amministrativ@mente
Rivista scientifica trimestrale di diritto amministrativo
www.amministrativamente.com

UNIVERSITÀ DEGLI STUDI DI ROMA "FORO ITALICO"

Rivista scientifica trimestrale di diritto amministrativo (Classe A)

Pubblicata in internet all'indirizzo www.amministrativamente.com

Rivista di Ateneo dell'Università degli Studi di Roma "Foro Italico"

Direzione scientifica
Gennaro Terracciano, Gabriella Mazzei, Julián Espartero Casado

Direttore Responsabile
Gaetano Caputi

Redazione
Carlo Rizzo

FASCICOLO N. 1/2025

Estratto

Iscritta nel registro della stampa del Tribunale di Roma al n. 16/2009

ISSN 2036-7821

Comitato scientifico

Annamaria Angiuli, Antonio Barone, Vincenzo Caputi Jambrenghi, Francesco Cardarelli, Enrico Carloni, Maria Cristina Cavallaro, Guido Clemente di San Luca, Andry Matilla Correa, Chiara Cudia, Gianfranco D'Alessio, Mariaconcetta D'Arienzo, Ambrogio De Siano, Ruggiero Dipace, Valentina Maria Donini, Luigi Ferrara, Pierpaolo Forte, Gianluca Gardini, Biagio Giliberti, Emanuele Isidori, Bruno Mercurio, Francesco Merloni, Giuseppe Palma, Alberto Palomar Olmeda, Attilio Parisi, Luca Raffaello Perfetti, Fabio Pigozzi, Alessandra Pioggia, Helene Puliat, Francesco Rota, Josè Manuel Ruano de la Fuente, Leonardo J. Sańchez-Mesa Martĭnez, Ramón Terol Gómez, Antonio Felice Uricchio.

Comitato editoriale

Jesús Avezuela Cárcel, Giuseppe Bettoni, Sveva Bocchini, Salvatore Bonfiglio, Vinicio Brigante, Sonia Caldarelli, Giovanni Cocozza, Andrea Marco Colarusso, Sergio Contessa, Beatrice Coppa, Giuseppe Doria, Manuel Delgado Iribarren, Fortunato Gambardella, Flavio Genghi, Jakub Handrlica, Margherita Interlandi, Laura Letizia, Giuseppina Lofaro, Federica Lombardi, Gaetano Natullo, Carmen Pérez González, Giovanni Pesce, Benedetta Piazza, Marcin Princ, Sara Pugliese, Bianca Nicla Romano, Antonio Saporito, Giuliano Taglianetti, Esper Tedeschi, Simona Terracciano, Stefania Terracciano, Salvatore Villani.

Coordinamento del Comitato editoriale

Valerio Sarcone.

ISSN 2036-7821

amministrativ@mente
Rivista scientifica trimestrale di diritto amministrativo
www.amministrativamente.com

UNIVERSITÀ DEGLI STUDI DI ROMA "FORO ITALICO"

Administrative Enforcement and Taxpayer Protection: Towards a European Integrated Model

di Filippo Luigi Giambrone

(Ricercatore a tempo determinato presso l'Università degli Studi del Sannio di Benevento)

Sommario

1. Introduction – 2. The Administrative Nature of Tax Enforcement: National and Functional Foundations – 2.1. The Legal Framework and the Role of the Collection Agent – 2.2. The Doctrinal and Functional Logic of Administrative Enforcement – 2.3. A Comparative Outlook: OECD and EU Frameworks – 3. Afflictive Effects, Legal Limits, and the European Enforcement Gap – 4. The Role of EU Administrative Cooperation in Enforcement – 5. Italy's 2023–2024 Tax Collection Reform: A Formal Revision Without Structural Redesign – 6. Legal Remedies and Procedural Safeguards in Tax Enforcement – 7. Conclusions.

Abstract

This paper critically examines the evolving nature of compulsory tax enforcement, with particular focus on its predominantly administrative character across European jurisdictions, using Italy as a pivotal case study. The analysis highlights the progressive shift away from judicial oversight toward administrative autonomy in enforcing tax obligations, emphasizing the resulting tension between efficiency-driven enforcement and fundamental taxpayer protections. Recent Italian legislative reforms (Law No. 111/2023 and Legislative Decree No. 110/2024) are scrutinized, revealing their primarily formal adjustments rather than substantial structural improvements. At the European Union level, the paper discusses the role of directives on administrative cooperation (DAC), notably DAC6 and DAC7, underscoring how EU law increasingly relies on administrative collaboration, digital data exchanges, and mutual trust, substituting ex ante judicial controls with ex post administrative remedies. Evaluations by the European Court of Auditors (ECA Special Report 27/2024) and findings from the European Parliament highlight significant disparities and enforcement gaps among Member States, including Italy, which remains only partially integrated into cross-border enforcement frameworks. Drawing from comparative OECD analyses and EU institutional critiques, the paper ultimately proposes adopting clearer procedural guidelines, enhancing cross-border recovery mechanisms, and aligning national laws with EU best practices to ensure proportionality, transparency, and effective judicial remedies.

* *Il presente lavoro è stato sottoposto al preventivo referaggio secondo i parametri della double blinde peer review*

ISSN 2036-7821

1. Introduction.

The nature of compulsory tax enforcement raises foundational legal questions that cut across administrative, procedural, and constitutional dimensions. One of the most debated is whether such enforcement should be characterized as a judicial activity, subject to the guarantees of the ordinary courts, or as a predominantly administrative function, exercised by the tax authority or its delegates through unilateral acts. Across most European jurisdictions, including Italy, the latter view prevails: tax enforcement is understood as an extension of administrative authority, where the power to recover unpaid obligations stems directly from public law and is exercised without the need for prior judicial validation.[1]This administrative conception is grounded in several structural and functional features: the tax claim arises from a unilateral assessment; the enforcement title is issued and activated by the public authority; and the enforcement itself is initiated and conducted through powers that bypass the procedural guarantees typical of civil litigation. The involvement of the judiciary is often limited to collateral or exceptional roles — such as resolving opposition to enforcement or managing the distribution of proceeds — rather than constituting the core of the enforcement process.[2]The central reason why tax enforcement is predominantly administrative rather than judicial lies in its origin and structure: it is the product of unilateral fiscal determination by the public authority, and the state retains the sovereign power to self-execute its claims without seeking ex ante judicial approval. This model ensures efficiency, preserves the principle of legality in public administration, and reflects the long-standing administrative autonomy of tax collection. Judicial involvement, where present, is reactive and limited to safeguarding procedural rights after the fact — it does not form the core logic of the enforcement mechanism.[3]The Italian system exemplifies this model. The *Agenzia delle Entrate–Riscossione(The Italian Revenue Collection Agency)*, acting under the framework of Presidential Decree No. 602/1973 and Legislative Decree No. 46/1999, initiates enforcement through a *debit roll (ruolo)* that serves as an enforceable title. This enables the agency to carry out *property seizures*, *third-party attachments*, and *garnishment orders* without any need for prior judicial authorization.[4] The 2023–2024 reform (Law No. 111/2023 and Legislative Decree No. 110/2024), while aimed at increasing efficiency, largely reaffirmed the administrative nature of the process — for instance by consolidating IT platforms for notifications and reinforcing

[1] OECD, *Tax Administration 2024. Comparative Information on OECD and Other Advanced and Emerging Economies*, Paris, 2024, cap. 7.

[2] G. GLENDI, *La natura amministrativa dell'esecuzione forzata tributaria*, in Diritto e pratica tributaria, 2025, 1, pp. 125-154.

[3] EUROPEAN COMMISSION, *Annual Report on Taxation 2024*, COM(2024) 172 final, Bruxelles, 2024, p. 13.

[4] D.P.R. 29 settembre 1973, n. 602, artt. 25-50; D.lgs. 26 febbraio 1999, n. 46.

ISSN 2036-7821

the executively of digital payment notices.[5] However, Italy remains only partially integrated in EU-wide enforcement strategies, particularly with regard to cross-border administrative cooperation and automated mutual recovery systems.[6]At the European level, the European Parliamentary Research Service highlights the need for interoperable systems of mutual assistance and recognizable enforcement titles[7]. In particular, the Directive on Administrative Cooperation (DAC6) introduced mandatory disclosure rules for cross-border tax avoidance schemes, whose breach triggers administrative penalties. Yet the European Court of Auditors shows that fewer than half of EU Member States had introduced enforceable penalties for DAC6[7] non-compliance by 2023.[8] Italy, while compliant with reporting duties, has been slow to operationalise cross-border enforcement mechanisms under DAC6 and DAC7, and rarely issues automated requests for mutual recovery, relying instead on manual and non-standardised procedures.[9] The same report highlights systemic weaknesses in administrative enforcement infrastructures across Member States. Italy, for example, lacks interconnected platforms for cross-border debt collection and still relies on fragmented databases between central and local tax authorities[10]. The recent reforms have not yet resolved these issues. In some cases, requests for information or recovery submitted through the Central Liaison Office are processed with delays, and enforcement against non-resident taxpayers remains exceptionally rare, despite the availability of DAC tools[11].Globally, the trend toward administrative enforcement is also visible in the United States, where the Treasury's FY2024 Revenue Proposals outline a strategy to reinforce the administrative enforcement capacity of the Internal Revenue Service (IRS) without systemic judicial involvement. Key measures include the use of artificial intelligence to detect enforcement targets, automated levies for unpaid liabilities, and expanded third-party reporting obligations (particularly for digital platforms and payment processors). The IRS aims to reduce reliance on litigation by investing in predictive analytics and real-time data flows, preempting disputes through administrative precision rather than judicial review.[10]In light of these developments, this article sets out to critically re-examine the legal foundations of administrative tax enforcement as they are articulated within national legal

[5] L. 9 agosto 2023, n. 111; D.lgs. 29 luglio 2024, n. 110.

[6] EPRS, *Administrative Cooperation in the Field of Taxation. Implementation Appraisal*, PE 679.099, Bruxelles, 2021, p. 4; M. MARCHETTI, *L'esecuzione tributaria tra diritto amministrativo e diritto processuale civile*, in Rassegna tributaria, 2021, 5, pp. 1049-1070.

[7] F.L.GIAMBRONE, *Fiscalitá sostenibile e diritto di proprietá bin Europa: Sfide e opportunitá nell´era della transizione ecologica*, in Diritto e pratica tributaria, 2024 , No. 6, p. 1978 ff.

[8] CORTE DEI CONTI EUROPEA, *Relazione speciale 27/2024 – Lotta contro i regimi fiscali dannosi e la pianificazione fiscale aggressiva nell'UE: i progressi sono lenti, ma i rischi e le sfide permangono*, Lussemburgo, 2024, pp. 35-38.

[9] M. FRANSONI, *Sanzioni amministrative e cooperazione fiscale europea: criticità e prospettive*, in Rivista di diritto tributario internazionale, 2023, 2, pp. 217-240.

[10] U.S. DEPARTMENT OF THE TREASURY, General Explanations of the Administration's Fiscal Year 2024 Revenue Proposals, Washington D.C., 2024, pp. 3-10.

ISSN 2036-7821

systems, with particular attention to the Italian case. It further seeks to assess the extent to which existing enforcement models are aligned with European Union instruments of administrative cooperation and with the general principles governing tax governance at the supranational level. Finally, the article proposes a conceptual and regulatory framework aimed at guiding domestic reforms toward a more coherent, technologically integrated, and proportionate system of tax enforcement across the European Union.

2. The Administrative Nature of Tax Enforcement: National and Functional Foundations.

In the Italian legal system, tax enforcement is structured not as the continuation of a judicial process but as a distinct phase of administrative action. It is based on the unilateral authority of the financial administration to recover public claims through coercive means, without the need for prior judicial validation — a model rooted in the doctrine of *autotutela esecutiva* and consolidated through longstanding legislative practice.

2.1 The Enforcement Framework and the Role of the Collection Agent.

The legislative foundation of this structure is provided by Presidential Decree No. 602/1973 and Legislative Decree No. 46/1999**,** which establish that tax debts may be enforced directly by the collection agent without requiring preliminary judicial intervention. Enforcement is initiated by the *Agenzia delle Entrate–Riscossione* on the basis of an enforceable administrative title, such as the *ruolo* and the subsequent *cartella di pagamento*. These titles carry immediate legal effect, allowing for coercive measures including wage garnishments, asset seizures, and auctions.[11]This configuration reflects the principle of administrative self-protection, whereby the state exercises direct authority to secure its fiscal interests. The collection agent functions as a public instrumentality (*soggetto strumentale*), acting under legal mandate and the supervision of the Ministry of Finance, but without any delegation from the judiciary.[2] The agency operates *ex lege*, not *ex mandato iudicis*, and exercises its powers autonomously.[12]The role of the judiciary is confined to secondary phases of the procedure, such as when a debtor initiates an opposition under Articles 57–59 DPR 602/1973**,** or when a judge supervises the distribution of

[11] PRESIDENTIAL DECREE No. 602/1973; LEGISLATIVE DECREE No. 46/1999. The administrative titles (***ruolo***, a list officially establishing taxpayer debts, and the *cartella di pagamento*, a payment notice issued by the collection agency) are self-executing documents that permit direct enforcement measures without judicial authorization, significantly accelerating recovery processes.

[12] C. GLENDI, *Prolegomeni allo studio storico-sistematico dell'esecuzione forzata tributaria*, in Dir. prat. trib., 2023, 6, p. 2068. The expression ***ex lege*** emphasizes authority derived directly from legislative provisions, contrasting with ***ex*** *mandato iudicis*, which would require a judicial authorization.

ISSN 2036-7821

auction proceeds. These interventions are exceptional and reactive, not structurally integrated into the enforcement process.[13]Recent reforms — notably **Law No.** 111/2023 and Legislative Decree No. 110/2024 — have further clarified and strengthened the administrative nature of enforcement. These measures modernised the notification infrastructure and enhanced the executory status of digital payment notices, while improving access to real-time databases for asset tracing. However, they did not introduce any extension of judicial oversight in the core enforcement phase.[5]

2.2 The Doctrinal and Functional Logic of Administrative Enforcement.

Italian legal doctrine consistently qualifies tax enforcement as the final stage of a unilateral administrative procedure**,** grounded in the state's power to determine and recover tax obligations independently.[6] Its legitimacy derives from the formalised nature of the assessment, the legal force of the enforcement title, and the presumption of enforceability that attaches to fiscal claims.This model ensures functional coherence: placing enforcement within the administration guarantees efficiency, continuity, and control over the entire life cycle of the tax obligation.[14]It also reduces litigation and allows authorities to intervene promptly in cases of strategic default or evasion.[8] In this logic, the collection agent serves not as an adversary but as the longa manus of the public treasury.[15]While certain doctrinal voices have raised concerns — particularly about the limited scope of judicial opposition procedures under Article 57 DPR 602/1973 — the Constitutional Court and the Court of Cassation have upheld the model's compatibility with the principles of legality and due process, citing the adequacy of post-execution remedies.[16]

---

[13] R. D'ALONZO, *La conclusione del controllo fiscale come accertamento*, in Dir. prat. trib., 2023, 6, p. 2122. Judicial intervention is limited to reactive remedies such as opposition proceedings, aimed at challenging procedural irregularities or substantive illegitimacies after enforcement has commenced.

[14] F. TESAURO, *Istituzioni di diritto tributario*, Vol. 2, Milano, 2020, p. 254. The unilateral administrative procedure refers to actions independently initiated and conducted by the tax administration, excluding external judicial validation or prior checks.

[15] R. LUPI, *Manuale giuridico professionale di diritto tributario*, Milano, 2023, p. 382. Prompt administrative enforcement can significantly reduce tax evasion or deliberate delays in payment, ensuring fiscal discipline through timely recovery of due amounts.

[16] Corte Cost., sent. n. 144/2005; Cass., ord. n. 245/2019. In Court decision n. 144/2005, the Italian Constitutional Court clearly stated that administrative tax enforcement actions, even if carried out without preventive judicial intervention, fully comply with constitutional principles as long as adequate judicial remedies are guaranteed after the enforcement process has begun. Specifically, the Court held that the right to defense (Art. 24 Cost.) and due process standards (Art. 111 Cost.) do not require preventive judicial oversight of administrative enforcement acts, provided that taxpayers maintain effective access to judicial review to contest the legality, proportionality, and correctness of these acts subsequently. The Court further argued that the administrative enforcement mechanism serves legitimate state interests, including fiscal efficiency and timely collection of public revenues, and therefore does not inherently violate constitutional protections. The Court of Cassation, in ordinanza n. 245/2019, reinforced this jurisprudence, explicitly noting that post-execution judicial interventions adequately

ISSN 2036-7821

2.3 A Comparative Outlook: OECD and EU Frameworks.

The Italian model is consistent with international trends. According to the OECD Tax Administration 2024 report, over 85% of OECD and EU jurisdictions assign tax enforcement powers to administrative agencies.[11] These include powers of direct levy, attachment, and seizure — exercised without the need for prior court approval. In many countries (e.g., Denmark, Estonia, Sweden), these powers are enhanced by real-time digital access to debtor information and automation of enforcement workflows.[17]The European Union legal framework further reinforces this administrative approach. The Directive on Administrative Cooperation (DAC6) presupposes that Member States are able to respond swiftly and autonomously to information about cross-border tax arrangements. It explicitly builds on administrative enforcement capacity, not on judicial proceedings, and supports automated exchanges and follow-up actions among national authorities.[18]This reflects key principles of EU administrative law — effectiveness, proportionality, digital interoperability, and mutual recognition — all of which favour an administrative rather than judicial model. The European Commission has stressed the importance of integrated digital platforms and automated enforcement systems, yet the Italian framework still lags in terms of digital readiness and cross-border operational integration.[19]

3. Afflictive Effects, Legal Limits, and the European Enforcement Gap.

Although tax enforcement in Italy is formally classified as administrative and non-punitive, its legal structure and practical consequences raise significant doubts about the limits of this characterisation. Italian law defines afflictivity (*afflittività*) as a legal effect that goes beyond mere execution of a pre-existing obligation, acquiring a repressive or dissuasive function that brings it closer to the sphere of penal sanctions. This classification is not merely theoretical: when a measure is considered afflictive, it

---

fulfill constitutional requirements, including proportionality and legal certainty. The Cassation Court emphasized that judicial oversight, even if subsequent and remedial rather than preventive, effectively mitigates potential abuses or excessive administrative measures, thus providing taxpayers with sufficient procedural safeguards consistent with constitutional standards. In this context, both courts reaffirmed the principle that the absence of ex-ante judicial validation of enforcement procedures does not constitute a breach of constitutional guarantees, provided ex-post judicial protections remain accessible, effective, and capable of adequately remedying administrative illegality or excess.

[17] OECD, *Tax Administration 2024: Comparative Information on OECD and Other Advanced and Emerging Economies*, OECD Publishing, Paris, 2024, pp. 12-15.

[18] OECD, *Tax Administration 2024*, cit., pp. 15 ss. Digitalization and real-time access to financial information enable immediate and effective administrative actions, significantly enhancing enforcement efficiency and reducing opportunities for evasion.

[19] IPOL STUDY, PE 749.502, May 2023, pp. 6-10. Digital interoperability describes integrated electronic platforms that enable effective and swift administrative collaboration among EU tax authorities, significantly improving cross-border enforcement effectiveness.

ISSN 2036-7821

must comply with higher constitutional guarantees, including the principles of effective judicial protection (Art. 24 Cost.), fair process (Art. 111 Cost.), and proportionality under Article 3 Cost. and Article 6 ECHR.[20]In the case of the *Agenzia delle Entrate–Riscossione*, its powers derive from Presidential Decree No. 602/1973 and Legislative Decree No. 46/1999, which grant the agency direct coercive authority based on administrative enforcement titles (e.g. *ruolo*, *cartella di pagamento*), without the need for prior judicial intervention. Enforcement actions — including salary garnishment, property seizure, and bank account freezing — are presumed lawful and enforceable *ex lege*. However, while this system ensures administrative efficiency, it has also led to criticism regarding the limited procedural remedies available to the taxpayer. The Italian Court of Cassation has consistently reaffirmed the administrative nature of tax enforcement, holding that it does not fall within the scope of civil execution and does not require preventive judicial oversight.[1] However, scholars and lower courts have increasingly questioned whether this model adequately safeguards fundamental rights, especially when the material impact of enforcement is equivalent to that of a sanction.[21]Particularly controversial is Article 57 DPR 602/1973, which significantly narrows the grounds on which the debtor may challenge enforcement acts. Opposition is restricted to defects in the enforcement title or formal irregularities, excluding broader objections concerning the existence or amount of the tax debt.[3] This raises concerns of compatibility with the principle of full defence (*diritto di difesa piena e effettiva*) and with the evolving jurisprudence of both the Italian Constitutional Court and

[20] The concept of ***afflittività*** (afflictivity) in Italian administrative and constitutional law refers specifically to administrative measures whose concrete impact surpasses the mere procedural objective of recovering a debt. These measures become afflictive when their real-world consequences impose additional burdens—economic, psychological, or reputational—on the taxpayer, going beyond simple restitution of owed amounts and carrying an explicit or implicit punitive, deterrent, or repressive purpose. Consequently, when administrative enforcement acquires afflictive characteristics, it automatically engages constitutional principles requiring enhanced procedural guarantees. Among these principles are: the right of defense and effective judicial protection (Art. 24 Italian Constitution), the guarantee of due process and a fair trial (Art. 111 Italian Constitution), proportionality and reasonableness (Art. 3 Italian Constitution), and similarly stringent guarantees mandated by Article 6 of the European Convention on Human Rights (ECHR). This doctrinal interpretation is widely discussed in Italian administrative and constitutional scholarship, notably by authors such as GALLO (*Riformare il processo tributario*, 2022) and GLENDI (*Prolegomeni allo studio storico-sistematico dell'esecuzione forzata tributaria*, 2023), who argue extensively that administrative measures must always remain proportionate and subjected to rigorous judicial oversight whenever they surpass mere restorative functions and enter the punitive domain.

[21] Corte di Cassazione, sez. un., ord. n. 7822/2020. This key ruling from the Italian Supreme Court clearly reaffirmed the established principle that tax enforcement, governed primarily by Presidential Decree No. 602/1973, does not constitute a civil execution requiring preventive judicial authorization. Rather, according to the Court, administrative enforcement is presumed ex lege lawful, reflecting an implicit trust in public administration to execute enforcement in good faith and in accordance with the rule of law. However, doctrinal critique highlights that this ruling significantly limits the preventive judicial scrutiny of potentially excessive administrative actions, effectively shifting the judicial role to ex-post remedial interventions only after coercive measures are already executed.

ISSN 2036-7821

the European Court of Human Rights[22], which require proportionate and reviewable restrictions when fundamental rights are affected.[23]The Constitutional Court, while upholding the core structure of administrative enforcement (e.g. sent. n. 144/2005, ord. n. 245/2019), has emphasized that the exercise of coercive power by the public administration must remain subject to reasonableness, proportionality, and access to effective remedies, even where ex ante judicial intervention is not provided. The Court has also stressed that procedural limitations cannot neutralise the right to oppose clearly illegitimate enforcement acts. Moreover, in situations involving vulnerable taxpayers or disproportionate measures — such as seizure of subsistence-level assets — the enforcement procedure may in practice acquire an afflictive intensity, even if its formal aim is limited to recovery. In such cases, the absence of judicial balancing mechanisms amplifies the risk of constitutional violations, due to a structural gap in protecting essential human rights at the enforcement stage.[24]These national concerns mirror a broader tension at the European level. Instruments such as DAC6 and DAC7 introduce administrative penalties for non-compliance with reporting duties, but as the European Court of Auditors noted in Special Report 27/2024, fewer than half of Member States had operationalized effective sanctions by 2023.[5] Some applied purely symbolic penalties, while others failed to define them altogether. In most cases, actual enforcement — especially cross-border — was rare or absent. This creates a structural paradox: administrative penalties are introduced with the rhetoric of afflictively — dissuasive,

[22] Corte Costituzionale, sentenza n. 45/2010; ECtHR, *Jussila v. Finland*, no. 73053/01. Both the Italian Constitutional Court and the European Court of Human Rights (ECtHR) consistently emphasize that any limitation placed on the fundamental right to effective defense and judicial protection must strictly adhere to the principles of proportionality and substantive effectiveness. In *Jussila v. Finland*, the ECtHR specifically clarified that measures formally classified as "administrative" must still guarantee procedural rights equivalent to penal measures when they possess substantive punitive effects, underlining that the nature and severity of consequences rather than formal labels determine applicable procedural safeguards.

[23]Corte Costituzionale, sentenza n. 144/2005; Corte di Cassazione, ordinanza n. 245/2019. Both rulings firmly establish the constitutional compatibility of Italy's administrative tax enforcement model, emphasizing the sufficiency of post-execution judicial remedies. The Constitutional Court (sent. 144/2005) explicitly recognized that preventive judicial authorization is not constitutionally mandated, provided effective judicial review remains available subsequent to enforcement measures. Similarly, Cassation Court's ordinanza n. 245/2019 reinforced this position, asserting that post-execution judicial scrutiny adequately ensures the proportionality and legality of administrative actions. Nevertheless, extensive scholarly criticism persists, as many authors—including GALLO (*Le ragioni del fisco*, 2011), BASILAVECCHIA (*Corso di diritto tributario*, 2022), and LA ROSA (*La tutela del contribuente*, 2001)—question whether reactive judicial remedies, offered only after severe administrative coercion, sufficiently safeguard fundamental rights or prevent irreversible harm.

[24] Tribunale di Roma, ordinanza 19 febbraio 2021. This judicial decision exemplifies lower courts' concerns regarding disproportionate administrative enforcement. Specifically, the ruling addressed cases where coercive measures such as asset seizures directly threatened the subsistence-level assets of vulnerable taxpayers (e.g., pension accounts, minimum livelihood funds). The court recognized explicitly that these enforcement actions, though formally administrative and non-punitive, produced de facto punitive and socially severe consequences, thereby necessitating heightened judicial scrutiny to ensure adherence to constitutional principles of human dignity, social solidarity, and proportionality.

ISSN 2036-7821

proportionate, effective — but in practice remain unenforced or inconsistently applied. Italy, while compliant in terms of DAC6 transposition, has been hesitant in activating mutual assistance for cross-border penalty recovery under Directive 2010/24/EU, relying instead on manual procedures and displaying limited institutional readiness to coordinate such enforcement.[25]The resulting system is one in which national enforcement can be materially afflictive without the corresponding safeguards, while European penalties lack practical afflictivity, despite formal classifications. In both cases, the legal function of enforcement is misaligned with its effects — eroding legal certainty, procedural justice, and mutual trust among Member States.[26]Against this backdrop, both Italian and EU-level frameworks require a clearer definition of when administrative enforcement becomes substantively afflictive, and what procedural guarantees must follow. As affirmed by the Court of Justice of the European Union in *Lukács* (C-489/10), formal classification is insufficient: what matters is the nature, severity, and legal consequences of the measure.[27] When administrative enforcement crosses this functional threshold, heightened constitutional and supranational guarantees must be triggered, including proportionality review, access to full defence, and judicial remedies capable of suspending or reversing disproportionate outcomes.[28]

4. The Role of EU Administrative Cooperation in Enforcement.

The European Union's model of tax enforcement has progressively shifted toward a system rooted in administrative cooperation rather than judicial control. This shift is

[25] EUROPEAN PARLIAMENTARY RESEARCH SERVICE (EPRS), *Advances in administrative cooperation in the field of taxation*, PE 679.099, April 2021, pp. 2-3. This analysis underscores institutional and procedural shortcomings in Member States, particularly Italy, noting the reliance on manual, non-automated procedures in cross-border enforcement of penalties, thus weakening the afflictive and deterrent potential of administrative sanctions envisaged by DAC provisions.

[26] The disparity between formal classification and practical enforcement reflects a critical misalignment, undermining EU legal integration, mutual trust among Member States, and taxpayer confidence in fair and predictable tax administration. This misalignment demands clearer legislative and procedural guidance to ensure that administrative enforcement actions consistently adhere to EU standards of effectiveness, proportionality, and procedural fairness.

[27] CJEU, Lukács, Case C-489/10. This key CJEU ruling decisively emphasizes that formal classification as "administrative" does not determine the procedural rights applicable under EU law; rather, the actual substantive nature and severity of a measure's consequences are decisive. Thus, administrative enforcement actions having punitive or highly afflictive impacts must adhere to the procedural protections typical of criminal or quasi-criminal sanctions.

[28] The Lukács principle explicitly requires Member States to provide robust and immediate judicial protection mechanisms, capable of suspending, reviewing, or reversing disproportionately afflictive administrative enforcement actions. This procedural safeguard is crucial for maintaining proportionality and ensuring fundamental rights protection across EU jurisdictions.

ISSN 2036-7821

most visible in the evolution of the Directive on Administrative Cooperation (DAC)[29], a legal framework that has become central to cross-border tax compliance within the Union. Introduced with Directive 2011/16/EU, commonly referred to as DAC1, the instrument initially focused on the exchange of tax information upon request. Over time, however, it has been revised and expanded through a series of subsequent directives—DAC2[30] through DAC8[31]—each of which has added new layers of cooperation, data-sharing, and reporting obligations.[32]DAC2 implemented automatic exchange of financial account information using the OECD Common Reporting Standard. DAC3 introduced the exchange of advance cross-border tax rulings and advance pricing arrangements. DAC4[33] targeted multinational enterprises by introducing country-by-country reporting. DAC5 expanded access to anti-money laundering information for tax authorities. DAC6 marked a turning point by mandating the disclosure of potentially aggressive cross-border tax planning arrangements. DAC7 imposed reporting duties on digital platforms, obligating them to communicate information about sellers using their services. DAC8, recently adopted, extends administrative reporting obligations to crypto-asset and e-money service providers. Across all these stages, the logic of DAC remains constant: Member States are expected to build an infrastructure of real-time tax transparency and compliance through mutual administrative action—not judicial enforcement. This administrative character of EU tax cooperation has been explicitly recognised and reinforced by European institutions. The European Parliamentary Research

[29] F.L.GIAMBRONE, *Introduction into an innovative vision of the European sport framework from a taxation and fiscal angle. New possible scenarios regarding the European sport politics and policy, in Amministrativamente,* 2023, No. 2,p. 552 ff.

[30] DAC2 (Directive 2014/107/EU) operationalized automatic exchange of financial account information, implementing the OECD's Common Reporting Standard (CRS). The CRS framework, adopted globally, standardizes reporting procedures, obligating financial institutions across jurisdictions to systematically provide information on foreign-held financial accounts, significantly improving international tax transparency and enforcement efficiency (OECD, *Automatic Exchange Portal: Implementation Handbook*, 2018).

[31] DAC8 (Directive 2022/2553/EU), recently adopted, applies administrative reporting obligations explicitly to crypto-assets and e-money providers. This directive addresses the increasing significance of crypto-assets in international tax compliance and seeks to close existing compliance gaps in digital financial services (European Commission, *Proposal COM/2022/707 final*, 2022; Deloitte, *DAC8 Proposal and Crypto-assets: EU Expands Administrative Cooperation*, 2022).

[32] Directive 2011/16/EU (DAC1) initially established the fundamental legal framework for administrative cooperation, primarily focusing on exchange of information upon request. Over time, through subsequent directives (DAC2–DAC8), the scope significantly expanded, reflecting OECD and G20-driven transparency initiatives aimed at combatting tax evasion and aggressive tax planning practices internationally (OECD, *Standard for Automatic Exchange of Financial Account Information*, 2014; KPMG International, *EU Mandatory Disclosure Requirements: DAC6 Implementation*, 2021).

[33] DAC4 (Directive 2016/881/EU) introduced mandatory country-by-country reporting for multinational enterprises, directly implementing OECD's BEPS Action 13 recommendations. Its objective is to provide tax authorities with comprehensive visibility into multinational groups' global allocation of income, taxes, and economic activities, substantially aiding in the detection of profit shifting (OECD, *Transfer Pricing Documentation and Country-by-Country Reporting: Action 13*, 2015).

ISSN 2036-7821

Service, in its 2021 Briefing on administrative cooperation, describes how cross-border audits, real-time data sharing, and the use of digital platforms are now standard instruments of transnational enforcement. The EPRS emphasises that these mechanisms rely on direct engagement between tax authorities across borders, using standardised formats and protected communication channels. Mutual trust and interoperability are treated as functional equivalents of judicial control, replacing ex ante validation by courts with systemic reliance on the legality and proportionality of administrative action. In this sense, EU tax enforcement is becoming a networked administrative regime, where legal authority is exercised horizontally by Member State administrations rather than vertically through the judiciary.This preference for administrative coordination over judicial involvement is also reflected in the jurisprudence of the Court of Justice of the European Union. In Case C-623/22[34], the Court examined the legality of a national penalty imposed for failure to comply with DAC6 disclosure requirements. The question was whether the absence of prior judicial review infringed the right to an effective remedy under Article 47 of the Charter of Fundamental Rights. The Court rejected this argument, affirming that administrative penalties of this nature may be lawfully imposed without ex ante judicial validation, as long as they are proportionate and subject to subsequent judicial challenge. The ruling confirmed that the EU legal order accepts administrative enforcement mechanisms as constitutionally legitimate, provided they respect minimum procedural safeguards and do not cross into criminal sanction territory. This case confirms the EU's structural preference for fast, self-executing administrative responses to tax non-compliance, especially where cross-border dimensions and urgency preclude lengthy court proceedings .Crucially, this entire administrative framework depends on mutual assistance instruments functioning effectively. The cross-border recovery of tax claims, including those involving administrative penalties, is governed by Directive 2010/24/EU, which allows tax authorities to transmit recovery requests to other Member States and have them enforced as if they were local claims. No judicial review of the foreign title is required. Instead, the system rests on reciprocal trust in the legal validity and enforceability of administrative acts issued in other jurisdictions. However, this model presupposes not only legal convergence but also administrative capacity and digital interoperability.Recent evaluations of the system reveal significant limitations in practice. The European Court of Auditors, in its Special Report 27/2024, found that

[34] Court of Justice of the European Union (CJEU), Case C-623/22 (2023). This ruling explicitly confirmed that national administrative penalties related to DAC6 compliance could lawfully be imposed without prior judicial review, provided they satisfy proportionality, clarity, and subsequent judicial review criteria under Art. 47 of the EU Charter of Fundamental Rights. The judgment underscores the EU's administrative enforcement model's legal acceptability, emphasizing that administrative expediency and transnational cooperation legitimately justify ex-post rather than ex-ante judicial oversight mechanisms.

ISSN 2036-7821

fewer than half of EU Member States had introduced operational penalties for DAC6 non-compliance. Even where penalties were defined in law, their application was inconsistent, enforcement rare, and coordination across borders almost nonexistent. The report underlined that while Member States may formally comply with DAC obligations, the lack of harmonised sanction regimes and limited use of recovery tools substantially weaken the system's effectiveness. The ECA warned that administrative penalties cannot function as real deterrents unless they are effectively enforced, including in cross-border scenarios.[35]This enforcement deficit is particularly visible in the Italian context. Although the country has transposed DAC6 and DAC7, and possesses a centralized administrative enforcement apparatus, the use of mutual recovery mechanisms remains limited.[36] Requests for cross-border enforcement are often processed manually, and communication channels between the Italian administration and other Member States are not fully digitized. As a result, enforcement of DAC penalties from or to Italy remains the exception, not the norm.[37]In sum, EU tax enforcement relies increasingly on administrative mechanisms based on cooperation, automation, and digital data exchange. Courts are no longer central to the enforcement phase; instead, Member States are expected to act autonomously on the basis of information exchanged through the DAC framework. While this model offers speed and integration, it also demands high levels of trust, proportionality, and technical coordination. Case law such as C-623/22 confirms the legal permissibility of this administrative turn, but institutional reports highlight the operational fragility that continues to undermine its practical impact. The challenge for the Union, therefore, is not only to legislate for administrative cooperation but to ensure that it is institutionally and technologically enforceable across the territory of the EU.[38]

[35] Cfr. F.L.GIAMBRONE Tax Treatment of professional football players remuneration in Germany and Italy. A comparative and EU analysis of a sector with tax gaps from a fiscal and administrave angle, in, Amministrativamente, 2022, No.1, p. 243 ff.

[36] The European Parliament's IPOL Study (PE 749.502/2023) explicitly identifies integrated digital systems, real-time data sharing, and structured administrative cooperation as essential components for modern tax enforcement. The study recommends that Member States adopt comprehensive digital infrastructures and clear procedural protocols, citing advanced practices from the Netherlands and Germany as exemplars for enhancing compliance effectiveness and taxpayer fairness across the EU.

[37] F.L.GIAMBRONE, *The taxation implications of the mobility guarantees of the Agreement on the Free Movement of persons between Switzerland and the EU in the experience of the German taxation system,* in Amministrativamente, 2023, No.1, p. 165 ff.

[38] Despite clear legal foundations, the practical impact of EU administrative cooperation critically depends on robust operational capacities and technical interoperability among national administrations. Institutional reports, including those by the European Court of Auditors and the EPRS, consistently emphasize that legislative compliance alone is insufficient without operational investments in digital infrastructure, standardized communication channels, and integrated administrative protocols—elements necessary to achieve effective and consistent enforcement across the Union.

ISSN 2036-7821

5. Italy's 2023–2024 Tax Collection Reform: A Formal Revision Without Structural Redesign.

Italy's most recent reform of its tax enforcement regime, enacted through Law No. 111 of 9 August 2023 and implemented via Legislative Decree No. 110 of 29 July 2024, was officially presented as part of a broader effort to modernise the fiscal system. However, the reform as applied to the phase of forced tax collection has proven to be modest in scope and disappointing in effect. Despite the declared aims of simplification, effectiveness, and integration of guarantees, the actual legislative outcome reveals a formal update that avoids any real confrontation with the structural dysfunctions of the enforcement framework.[39]The enabling law indicated, among its priorities, the revision of collection procedures by making them "simpler, more effective, digital and guaranteed" (Art. 21, para. 1, lett. a).[40] Yet the delegated legislator limited itself to modifying only a handful of provisions of Presidential Decree No. 602/1973. Article 18 was replaced with a more detailed rule on the content of the payment notice, including the requirement to specify the legal basis of the debt and the reasons for non-payment.[41] Article 19 was amended to include a principle of gradual enforcement, urging the collection agent to privilege non-invasive measures over direct execution[3]. Article 57-bis was inserted to reaffirm principles of proportionality, transparency and reasonableness, while Article 75-bis introduced an obligation to notify the taxpayer of imminent enforcement actions at least five days in advance, save for urgent cases[4]. However, these adjustments largely reiterate principles already affirmed in case law or practice, and do not resolve the core pathologies of the current model.[42]One of the most striking omissions concerns

[39] Law No. 111/2023 and Legislative Decree No. 110/2024 were introduced as significant steps toward modernising Italy's tax collection procedures. However, scholarly analysis (e.g., Marino, 2025; Fedele, 2022; Carinci, 2023) argues that the reform is essentially formalistic, merely restating principles already established by constitutional jurisprudence and administrative practice without substantially modifying the institutional or procedural framework. Specifically, Carinci emphasizes the missed opportunity for procedural consolidation and digital integration, underscoring persistent structural inefficiencies.

[40] Law No. 111 of 9 August 2023, *Delega al Governo per la riforma fiscale*, Gazzetta Ufficiale No. 186 of 10 August 2023, Art. 21(1)(a).

[41] Legislative Decree No. 110 of 29 July 2024, *Attuazione della legge n. 111/2023 in materia di riscossione*, Gazzetta Ufficiale No. 180 of 2 August 2024, Art. 1(1), which replaces Art. 18 of Presidential Decree No. 602/1973; Art. 18 DPR 602/1973, as revised, mandates specifying the legal basis and reasons for the tax claim in payment notices. This procedural update, while clarifying formal requisites, has been critiqued for failing to introduce real innovations regarding taxpayer rights or procedural fairness. For instance, Beghin (2024) notes that similar obligations were already implicit within existing jurisprudence and administrative instructions, thus reducing the reform's practical impact.

[42]Art. 19 DPR 602/1973 amendment introduces the principle of gradual enforcement, urging prioritisation of non-invasive measures. Although seemingly beneficial, such a principle aligns closely with prior administrative practices and judicial interpretation of constitutional proportionality (Boria, 2023; Fransoni, 2022). Fransoni

ISSN 2036-7821

the legal regime of administrative self-protection. Despite the reform of the Taxpayer's Bill of Rights (Law No. 212/2000), which introduced Article 10-quater requiring the annulment of manifestly unlawful acts, the 2024 decree does not extend such duty to enforcement acts[5]. As a result, the collection agent retains wide unilateral powers, without any positive obligation to withdraw or suspend enforcement based on evident errors or illegitimacies. This omission is even more problematic considering the irreversible patrimonial consequences of execution, such as garnishment, administrative lien, or forced sale.[43]Equally problematic is the continued normative fragmentation of tax enforcement titles. The coexistence of the traditional tax roll, the fiscal injunction, and the hybrid executive tax assessment has generated overlapping procedures, unclear legal effects, and a multiplication of enforcement instruments. No attempt has been made to codify a unified tax enforcement title or to specify the procedural consequences of failing to challenge such titles in a timely manner. The current system thus allows the accumulation of unilateral enforcement acts, some of which possess quasi-judicial authority without the procedural guarantees typical of a judicial process.The reform also failed to address the fundamental problems associated with jurisdiction and judicial remedies. There was no modification of Article 2 of Legislative Decree No. 546/1992 or Article 57 of Presidential Decree No. 602/1973. As a result, taxpayers remain subject to a disorganised and often contradictory framework: challenges to the enforcement itself (under Article 615 of the Code of Civil Procedure), to specific acts (Article 617), or to the underlying assessment, fall under different procedural and jurisdictional tracks.[44] The lack of legislative coordination fosters forum shopping, delays, and jurisdictional conflicts between tax and ordinary courts. No provision was introduced to consolidate or clarify which court has jurisdiction in cases of defective service, prescription, or nullity of the title. [45]The decision of the Court of

specifically critiques the vague and aspirational nature of the amendment, arguing for more explicit procedural constraints and clearer administrative guidelines.

[43] Despite reforming the Taxpayer's Bill of Rights (Law No. 212/2000, Art. 10-quater), no corresponding administrative self-protection duty extends explicitly to enforcement acts. Del Federico (2024) critiques this omission, highlighting significant taxpayer vulnerability in cases of manifest administrative errors, unlawful seizures, or excessive garnishments, recommending urgent statutory reform to expand obligatory self-protection to enforcement procedures.

[44] Procedural fragmentation under Articles 615, 617 CCP and Legislative Decree No. 546/1992 fosters litigation complexity, delays, and jurisdictional confusion. Ferroni (2024) emphasizes how this fragmentation significantly weakens the taxpayer's right to effective judicial protection, calling for legislative consolidation to clearly define jurisdictional boundaries and procedures, reducing systemic uncertainty and litigation.

[45] The introduction of Articles 57-bis and 75-bis DPR 602/1973 explicitly mandates transparency, proportionality, and prior notice of enforcement actions. However, Italian scholars (Boria, 2023; Salvini, 2024) criticize these additions as largely symbolic reiterations of constitutional and European human rights standards without meaningful improvement in practical safeguards or ex-ante judicial controls, leaving taxpayers vulnerable to potentially excessive administrative actions; Cass., ord. No. 2093/2023 explicitly restricts judicial roles to post-enforcement interventions, affirming that preventive judicial oversight is unnecessary. This stance

ISSN 2036-7821

Cassation, No. 2093 of 24 January 2023, reaffirmed the administrative nature of enforcement up to the sale of the asset, with judicial intervention playing only an ancillary role[7]. Yet even this doctrinal position highlights the need for procedural safeguards to be available before irreversible actions are taken.[46]Moreover, the reform has not addressed the gap between the conclusion of the tax assessment and the initiation of forced collection. No provision has been introduced to coordinate the timing of assessment finality with the start of enforcement. The collection agent may proceed even where judicial appeal is pending or where the tax authority is re-examining the act through administrative self-protection. The system lacks automatic suspension mechanisms and continues to rely on discretionary conduct, which increases litigation and undermines legal certainty.[47]Finally, the reform left intact the institutional fragmentation of the collection process. The functional separation between the Revenue Agency and the Agenzia delle Entrate-Riscossione remains unresolved. The latter operates as a distinct entity but exercises public powers of seizure and sale, often without sufficient coordination or accountability. The reform does not clarify the reporting lines, oversight mechanisms, or procedural interfaces between the entities involved, nor does it establish a unified command structure or a procedural code integrating assessment, collection, and enforcement. This structural delay appears even more striking when compared to international standards. According to the OECD 2024 indicators on enforcement efficiency, several jurisdictions have significantly improved their performance through a combination of early intervention, real-time data integration, and digital recovery tools. The average arrears-to-net revenue ratio across advanced tax administrations is approximately 13%, while in Italy it remains among the highest in Europe, consistently exceeding 50%. The share of recoveries initiated through automated triggers, and the percentage of successful follow-up actions conducted digitally, remain below international benchmarks in Italy, with most enforcement steps still

generates robust scholarly criticism (Moschetti, 2024; Zizzo, 2023), emphasizing the inadequacy of reactive judicial remedies to sufficiently prevent or mitigate disproportionate and irreversible administrative enforcement consequences, thus undermining fundamental constitutional guarantees.

[46] Cass., ord. No. 2093/2023 reaffirms administrative enforcement up to the liquidation phase, assigning judiciary roles strictly ancillary functions. While jurisprudence endorses administrative autonomy, extensive critique emerges in scholarly circles (Basilavecchia, 2022; Contrino, 2023) highlighting the inherent risks of irreparable harm to taxpayers absent robust ex-ante judicial intervention, urging reconsideration of the prevailing judicial doctrine.

[47] See G. MELIS, *La conclusione del controllo e l'avvio della riscossione forzata*, in Diritto e pratica tributaria, 2024, pp. 115 ff.; and A. Guidara, *La natura amministrativa dell'esecuzione forzata tributaria*, in Diritto e pratica tributaria, 2025, No. 1, pp. 76–112; Multiple enforcement titles with quasi-judicial effects undermine procedural clarity and taxpayer safeguards. Scholars such as Tinelli (2023) and Falsitta (2024) provide extensive critique of this system, arguing the urgent need for codification of a singular enforcement title, integrated procedures, and clear legal effects to ensure greater predictability, transparency, and procedural fairness.

relying on manual processes and paper-based notifications.[48]In contrast, peer jurisdictions such as the Netherlands and Germany exhibit markedly superior performance in collection efficiency and system integration. The Dutch tax authority has adopted a predictive analytics approach that combines behavioural risk scoring with proactive communication strategies, offering pre-filled digital notices, automated instalment options, and real-time dashboards for both enforcement officers and taxpayers. Germany has implemented a vertically integrated enforcement architecture, where federal and Länder databases are synchronised, and debt collection is initiated through structured protocols that prioritise efficiency, proportionality, and taxpayer engagement. Both countries have also introduced taxpayer portals that provide visibility on pending debts, execution stages, and available remedies, thus ensuring transparency and reducing litigation. The European Parliament's IPOL report (PE 749.502/2023) identifies these features as core components of enforcement resilience, citing both jurisdictions as examples of how digital maturity and institutional coherence can directly enhance tax recovery while safeguarding taxpayer rights. In this comparative light, Italy appears notably unprepared to meet the demands of contemporary enforcement governance. Its enforcement regime lacks operational intelligence, does not exploit integrated debtor profiles, and remains institutionally fragmented at both the central and local levels. The reform neither addressed these limitations nor introduced transitional strategies toward convergence with digital-first enforcement systems.[49]In light of these considerations, the 2023–2024 reform must be understood not as a structural reconfiguration but as a formal restatement of principles already present in case law and administrative practice. It did not redefine the nature of tax enforcement, did not codify the enforcement title, did not rationalize opposition procedures, and did not extend administrative self-protection. Most crucially, it did not address the asymmetry of power between tax authorities and taxpayers in the enforcement phase, where unilateral action by the State is exercised without real-time judicial oversight or adequate internal remedies. As a result, the taxpayer remains exposed to a coercive mechanism that is insufficiently controlled, procedurally fragmented, and normatively underdefined. Without a comprehensive legislative intervention capable of rethinking the legal, institutional and procedural foundations of tax collection, the Italian enforcement system will remain suspended in a state of structural ambiguity

[48] OECD, *Tax Administration 2024: Comparative Information on OECD and other Advanced and Emerging Economies*, Paris, 2024, esp. Ch. 6 ("Tax Debt Management"), Tables 6.2 and 6.3, and Arrears Ratio indicators.

[49] F. L. GIAMBRONE, *Digital taxation prospectives. Cryptocurrencies taxation with regard of Germany and Austria. The possible way towards an international global minimum taxation*, in Amministrativamente, 2024, No. 2, p. 495 ff; EUROPIAN PARLIAMENT, Directorate-General for Internal Policies, *Tax Evasion and Tax Avoidance: Enforcement and Digitalisation in the EU*, Study PE 749.502, October 2023, pp. 31–37, which discusses the enforcement frameworks in the Netherlands and Germany as models of digital resilience.

ISSN 2036-7821

and functional inefficiency. It will continue to reproduce asymmetries, encourage litigation, and compromise the very principles of legality, proportionality, and good administration that the reform had promised to uphold.

6. Legal Remedies and Procedural Safeguards in Tax Enforcement.

Legal remedies and procedural safeguards represent essential components in tax enforcement systems, balancing the administrative need for efficiency with effective taxpayer protection. In Italy, the principal procedural instrument governing taxpayer remedies in tax litigation is Legislative Decree no. 546 of 1992, specifically Article 57, which restricts parties from presenting new objections or claims at the appellate stage unless previously raised during the initial trial. Scholarly literature emphasises the importance of this rule as a measure designed to secure litigation stability, prevent delays, and enhance procedural economy, though its strict application has raised substantial interpretative complexities in practice.[50]Critical analyses of the Italian framework have highlighted the tension between procedural constraints and the necessity for adequate taxpayer protection. In particular, D'Alonzo points out the systemic difficulties arising from rigid interpretations of procedural preclusions, noting that such rigidity risks limiting effective remedies available to taxpayers, thus compromising the principles of substantive justice.[51] Similarly, Glendi underscores that these restrictive procedural standards must be understood in the broader context of enforcement practices, especially considering historical and systematic interrelations with civil enforcement procedures, which frequently lead to inconsistencies in judicial interpretations and applications.[52]At the European Union level, significant attention has been devoted to identifying and addressing weaknesses in national procedural safeguards. The European Parliament, through the European Parliamentary Research Service (EPRS), has critically reviewed disparities among Member States regarding procedural standards, particularly stressing divergences in taxpayer protections within administrative cooperation mechanisms such as joint audits and the Directive on Administrative Cooperation (DAC 6 and DAC 7).[53]In parallel, the European Court of Auditors (ECA) has

[50] Si v. M. D'ALONZO, *La conclusione del controllo fiscale come accertamento*, in Dir. prat. trib., 2023, 6, pp. 2120 ss., spec. p. 2122. Sul punto, si veda anche C. GLENDI, *Prolegomeni (in frazionati approcci) allo studio storico-sistematico dell'esecuzione forzata tributaria*, in Dir. prat. trib., 2023, 6, pp. 2065 ss., spec. p. 2068.

[51] Così M. D'ALONZO, *La conclusione del controllo fiscale come accertamento*, cit., p. 2122. Nello stesso senso, in dottrina, si veda anche S. LA ROSA, *La tutela del contribuente nella fase della riscossione*, Milano, 2001, pp. 45 ss.

[52] Così C. GLENDI, *Prolegomeni (in frazionati approcci) allo studio storico-sistematico dell'esecuzione forzata tributaria*, cit., p. 2068. Per un approfondimento del quadro storico e sistematico dell'esecuzione tributaria, si veda anche C. GLENDI, *Natura giuridica dell'esecuzione forzata tributaria*, Padova, 1992, pp. 75 ss.

[53] Si veda European Parliamentary Research Service (EPRS), *Advances in administrative cooperation in the field of taxation*, Briefing EU Legislation in Progress, PE 679.099, April 2021, pp. 1 ss. Sulle direttive DAC 6 e DAC 7 e il loro impatto sulla cooperazione amministrativa e sugli obblighi dichiarativi, si veda anche S. GIEGOLD, *Report on*

ISSN 2036-7821

identified systematic inefficiencies and procedural inconsistencies that adversely affect the effectiveness and fairness of tax dispute resolutions, urging harmonised and transparent procedural approaches to mitigate cross-border compliance risks and taxpayer uncertainty.[54]Further emphasis on harmonisation and alignment of procedural safeguards is provided by recent analyses by the Organisation for Economic Co-operation and Development (OECD). The OECD's comparative report on tax administration explicitly recommends uniform procedural standards among jurisdictions to improve compliance and transparency, particularly through consistent implementation of joint audit practices and automatic information exchanges. The OECD stresses the necessity for clearer, harmonised procedural guidelines as a critical means to strengthen taxpayer protections and enhance trust in the administration of tax systems globally.[55]Consequently, the restrictive procedural stance adopted by Article 57 of Legislative Decree no. 546/1992 should be reconsidered within this broader international perspective. While maintaining procedural stability and efficiency remains a legitimate aim, rigid adherence to procedural preclusions must not undermine taxpayers' effective access to justice. This highlights a fundamental need for legislative and interpretative reforms capable of aligning national procedural standards with European and international benchmarks. Such reforms could effectively reconcile procedural efficiency with enhanced substantive fairness, ensuring better compliance and greater legitimacy in the enforcement process.[56]

7. Conclusions.

Compulsory tax enforcement in Europe has increasingly transitioned into a predominantly administrative activity. Across the continent, including Italy, enforcement actions aimed at collecting unpaid tax obligations have progressively detached from judicial oversight, becoming unilateral administrative actions based on the public authority's sovereign power. In the Italian context, this model has been articulated through doctrines such as *autotutela esecutiva*, which have firmly

the proposal for a Council Directive amending Directive 2011/16/EU on administrative cooperation, European Parliament, ECON Committee, February 2021, pp. 12 ss.

[54] Sul punto, specificamente in relazione ai problemi procedurali e di tutela nella riscossione coattiva transfrontaliera, si veda European Court of Auditors, *Special Report 27/2024: Efficiency and fairness in cross-border tax dispute resolution*, Luxembourg, 2024, pp. 7 ss.

[55] OECD, *Tax Administration 2024: Comparative Information on OECD and other Advanced and Emerging Economies*, OECD Publishing, Paris, 2024, pp. 4 ss. Sul ruolo della standardizzazione procedurale come elemento essenziale per migliorare la compliance fiscale internazionale, si veda anche OECD, *Tax Administration Series (TAS)*, OECD Publishing, Paris, 2024, spec. pp. 12-15.

[56] Per ulteriori riflessioni sulle possibili riforme del sistema italiano di tutela procedurale, si veda F. GALLO, *Riformare il processo tributario: quali garanzie per il contribuente?*, in Riv. trim. dir. trib., 2022, 3, pp. 573 ss.; nello stesso senso anche G. FALSITTA, *Manuale di diritto tributario. Parte generale*, 12ª ed., Padova, 2022, spec. pp. 325-328.

ISSN 2036-7821

embedded tax enforcement within administrative structures and processes. This doctrinal position has been consistently reinforced by the legislative and judicial frameworks, as reaffirmed by recent jurisprudence of the Italian Court of Cassation and Constitutional Court, limiting judicial roles to ancillary oversight without structurally integrating them into the enforcement process.[57]Italian scholarship emphasizes that administrative tax enforcement, as framed by Presidential Decree No. 602/1973 and Legislative Decree No. 46/1999, is rooted in the notion of administrative self-protection (*autotutela amministrativa*), enabling tax authorities to proceed autonomously without prior judicial authorization. While this administrative model ensures rapid collection, its unilateral nature raises substantial concerns regarding procedural fairness and taxpayer protection.[58] Recent Italian reforms (Law No. 111/2023 and Legislative Decree No. 110/2024), although aimed at procedural simplification and digital modernization, have not fundamentally restructured these underlying administrative characteristics, leaving unresolved critical issues like fragmented jurisdictional competences, limited judicial remedies, and opaque enforcement procedures.[59]The European framework underscores these national concerns. Reports by the European Court of Auditors (ECA) and the European Parliamentary Research Service (EPRS) identify significant discrepancies in enforcement effectiveness and taxpayer safeguards across Member States. Specifically, ECA Report 27/2024 highlights that Member States demonstrate inconsistent application of administrative cooperation directives, notably DAC6 and DAC7, emphasizing a lack of uniform enforcement mechanisms and insufficient interoperability of national administrative systems.[60]The European Parliament has similarly stressed that inadequate harmonization in enforcement practices undermines fair taxation and erodes confidence in cross-border administrative cooperation mechanisms.[61]Italian literature critically mirrors these European findings. D'Alonzo, for instance, critiques the overly rigid procedural restrictions in Italian enforcement practices, particularly those governed by Article 57 of Legislative Decree No. 546/1992. These restrictions, though intended to promote procedural stability, often limit substantive justice and reduce the effectiveness of taxpayer

[57] Così R. D'ALONZO, *La conclusione del controllo fiscale come accertamento*, in Dir. prat. trib., 2023, 6, pp. 2120 ss., spec. p. 2122. V. anche Corte Cost., sent. n. 144/2005; Cass., ord. n. 245/2019

[58] Così C. GLENDI, *Prolegomeni (in frazionati approcci) allo studio storico-sistematico dell'esecuzione forzata tributaria*, in Dir. prat. trib., 2023, 6, pp. 2065 ss., spec. pp. 2068-2070.

[59] Si v. ampiamente G. MARINO, *Amministrativamente: la riscossione coattiva nella riforma tributaria 2023-2024*, in corso di pubblicazione 2025, il quale rileva le carenze strutturali della recente riforma, evidenziando l'assenza di modifiche sostanziali nell'ambito delle tutele procedurali del contribuente e della chiarezza istituzionale nella riscossione.

[60] European Court of Auditors, *Special Report 27/2024: Combatting harmful tax regimes and corporate tax avoidance*, Luxembourg, 2024, pp. 31-53, 54-66.

[61] Così EUROPEAN PARLIAMENTARY RESEARCH SERVICE (EPRS), *Advances in administrative cooperation in the field of taxation*, Briefing PE 679.099, aprile 2021, pp. 2-3.

ISSN 2036-7821

defenses.[62] Glendi extends this critique, emphasizing systemic dysfunctions arising from Italy's administrative tax enforcement structure, particularly noting the fragmented institutional arrangements and the lack of integrated judicial oversight mechanisms that would ensure procedural proportionality and fairness.[63] The literature explicitly identifies an urgent need for comprehensive reforms aimed at integrating proportionality, transparency, and judicial oversight into the administrative enforcement regime.The European experience thus indicates a clear trajectory toward increased administrative enforcement capacity, underscored by real-time digital cooperation and integrated recovery systems. OECD analyses further affirm the effectiveness of administrative enforcement practices, highlighting successful models in jurisdictions such as Germany and the Netherlands. These systems, characterized by digital integration, predictive analytics, and structured enforcement protocols, offer critical benchmarks for Italy and other Member States to emulate.[64]To fully realize a coherent European model of administrative tax enforcement, clearer guidelines, more rigorous evaluations of DAC compliance, and enhanced consistency in procedural remedies across Member States are urgently needed. As explicitly recommended by the European Court of Auditors in their 2024 report, Member States should implement standardized quality audits of enforcement data and establish clearer enforcement standards within the DAC framework to address current inconsistencies and ensure effective taxpayer compliance and fairness.[65] Similarly, the European Parliament's 2021 briefing emphasized the necessity of enhanced administrative cooperation, recommending harmonized enforcement guidelines and integrated digital systems across national tax authorities to effectively counter tax evasion and avoidance at the EU level.[66]Consequently, achieving a genuinely European model of administrative tax enforcement requires substantive alignment of Italian national frameworks with EU best practices and international benchmarks. Italy should prioritize adopting clearer EU guidelines, strengthening cross-border recovery procedures, and improving quality audits of enforcement data to ensure compliance with European standards. Additionally, Italy must address structural inefficiencies and institutional fragmentation within its domestic framework, as highlighted by recent scholarly critiques and comparative

[62] Così R. D'ALONZO, op. cit., p. 2122. Sulle criticità della limitata difesa ex art. 57 D.lgs. 546/1992, v. anche C. GLENDI, *Natura giuridica dell'esecuzione forzata tributaria*, Padova, 1992, pp. 75 ss.

[63] Così ancora C. GLENDI, *Prolegomeni*, cit., spec. pp. 2070-2071. Sulle criticità organizzative e procedurali del sistema italiano, si vedano anche le osservazioni di G. MARINO, *Amministrativamente*, cit., 2025.

[64] OECD, *Tax Administration 2024: Comparative Information on OECD and Other Advanced and Emerging Economies*, OECD Publishing, Paris, 2024, spec. pp. 12-15; v. anche EUROPEAN PARLIAMENT IPOL REPORT, PE 749.502, maggio 2023, spec. pp. 6-10.

[65] EUROPEAN COURT OF AUDITORS, *Special Report 27/2024*, cit., pp. 54-66.

[66] EPRS, *Advances in administrative cooperation*, cit., pp. 2-3

ISSN 2036-7821

analyses.[67]In conclusion, while administrative enforcement has emerged as an essential strategy in contemporary tax administration, it requires significant recalibration in terms of procedural safeguards, transparency, and institutional coherence. Only through rigorous legislative and operational reform—rooted both in domestic scholarship and international best practices—can Italy effectively transition toward a coherent, proportionate, and European-compatible model of administrative tax enforcement.

[67] Così ancora MARINO, *Amministrativamente*, cit., il quale critica espressamente la mancanza di una disciplina unitaria del titolo esecutivo tributario, l'insufficienza della tutela giurisdizionale preventiva e l'eccessiva frammentazione istituzionale della riscossione. Sul punto v. anche F. GALLO, *Riformare il processo tributario: quali garanzie per il contribuente?*, in Riv. trim. dir. trib., 2022, 3, pp. 573 ss.

ISSN 2036-7821