

Legal Certainty in Taxation:



A Comparative Ranking of Tax Systems in Europe

Diego Sánchez de la Cruz

Head of Research, Instituto Juan de Mariana

4 March 2026

Summary

- European tax debates often focus on statutory rates, tax bases, and revenue levels. While important, these metrics do not fully reflect taxpayers' real experience. Beyond formal design, the interpretation and enforcement of tax rules play a decisive role in shaping incentives and economic behaviour.
- This briefing presents a new European ranking of legal certainty in taxation, developed by Foro Regulación Inteligente. Covering 16 EU member states, it combines indicators on litigation, administrative practices, institutional quality, and competitiveness-related tax features, drawing on OECD, Eurostat, ISORA, and Tax Foundation data.
- The results show wide disparities. Countries with similar tax burdens can offer very different effective environments depending on how tax authorities conduct audits, manage compliance, and resolve disputes. Predictable and consistent enforcement preserves incentives even under relatively high rates. By contrast, uncertain or aggressive enforcement makes lower statutory rates feel significantly higher. Legal uncertainty thus functions as an implicit tax on investment and entrepreneurship.
- Greece and Spain rank lowest, scoring 5.0 and 5.5 out of 10. Their weaknesses stem less from tax rates than from enforcement practices that generate complex audits and lengthy disputes. Estonia, by contrast, scores 9.2, reflecting a simple, transparent, and predictable tax system that strengthens competitiveness and voluntary compliance.

Table of contents

SUMMARY	1
TABLE OF CONTENTS	2
LEGAL CERTAINTY AND INCENTIVES IN TAXATION	3
AN OVERLOOKED DIMENSION OF TAXES	3
MEASURING LEGAL CERTAINTY IN TAXATION	4
LITIGATION OUTCOMES AND INSTITUTIONAL SIGNALS	5
POLICY IMPLICATIONS FOR EUROPE	6
CONCLUSION	7
REFERENCES	7

About the author

Diego Sánchez de la Cruz is Chief Executive Officer of the think tank Foro Regulación Inteligente and Associate Researcher at the Instituto de Estudios Económicos (affiliated with CEOE). He is also the Research Coordinator of the Juan de Mariana Institute. As an economic analyst, he contributes to Spanish media including Libertad Digital, Libre Mercado, and Actualidad Económica in print, esRadio, and television programmes on Antena 3 and Movistar+. He serves as Associate Professor of Economics and Communication at Camilo José Cela University and has authored three books, with his most recent being 'Liberalismo a la madrileña' (Deusto, 2021).

About EPICENTER

EPICENTER, the European Policy Information Center, is an independent initiative of twelve leading think tanks from across Europe. It seeks to inform the European policy debate and promote the principles of a free society by bringing together the expertise of its members.

EPICENTER is formed by the Center for Political Studies (Denmark), Civil Development Forum (Poland), Fundalib (Spain), the Institut économique Molinari (France), the Institute of Economic Affairs (UK), the Institute of Economic and Social Studies (Slovakia), the Institute for Market Studies (Bulgaria), Istituto Bruno Leoni (Italy), KEFIM (Greece), the Lithuanian Free Market Institute, Prometheus (Germany), and Timbro (Sweden). Like its members, EPICENTER is politically independent and does not accept taxpayer funding.

Legal certainty and incentives in taxation

Taxation affects economic behaviour not only through tax rates, but also through the way those rates are enforced, and how the rules governing revenue collection operate in practice. Investors, entrepreneurs, and workers make decisions based on their expected after-tax returns, which rely on the predictability of the tax system. Legal certainty reduces the risk premium associated with productive economic activity. When tax rules are stable and consistently enforced, economic agents can plan over longer timescales, allocate capital more efficiently, and engage in productive risk-taking.

By contrast, uncertainty around the interpretation and enforcement of tax laws and retroactive changes increases perceived marginal tax burdens and discourages incremental economic activity. In economic terms, these effects correspond with higher tax rates. Even a formally low or moderate tax system can become highly distortive if its enforcement is perceived as unpredictable. Conversely, a higher-tax system characterised by strong legal certainty can preserve investment incentives and attract economic activity to a greater extent than headline tax rates alone.

For this reason, legal certainty should be understood as a fundamental component of effective taxation. When taxpayers have a clear and reliable understanding of how tax rules operate and how compliance obligations will be assessed, the scope for disputes is naturally reduced. Where legislation and enforcement operate in grey areas, allowing for discretionary or arbitrary interpretations aimed at maximising short-term revenue, taxation creates a double disincentive: it reduces net returns while simultaneously increasing uncertainty about the long-term application of the rules.

From a policy perspective, well-functioning tax systems are characterised by clearly defined and proportionate rules, simple compliance procedures, and enforcement practices that recognise good faith. When disputes arise, administrative processes should facilitate timely and reasonable resolutions, while judicial reviews should safeguard due process and proportionality. Sanctions for non-compliance should be predictable and commensurate with the offence. Together, these elements form the institutional foundations of a tax system that supports growth, compliance, and long-term revenue sustainability.

An overlooked dimension of taxes

Traditional tax indicators capture important aspects of government revenue systems, but they are not designed to assess how taxation operates in practice. Tax-to-GDP ratios, for instance, reflect aggregate revenue outcomes, yet they provide little information about the institutional quality of tax collection or the way tax rules are enforced. Similarly, statutory and effective tax rates describe the formal design of tax systems, but they do not capture enforcement patterns, administrative practices, dispute resolution dynamics, or the procedural safeguards available to taxpayers when disputes arise.

International benchmarks such as the Tax Foundation's International Tax Competitiveness Index (ITCI) have significantly enriched tax analysis by combining assessments of tax rates with insights on the structure and design of major revenue sources. By focusing on neutrality, simplicity, and cross-border features, these tools offer an essential perspective on how tax systems are designed to minimise distortions and support economic activity.

Nevertheless, any analysis of tax competitiveness remains incomplete without a parallel assessment of key administrative and institutional practices. These include the effectiveness of dispute resolution mechanisms, the legal protections afforded to taxpayers during audit procedures, the clarity and stability of tax rules, and the extent of cooperation between tax authorities and taxpayers. Such

factors play a decisive role in shaping incentives and determining how taxation is experienced in practice.

This ranking thus aims not to challenge existing analytical tools, but to complement them by making explicit a dimension that often remains implicit in policy debates. Legal certainty directly influences the effective tax environment by affecting compliance costs, expected returns, and risk perceptions. Ignoring this dimension risks understating the real economic impact of taxation, even in systems that appear competitive when assessed solely on the basis of rates and revenues.

Measuring legal certainty in taxation

The comparative ranking covers several EU member states, allowing for a broad assessment of institutional differences across advanced tax systems. It is constructed using internationally comparable data from established sources, including OECD and Eurostat statistics, ISORA rankings on tax administration, and indicators from the Tax Foundation, alongside information from other relevant datasets.

The ranking combines a range of dimensions that jointly shape legal certainty in taxation. These include the prevalence and intensity of tax litigation and disputes, the stability and clarity of tax legislation, administrative enforcement practices, the availability of procedural safeguards and institutional checks and balances, and competitiveness-related features embedded within tax systems.

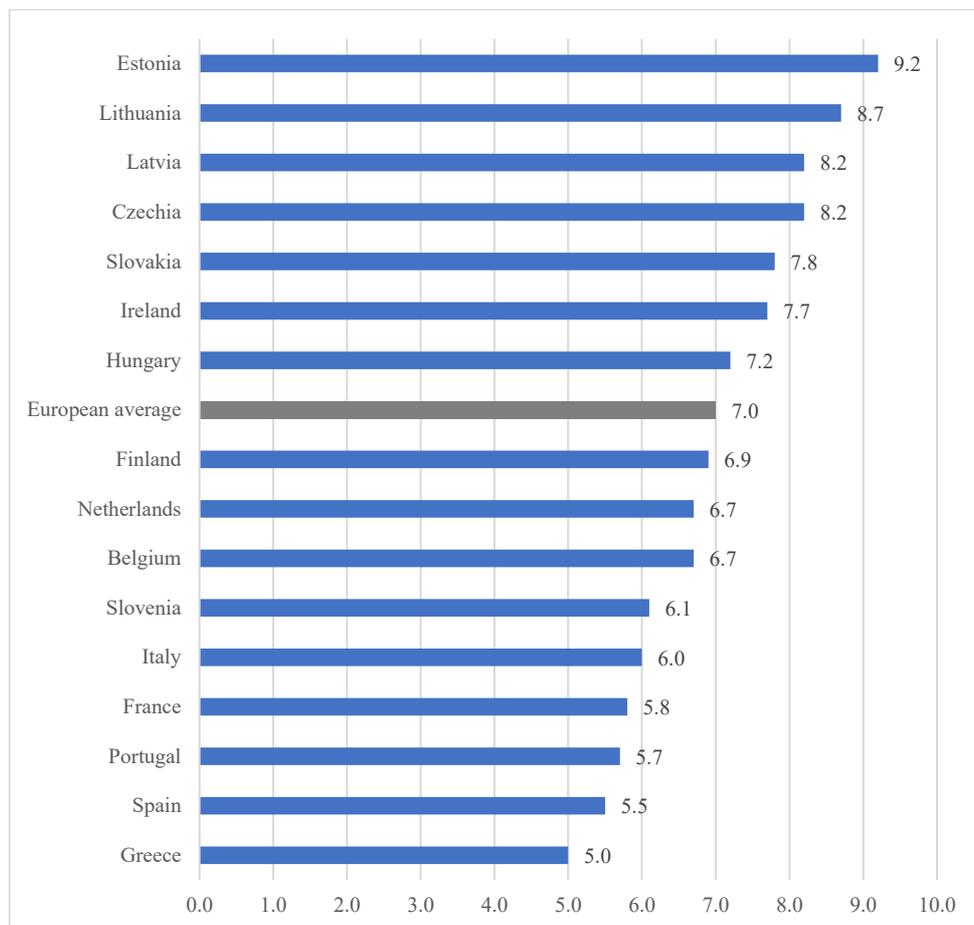


Figure 1: Legal certainty in taxation: A comparative ranking

Taken together, these elements capture the degree to which tax systems are predictable and reliable in practice. The focus is, therefore, on institutional performance in tax collection and compliance, and particularly, on how these institutional features shape incentives and influence economic decision-making.

Figure 1 presents the main results of the study in the form of a comparative ranking. The overall pattern reveals a highly uneven European landscape. Some countries show relatively high tax burdens and strong legal certainty, benefiting from stable rules, low levels of litigation, and cooperative administrative cultures. Others perform poorly despite comparable tax levels, reflecting deeper institutional weaknesses. The most favourable outcomes are observed in jurisdictions that combine relatively low taxation with a high degree of legal certainty for taxpayers.

These differences have clear economic consequences. Legal certainty influences where firms invest, how capital is allocated, and whether economic activity remains within a jurisdiction or is relocated elsewhere. In this sense, legal certainty operates as an implicit component of tax competition within the EU's internal market.

Importantly, performance is not solely determined by income levels or administrative capacity. Countries at similar stages of economic development display markedly different results, suggesting that policy choices, enforcement strategies, and institutional cultures play a significant role.

Litigation outcomes and institutional signals

Figure 2 highlights substantial cross-country variations in the share of first-instance tax court rulings decided in favour of government authorities. A higher share is generally associated with greater consistency between tax authority claims and judicial interpretation. By contrast, a low share indicates that a significant proportion of administrative claims are successfully challenged by taxpayers, pointing to interpretative instability and legal uncertainty.

Ultimately, Europe needs a more coherent approach to regulation. Streamlining existing rules is insufficient if they are continually replaced with new ones. Without unified leadership and outcome-based policy goals, the EU may continue to discourage innovation and investment, exactly when it needs them most to remain globally competitive.

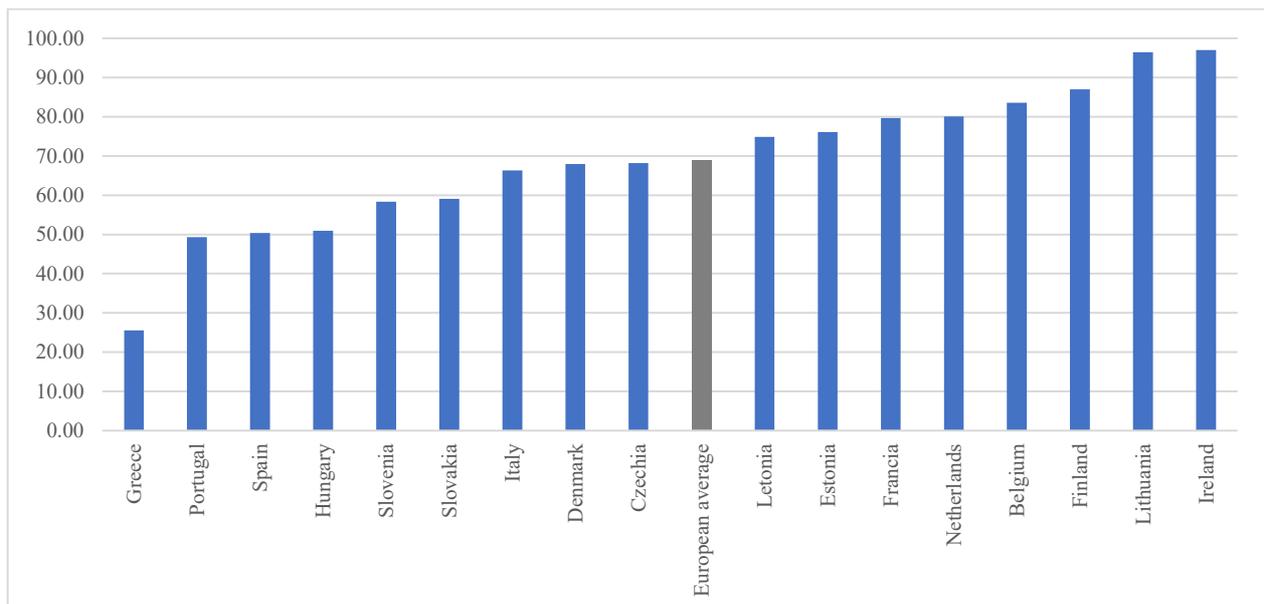


Figure 2: First-review court cases that result in rulings in favour of government authorities and against taxpayers

Spain stands out in this respect. As the fourth-largest economy in the EU, it ranks among the worst-performing countries on the overall index. It is also one of the jurisdictions where courts most frequently rule against tax authorities. This pattern raises concerns about institutional quality and the predictability of tax enforcement.

A prominent illustration is the treatment of non-resident workers who relocated to Spain under a special tax regime that grants access to a flat personal income tax rate. While eligibility was initially confirmed through formal certification, tax authorities subsequently challenged the status of a significant number of taxpayers several years later, subjecting them to lengthy and complex legal proceedings.

Evidence from multiple cases suggests that enforcement practices have at times relied on aggressive interpretations of tax rules, combined with the use of procedural pressure to encourage settlements. In such an environment, taxpayers may be strongly incentivised to accept administrative settlements rather than pursue prolonged litigation, even when legal positions are contested. The case of Xabi Alonso illustrates these dynamics. Despite repeatedly prevailing in court and demonstrating compliance with tax obligations, he was subjected to successive legal actions by tax authorities before ultimately prevailing in multiple rulings. While high-profile cases attract public attention, most taxpayers lack the financial resources, time, or legal capacity to pursue extended litigation. This contributes to a climate of risk aversion and compliance driven by fear, rather than trust.

Beyond the Spanish case, high levels of tax litigation indicate frequent disputes between taxpayers and tax administrations. This points to uncertainty regarding the interpretation and enforcement of tax rules. Where enforcement practices rely on retrospective adjustments or expansive interpretations, the perceived risk for both domestic and foreign investors increases. From an economic perspective, these features raise the implicit marginal tax burden. Compliance costs increase, investment decisions are delayed or redirected, and resources are diverted towards defensive tax planning rather than productive activity.

Legal certainty can, therefore, operate as a mitigating factor within a tax system, reducing the negative incentive effects embedded in statutory tax rules. Conversely, when taxation is administered in ways that depart from core rule-of-law principles, legal uncertainty acts as an aggravating factor, amplifying the distortive impact of the existing tax framework.

In environments where compliance is shaped by discretionary decision-making and wide interpretative margins, taxpayers face heightened risks of arbitrary outcomes. This uncertainty generates defensive behaviour, undermines trust in public institutions, and leads economic agents to make suboptimal decisions, with adverse consequences for investment, productivity, and long-term growth.

Countries with similar tax levels but stronger institutional safeguards and more predictable enforcement practices ultimately offer a more attractive effective tax environment. In some cases, jurisdictions with higher statutory taxation but lower levels of compliance risk provide a more favourable institutional mix for taxpayers than lower-tax systems characterised by uncertainty and discretionary enforcement.

Policy implications for Europe

The findings of this ranking carry significant implications for tax policy in Europe. First, debates on taxation should systematically incorporate institutional quality and legal certainty, alongside rates and bases. Incentives are shaped by how taxes are applied, not only by how they are framed.

Second, improving legal certainty does not necessarily imply lower taxes. Clearer legislation, consistent interpretation, effective dispute resolution, and strong procedural safeguards can improve the effective tax environment without reducing revenues.

Third, there may be scope for greater benchmarking and peer learning within the EU. While tax administration remains a national competence, transparency and comparison can encourage the adoption of best practices and reduce unnecessary divergence.

Finally, strengthening legal certainty supports broader economic objectives. Therefore, reducing uncertainty and improving incentives can foster investment, enhance compliance, and reinforce trust in public institutions. These outcomes are particularly valuable in an environment of increasing regulatory complexity.

Conclusion

Taxation in Europe is a matter not only of tax levels, but also of how tax systems operate in practice. Legal certainty plays a central role in shaping incentives, investment decisions, and economic performance. This comparative ranking shows that differences in institutional quality remain substantial across Europe and that these differences matter.

By bringing legal certainty into the analysis of taxation, policymakers can gain a more complete and comprehensive understanding of the effective incentives and distortions that are derived from the configuration of systems. Improving predictability and enforcement practices should be seen as a key pillar of tax reform – one that complements discussions on rates and revenues and supports long-term economic growth.

References

European Commission (2023) *Annual Report on Taxation 2023*. Brussels: Directorate-General for Taxation and Customs Union.

Eurostat (2023) *Taxation Trends in the European Union*. Luxembourg: Publications Office of the European Union.

Eurostat (2023) *Government revenue and expenditure statistics*. Luxembourg: Publications Office of the European Union.

Foro Regulación Inteligente (2026) *Índice de Seguridad Jurídica de los Contribuyentes 2026*. Madrid: Foro Regulación Inteligente.

OECD (2022) *Tax Administration 2022: Comparative Information on OECD and other Advanced and Emerging Economies*. Paris: OECD Publishing.

OECD (2023) *Revenue Statistics 2023*. Paris: OECD Publishing.

OECD (2023) *Tax Policy Reforms 2023: OECD and Selected Partner Economies*. Paris: OECD Publishing.

OECD and CIAT (2023) *International Survey on Revenue Administration (ISORA)*. Paris: OECD Publishing.

Tax Foundation (2023) *International Tax Competitiveness Index 2023*. Washington, DC: Tax Foundation.

Tax Foundation (2023) *Corporate Tax Rates around the World, 2023*. Washington, DC: Tax Foundation.

World Bank (2023) *Worldwide Governance Indicators: Rule of Law*. Washington, DC: World Bank.