por parte de los Territorios Históricos (The use of the normative capacity by the historical territories) (Orig. es)

In: *Azpilcueta*. 18, 101-104

Abstract: The development of statutory taxation regulation by the Historical Territories of the Basque Country has, logically, been connected to the normative capacity foreseen at all times in the Economic Settlement, which has been subjected to important changes over the last 20 years. Because of this, there have been four stages in the use of this normative capacity: assimilation of jurisdictions, normative development, conflict with the State Administration and important jurisdiction amplification.

Key Words: Normative capacity. Incentives. Social provision. Imposed on societies. IOUs. Resources. Fiscal pressure. Harmonisation.

Muguruza, Javier (Bizkaiko Foru Aldundia. Ogasun eta Finantza Saila. Camino de los Capuchinos, 2, 4. 48011 Bilbao): La evolución de la Administración Tributaria Foral (The evolution of the Statutory Tributes Administration) (Orig. es)

In: *Azpilcueta*. 18, 105-108

Abstract: Once the negotiation of the Settlement concluded, the Diputations had to organise their own administrations to cover the jurisdictions they had been attributed. In this task, it was decided to opt for transferring many of the officials that were performing such tasks in the State Territorial Taxation Delegations to the Diputations. Also, new jobs deemed indispensable to face the entrusted task were created. The Statutory Administrations are small, flexible administrations that are close to the citizen, in which there has always been the will to maintain direct and personal contact with the contributor. The fluid institutional relations existing between the different Diputations, which enormously facilitates the necessary co-ordination work, are also worth noting.

Key Words: Economic settlement. Taxes. Fiscal. Statutory taxation. Administration.

Barrasa, Ángel (Diputación Foral de Álava. Dpto. Hacienda, Finanzas y Presupuestos. Plaza de la Provincia, s/ n. 01001 Vitoria-Gasteiz): **El pacto fiscal suscrito por la Administración del Estado y el Gobierno Vasco** (The fiscal agreement subscribed by the State Administration and the Basque Government) (Orig. es)

In: Azpilcueta. 18, 109-111

Abstract: The so-called “fiscal peace” or “fiscal pact” collects the intention of the administrations that subscribed the agreement to put an end to a tremendous situation of litigiousness, and thus avoid taking to court conflicts that could emerge in the future. The reason for which the “fiscal pact” was subscribed is to be found in the threat that existed for statutory self-government in the then forthcoming pronouncement by the Court of Justice in Luxembourg. The only way to avoid the mentioned threat was to pact a solution. The State Administration then withdrew the appeals that had provoked the intervention of the Court of Luxembourg and the statutory institutions withdrew, at the same time, a series of appeals interposed against the State and abolished the fiscal incentives that had been questioned.

Key Words: Economic settlement. Taxes. Fiscal. Statutory estate. Appeals. Court.

Serena Puig, José María (Agencia Estatal de Administración Tributaria. General Chinchilla, 6. 31006 Iruña): **Reflexión sobre la capacidad normativa de las instituciones forales** (Reflection on the normative capacity of the statutory institutions)

In: Azpilcueta. 18, 113-117

Abstract: The interposition of appeals by the State using arguments based on effective fiscal pressure is not legally justified. Also the European harmonisation process can originate important consequences for the statutory institutions. Before of such these situations, the challenge of the administrations in terms of providing quality service to the contributors still subsists.

Key Words: Taxes. Fiscal. Statutory estate. Appeal. Administration.

Agirreazkuenaga, Joseba (Univ. del País Vasco. Fac. CC. Sociales y de la Comunicación. Dpto. Historia Contemporánea. Sarriena, s/ n. 48940 Leioa): **El fortalecimiento de las Haciendas Forales antes del Concerto (1878)** (The strengthening of the Statutory Tax Administrations before the Settlement (1878)) (Orig. es)

In: Azpilcueta. 18, 127-155

Abstract: The process of transition from the Spanish overseas Empire to a liberal state-nation demanded an in-depth taxation reform, impelled by ministers Mon and Santillán. The statutory regime derived from the 25-10-1839 law initiated a process of adjustment. An analysis is carried out of the evolution of statutory taxation up to first economic Settlement, as refers to their relations with State taxation and particularly in the reform carried out by Minister Mon. The strengthening of statutory taxation is also explained.

Key Words: State - nation. Statutory estate. Statutory regime. Economic settlement. Tax system.

Lasagabaster, Iñaki (Univ. del País Vasco. Fac. de CC. Económicas y Empresariales. Avda. Lehendakari Agirre, 83. 48015 Bilbao): Algunas consideraciones en torno al régimen jurídico de las normas forales (Some considerations on the legal regime of the statutory procedures) (Orig. es)

In: Azpilcueta. 18, 157-168

Abstract: It must be dreadfully difficult to manage taxation administration when this is to be done while being subjected to constant litigiousness and to a permanent judicialization of the system. The harmonising concepts created by jurisprudence lack grounds that could be used to solve future cases. As refers to the range of statutory procedures, in terms of legal technique there is no objection to carrying out the possibility of recognising in statutory procedures the force of law and submit them to the control of the Constitutional Court.

Key Words: Economic settlement. Taxes. Fiscal. Statutory norm. Regulation.

Zubiri, Ignacio (Univ. del País Vasco. Fac. de CC. Económicas y Empresariales. Avda. Lehendakari Agirre, 83. 48015 Bilbao): La presión fiscal efectiva (Análisis jurídico-económico) (Effective fiscal pressure (Legal - economic analysis)) (Orig. es)

In: Azpilcueta. 18, 169-177

Abstract: The Economic Settlement, both in the field of financial relations as well as in the area of fiscal autonomy, has reached notable results. In the area of fiscal autonomy, the Settlement has been translated into the collection of all the essential taxes in the fiscal system by the Diputations. In financial terms, the Settlement has also been very important. The Settlement determines the quota and implicitly determines the amounts the Historical Territories are to keep, that is to say, what is collected minus what is to be paid to the State.

Key Words: Economic settlement. Taxes. Fiscal. Quota. Financing.

Reta, Elena (Gipuzkoako Foru Aldundia. Dpto. Hacienda y Finanzas (4ª planta). Errotaburu, 2. 20018 Donostia): Las relaciones de los Territorios Históricos en el ámbito tributario (The relations of the Historical Territories in the tax field) (Orig. es)

In: Azpilcueta. 18, 179-189

Abstract: There is a contradiction between the concrete normative capacity of each Historical Territory and the points of connection of the various taxes that are regulated in the Law on the Settlement. Contributors sometimes find obstacles when they carry out a taxable action through a tax that is to be collected "by the corresponding Statutory Diputation". Neither the Settlement nor the Law on Fiscal Harmonisation, Co-ordination and Collaboration regulate anything on this matter. It would be more convenient to have the three Historical Territories agree on and regulate the various points of connection. The importance of the Taxation Co-ordination Organ should be emphasised when articulating the relations between the different Territories although the lack the capacity to reach agreements that may have legal consequences for the contributors should also be mentioned.

Key Words: Economic settlement. Taxes. Fiscal. Co-ordination. Harmonisation.

Azpilcueta. 18, 2002, 381-390

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Vivanco, José Luis (Diputación Foral de Bizkaia. Dpto. de Hacienda y Finanzas. Camino de Capuchinos, 2-4. 48013 Bilbao): La litigiosidad del Concierto Económico: la relación de los Territorios Forales con la Administración Estatal (The litigiousness of the Economic Settlement: the relations of the Statutory Territories with the State Administration) (Orig. es)

In: *Azpilcueta*. 18, 191-196

Abstract: The author maintains the thesis that the litigiousness between the State Administration and the Statutory Territories as consequence of the application of the Economic Settlement has been a constant characteristic in their relations as from the establishment of the Settlement in 1878 until the present day. Such litigiousness has increased as the jurisdictions in taxation matters assumed by the mentioned territories grew. The jurisdictions almost assumed as from 1st January 1998 brought about the judicialization of the Settlement at such level that it has been necessary put an end to this situation through the so-called “fiscal peace” reflected in the agreement of the Mixed Quota Commission on 18th January 2000.

Key Words: Economic Settlement. Resources. Litigiousness. Judicialization. Fiscal peace.

Zurita Sáenz de Navarreta, Miguel (Landwell – PricewaterhouseCoopers. General Álava, 10-6º. 01005 Vitoria-Gasteiz): Los entresijos del Concierto (Inside aspects of the Settlement) (Orig. es)

In: *Azpilcueta*. 18, 197-210

Abstract: The article starts by listing the inside characteristics of the statutory donations from Alava and, when pertinent, of the donations carried out jointly by the three Basque Provinces. The author then goes on to analyse the donations established in the Economic Settlements from 1878 until 1981.

Key Words: Inside characteristics. Statutory donation. Economic Settlement.

Ugalde, Pedro (Gobierno de Navarra. Dpto. de Economía y Hacienda. Avda. Carlos III, 4. 31002 Iruñea): La litigiosidad en relación con la fiscalidad navarra a partir del Convenio Económico de 1990 (Litigation reference to Navarran tax collecting as from the 1990 Economic Agreement) (Orig. es)

In: *Azpilcueta*. 18, 211-217

Abstract: The litigiousness between the State Administration and the Statutory Community, with respect to taxation aspects derived from the Economic Agreement dated 31st July 1990, has crystallised in appeals of unconstitutionality against another four Statutory Laws approved by the Parliament of Navarre.

Key Words: Litigiousness. Economic Agreement. Appeals of unconstitutionality.

Aizega, Joxe Mari (Mondragon Unibertsitatea. Larraina pasealekua, 16. 20560 Oñati): Balance de la intervención de las Instituciones Europeas (Balance of the intervention of the European Institutions) (Orig. es)

In: Azpilcueta. 18, 225-238

Abstract: The first step, in the process of elimination of fiscal distortions, was the dismantlement of interior frontiers and the disappearance of customs. The elimination of customs for inter-communitary operations was not sufficient. Physical, technical and fiscal obstacles also had to be eliminated. Even though the obstacles to commercial exchanges in the Interior Market can be of the most assorted nature, the analysis largely concentrated on fiscal distortions. Economic integration and exchange in the Interior Market are perceived as difficult, it is said, because of the existence of important differences in the tax systems of the various States. The performance of community institutions has pursued this objective all along these years.

Key Words: Fiscal harmonisation. State aids. Fiscal jurisdiction. Fiscal distortions.

López Rodríguez, Juan (Comisión Europea. Dirección General de Fiscalidad y Unión Aduanera. Wetstraat 200. B-1049 Bruselas): La interpretación de las Instituciones Europeas (Interpretation by European Institutions) (Orig. es)

In: Azpilcueta. 18, 239-252

Abstract: The main characteristic of community taxation law currently in force is that it has attempted to eliminate the existing fiscal obstacles for the attainment of an interior market. Another of the principles that conform the basis of existing regulation is the comparison of fiscal treatment of all the residents in the European Union. The fiscal package and mainly the Guidelines on savings and the code of conduct are the most important fiscal initiatives at present. Concretely, the code of conduct and the assumption by the State members of certain commitments concerning the criteria that must be observed in the exercise of their taxation policies and above all certain commitments not to adopt fiscal measures that could be considered pernicious for competition.

Key Words: Executive. Harmonisation. Fiscal competition. Code of conduct. Commission.

Creus, Antonio (Cuatrecasas. Velázquez, 63. 28001 Madrid): La actuación de los Territorios Forales en los procesos abiertos contra normas forales (The performance of the Statutory Territories in the processes opened against statutory procedures) (Orig. es)

In: Azpilcueta. 18, 253-258

Abstract: The Attorney General of the Luxembourg Court of Justice, Mr Saggio, has not understood the nature of the Settlement and confuses the existing regime prior to the adhesion of Spain to the European Community and other subsequent regional fiscal regimes that are certainly not comparable. The use of "State aids" by the European Commission should also be criticised. The fiscal incentives questioned by the Commission meant a deferment of taxation, they are generic and not selective measures and do not affect competition between companies.

Key Words: Statutory procedures. State aid. European Commission.

Araujo, Marcos (Garigues & Andersen. José Abascal, 45. 28003 Madrid): La actuación de los Territorios Forales en los procesos abiertos contra normas forales (The performance of the Statutory Territories in the processes opened against statutory procedures) (Orig. es)

In: *Azpilcueta*. 18, 259-268

Abstract: The performance of the Commission should be analysed within the context of the tension existing in the process of European construction: on one hand, there are community institutions that struggle to achieve European integration and, on the other hand, there are the States, who want to maintain their sovereignty. State aids currently do not demand the transfer of resources but a simple relief of charges that a company might otherwise have been compelled to sustain. To do so, it would be necessary to compare the situation after the aid received with the pre-existing situation. Furthermore, such aid should be specific. The Commission considers that they are fiscal incentives, because they have singled out a category of people benefited. It should be pointed out, however, that this is a necessary condition that happens in all fiscal incentives, since it is necessary to fulfil certain conditions to qualify to receive such aid.

Key Words: Harmonisation. Fiscal jurisdiction. State aid. Commission.

Fichera, Franco (Istituto Universitario Suor Orsola Benincasa. Corso Vittorio Emanuele 292. 80135 Napoli): Aiuti fiscali e Paesi Baschi (Fiscal subsidies and the Basque Country) (Orig. it)

In: *Azpilcueta*. 18, 269-295

Abstract: The author, after delimiting the relations between the European Union and the Basque Country, defines the notion of fiscal aid and sustains that the prohibition of State aid is applied to fiscal benefits, approved by any state, regional or local authority, and also to those approved in the Basque Country. The prohibition is a matter of principle and, under certain conditions, exceptions have been foreseen matters of regional aid, which could be applied to the Basque experience. Such financial assistance can constitute instruments of disloyal competition between States, and even some Basque measures have been included in the code of conduct.

Key Words: State aid. Fiscal incentives. Fiscal aids. Regional aids. Fiscal competition between States. Code of conduct.

Falcón y Tella, Ramón (Universidad Complutense de Madrid); Araujo, Marcos (Garrigues & Andersen. José Abascal, 45. 28003 Madrid); Creus, Antonio (Cuatrecasas. Velázquez 63. 28001 Madrid); Fichera, Franco (Istituto Universitario Suor Orsola Benincasa. Corso Vittorio Emanuele 292. 80135 Napoli); López Rodríguez, Juan (Comisión Europea. Dirección General de Fiscalidad y Unión Aduanera. Wetstraat 200. B-1049 Bruselas): Mesa Redonda. Posibilidades jurídicas y perspectivas de futuro del sistema de Concierto en la Unión Europea (Round Table. Juridical possibilities and future perspectives reference to the settlement system in the European Union) (Orig. es)

In: Azpilcueta. 18, 297-306

Abstract: The interpretation of the Attorney General of the Court of Luxembourg that qualified the mere difference in taxation between the statutory territories and the State as constituting state aid is unacceptable. One must become accustomed to having problems with Brussels and discussing things case by case, but not based on general interpretations like the one mentioned. The interpretations that the European institutions have been maintaining are disproportionately restrictive.

Key Words: Executive. Harmonisation. Fiscal competition. State aid. Commission.

Aizega, Joxe Mari (Mondragon Unibertsitatea); Albiztur, Xabier (PNV); Arrúe, José Luis (PP); García Ronda, Angel (PSE); Knörr, Gorka (EA); López Aulestia, Isabel (IU-EB); Olano, Xabier (EH): Mesa Redonda. Viabilidad del Concierto y Convenio Económico en la Europa del siglo XXI (Round Table. Viability of the economic settlement and agreement in 21st century Europe)) (Orig. es)

In: Azpilcueta. 18, 307-318

Abstract: Society unanimously recognises that the Settlement is a first-class political instrument for the Basques. All the necessary statements should be made in defence of the Economic Settlement. Also, an intelligent use thereof should be carried out, avoiding litigiousness in Settlement-related matters.

Key Words: Economic settlement. Taxes. Fiscal. Quota. Basque Government.

Jover, Pascual (Caja Vital Kutxa. Postas 13-15. 01004 Vitoria-Gasteiz): Consideraciones en torno al Concierto Económico Vasco (Considerations on the Basque Economic Settlement) (Orig. es)

In: Azpilcueta. 18, 325-337

Abstract: The Settlement is a key element of Basque autonomy. Its suppression would be a political fiction, which would be unintelligible from both a functional or a political point of view. It is not possible to conceive the Statute without the Settlement. This is a covenanted system, a fundamental element that goes beyond a system of decentralisation, producing the substitution of the State Taxation Authority by Statutory Taxation Authorities. The Statutory Territories have the competencies to regulate their own tax system that does not necessarily have to be identical to that of the State. Finally, it establishes a system of autonomy and fiscal responsibility. It is necessary to carry out an effort to explain the Economic Settlement in the European Union.

Key Words: Economic settlement. Taxes. Fiscal. Quota. European Union.

Rabanera Rivacoba, Ramón (Diputación Foral de Alava. Pza. de la Provincia, s/n. 01001 Vitoria-Gasteiz): *El futuro del Concierto Económico* (The future of the Economic Settlement) (Orig. es)

In: *Azpilcueta*. 18, 339-346

Abstract: The Settlement is a fundamental institution for Basque and Alava institutional development. The judicialisation of the Settlement should be avoided, placing the new settlement within the European Union. Also, the solidary and neutral nature of the quota should be emphasised, as it is fundamental to deepen institutional relations between the various administrations.

Key Words: Economic settlement. Taxes. Fiscal. Quota. European Union.

Monreal Zia, Gregorio (Univ. Pública de Navarra. Fac. de Derecho. Campus Arrosadia. 31006 Iruñea): *El origen y la construcción del derecho histórico del Convenio y de los Conciertos Económicos (1841-1991)* (The origin and construction of historical rights of the Economic Settlements and Agreements (1841-1991)) (Orig. es)

In: *Azpilcueta*. 18, 353-365

Abstract: The topic of the Economic Settlements in their public projection, in all types of conjunctures, is recurrent. Sometimes because the Settlements are going to be renewed, and sometimes because the general problem of the financing of autonomous communities is being discussed. This makes us pay attention to systems like those that exist in the Territories of Vasconia.

Key Words: Economic Settlements. Vasconia. Agreement. Tax.

López-Larrinaga, José Ramón (Alameda Mazarredo, 15-4^ºC. 48001 Bilbao): *La experiencia de un negociador del Concierto Económico* (The experience of a negotiator in the Economic Settlement) (Orig. es)

In: *Azpilcueta*. 18, 367-380

Abstract: It is necessary that the Basque Autonomous Community and the State reach an agreement because otherwise there could be a situation of a lack of power; and the Diputations would be legitimated to collect taxes and the State would lack the means to do so. The Settlement must have an undefined duration and, also, headway should be made in the mechanisms of collaboration between the State and the Basque institutions. Especially in European community matters, in which it is absurd to have institutions with full taxation competencies that cannot have their say in matters that affect them directly.

Key Words: Economic settlement. Taxes. Fiscal. Quota. Basque Government.