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Decision-making in the implementation of the BEPS 4 minimum standards

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Decision-making in the implementation of the BEPS 4 minimum standards

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Doctoral Seminar on International and EU Tax Law
30 June – 1 July of 2022



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GLOBTAXGOV
A NEW MODEL OF GLOBAL GOVERNANCE IN INTERNATIONAL TAX LAW MAKING



European Research Council
Established by the European Commission

Decision-making

The power to act in pursue of the common good of a *polity* is assigned to the notion of state.

Common values = shared identity = collective aims

Infusing these values through principles, regulations, laws, etc.

Changes in state's perspective recognizable through concrete actions and discourses in light of the context.



Polity: political entity capable of mobilizing resources through institutional social relations that organize its functioning around the development of a collective identity shared by their inhabitants.

<i>Territory</i>	<i>Government</i>	<i>Population</i>
<i>Control</i>	<i>Authority</i>	<i>Legitimacy</i>

Tax Sovereignty – BEPS minimum standards

Tax Sovereignty = *Autonomy*

- Taxation as prevailing viewpoint
- Limited to deal about issues of power over policy choices or design drafting
- BEPS influencing tax sovereignty
- What is the country concerned about?
- Which core value gets to be reinforced with the implementation?

Decision power in exchange of ...

- Control over the tax policy
- Revenue raising
- Taxing stateless money
- Cooperation – Public standing

Higher level of awareness → sovereignty as decision power + taxation

Higher level of awareness → not exclusively connected with effectiveness of the system

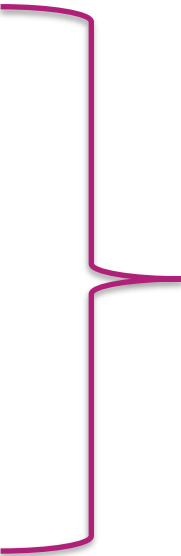
Tax Sovereignty – BEPS minimum standards

Action 5 – Harmful Tax Practices

Action 6 – Prevention of Tax Treaty Abuse

Action 13 – CbC reporting

Action 14 – Dispute resolution / Arbitration

- 
- Easy to get support
 - Background framework (limiting the taxpayer and the state)
 - Clarifying processes

How are these standards going to be appropriated by the countries?

Main research question

What does the implementation of the BEPS 4 minimum standards say about tax sovereignty?

How can the core values of autonomy, authority, legitimacy and control be used to clarify the tax sovereign choices made by Australia, Spain, the Netherlands, and Mexico when implementing the BEPS 4 minimum standards?

Hypotheses

- Differences in the rules at a national level. Less differences for EU members.
- Implementation of legal developments not directly requested by the minimum standards.
- The implementation choices made by each country can be clarified by applying a reasoning based on each one of the core values associated with tax sovereignty.
- The implementation of each minimums standard might be associated with one or more values of tax sovereignty.

Methodology

- Legal analysis
- Comparative law
- Process tracing
- Causal Mechanism

Desk Research

Expert Interviews

Nardin

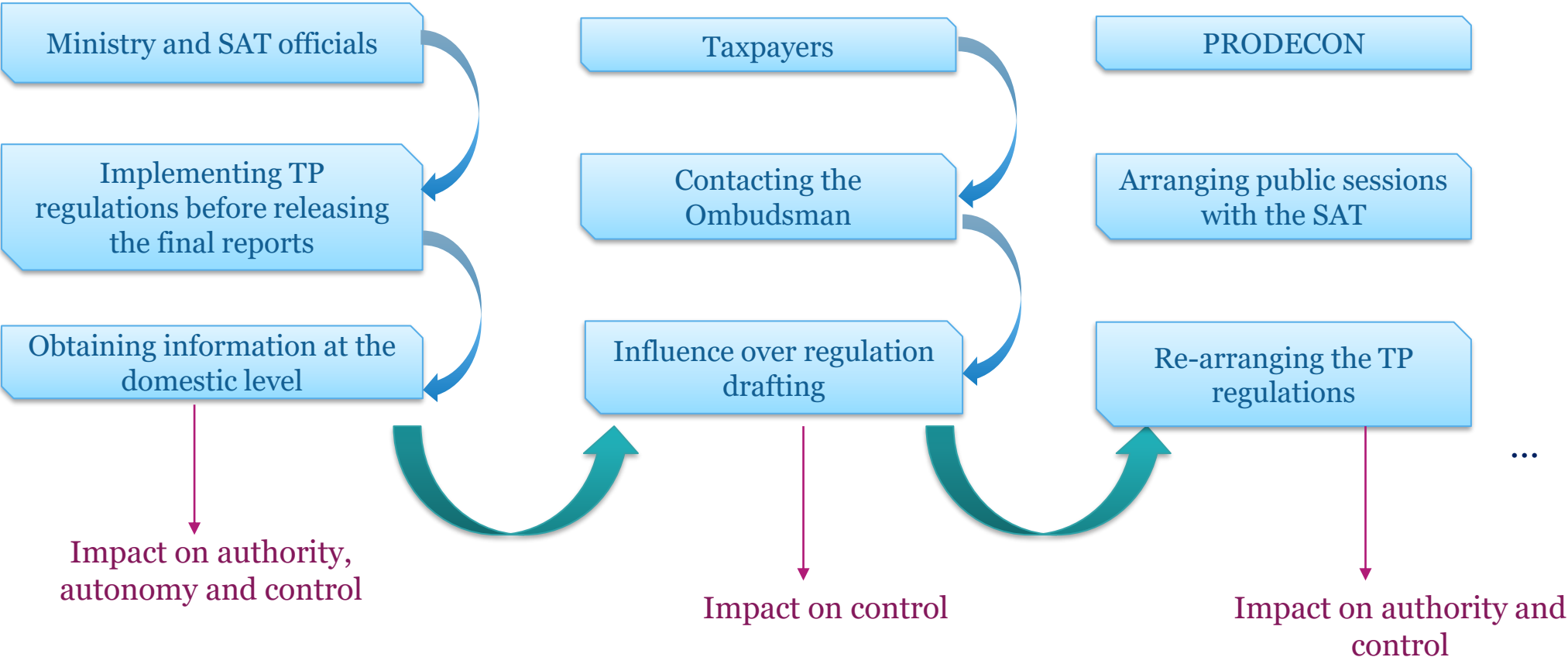
Sovereignty as an idea and its diffusion as a topic.

Krasner

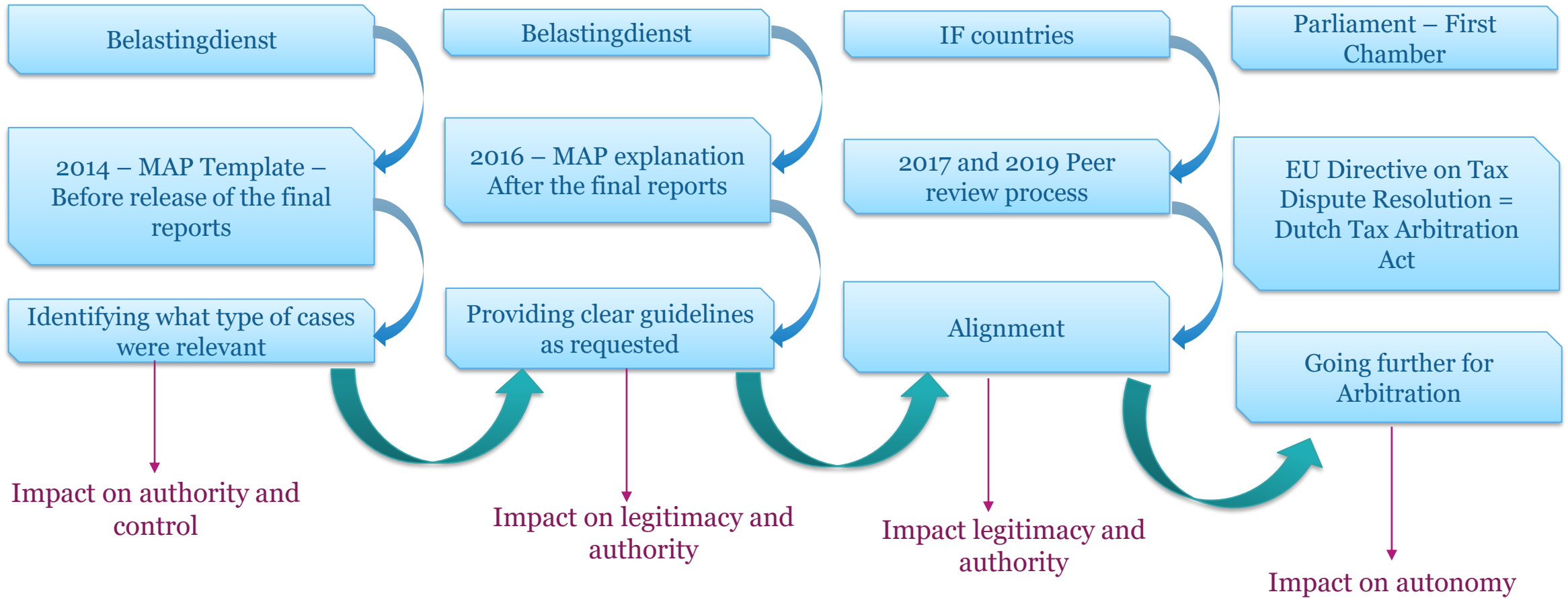
“The failure to recognize that the **norms and rules of any international institutional system**, including the sovereign state system, will **have limited influence** and always be subject to challenge because of logical contradictions.

International Legal
Westphalian
Domestic
Interdependence

Mexico - Action 13



The Netherlands – Action 14



Thank you for your attention

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