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Fiscal Security and Non-Compliant Tax Conduct

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***Abstract*— Although the concept of national security has been extensively examined in scholarly literature, the notion of fiscal security has received limited academic attention. Fiscal security can be understood as a state of budgetary stability in which public financial interests are adequately safeguarded. Its core function is to ensure the availability of financial resources necessary for the stable and effective functioning of the state, and it represents a fundamental precondition for the effective implementation of public policies and the realization of governmental objectives. From this perspective, the level of fiscal security has effect directly over the level of national security, thereby requiring a thorough analysis of the concept.**

Non-compliant tax conduct is a particularly serious threat to fiscal interests and has increasingly drawn the attention of the international community. Practices that circumvent and violate tax laws undermine the financial foundations of both the national security system and particularly in the European Union Member States. In addition to causing substantial losses to public budgets, such practices distort market competition, violate the interests of bona fide economic actors and the sustainable economic growth, and weaken public trust in the legitimacy of taxation and public governance in general. Developing a coherent theoretical framework for non-compliant tax conduct, including a clear distinction among various categories, as well as an analysis of their implications for national security, may improve legislative and law enforcement practices and strengthen inter-institutional cooperation.

Keywords*— national security, fiscal security, non-compliant tax conduct, circumvention of tax law, violation of tax law

I. INTRODUCTION

Fiscal security plays a key role in national security, being both its important component and material base. It can be defined as such condition of the state budget where public financial interests are protected and safeguarded. Fiscal security ensures the stable and effective functioning of the state and is essential to the implementation of all state policies and objectives. In this regard it corresponds to all other types of security and serves as foundation for the national security system.

The consideration of fiscal security in the above context can also be derived, for example, from the framework outlined in the Updated National Security Strategy of the Republic of Bulgaria, adopted by the National Assembly on March 14, 2018. It identifies the implementation of effective policies by fiscal authorities, including the management of the revenue part of the state budget, as a national security priority, in cooperation with other state bodies and in partnership with private economic entities. It is explicitly stated that securing state budget revenues is essential for providing sufficient resources for all national security policies. The importance of economic and financial security is emphasized as sector policies which aim at maintaining macroeconomic and fiscal stability and building protective mechanisms to counteract the spillover effects of negative external developments.

The National Security Strategy of the Republic of Bulgaria (2018), similarly to the European Security Strategy “A Secure Europe in a Better World” of 12 December 2003, proposes a broad conception of national security that goes beyond the classical “force-based” understanding, linking it to the rule of law, democracy, and sustainable development. A number of contemporary scholars examine more non-traditional but also significant aspects of national security [1], [2], [3].

National security is widely studied in academic literature but fiscal security has received less attention [4], [5], [6]. At the same time, the link between fiscal security and national security is undeniable — state’s national security depends directly on the level of its fiscal security, and this is why an analysis of this concept is of particular importance. In this sense, the relevance of the issue of fiscal security is beyond doubt.

Non-compliant tax conduct is a particular threat to the state’s fiscal interests. The practices associated with it undermine the financial foundations of the national security system, as well as the security system of the states united in the European Union. In addition to significant losses to the public budget, they also lead to a distortion of market competition, harm to *bona fide* participants in

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economic life, and economic growth, and undermine citizens' trust in the legitimacy of taxation and the fiscal system as a whole. In a criminological context, non-compliant tax conduct creates a favorable environment for the development of the shadow economy and organized crime, with a significant portion of the funds generated through such activities being used to finance other forms of criminal activity.

The lack of unified concept and standardized terms on non-compliant tax conduct comprise a significant problem in contemporary academic theory and legislative practice. This leads to difficulties and divergent interpretations in academic literature and legal practice. Therefore, theoretical research on non-compliant tax practices is both necessary and timely.

The present study is guided by the following research tasks:

- to develop a theoretical concept of fiscal security and to clarify its significance for national security;
- to examine the role of tax revenues in ensuring fiscal security;
- to define and systematically analyse the various forms of non-compliant tax conduct;
- to outline the practical contribution of the research, including the formulation of relevant proposals for improving Bulgarian legislation.

II. MATERIALS AND METHODS

The present study employs a multifaceted methodological approach, drawing on established research paradigms to elucidate the concept of fiscal security and the threats posed by non-compliant tax conduct. In this context, both special-legal and general scientific methods are applied. The integration of these approaches enables a comprehensive and systematic analysis, effectively bridging doctrinal interpretation with practical implications for legal regulation and enforcement.

A. Special-Legal Methods

These methods are of particular significance to the study, as they ensure a precise and coherent exposition of legal norms, definitions, and concepts relevant to the issues under examination:

- *The formal-dogmatic method* (legal dogmatics) investigates the legal norm "from within"—its text, structure, logical connections with other norms, interpretation, and application—to ascertain the exact content of applicable law. It systematically delineates corrective consequences for circumvention (e.g., denial of tax advantages) versus punitive sanctions for violations.
- *The comparative-legal method*, as a quintessential special legal technique, systematically juxtaposes legal norms, institutions, and practices across jurisdictions in order to identify optimal solutions and transnational alignments. In this context, the study conducts a comparative legal analysis of the applicable provisions in EU law and the legislation of the Member States, including Bulgaria, thereby highlighting similarities and differences in anti-abuse mechanisms and in the regulation of various categories of unlawful conduct. On this basis, the conclusion puts forward proposals for improving Bulgarian legislation.
- *The interpretive (hermeneutic) method* deciphers legal texts through grammatical, logical, historical, and systematic approaches to discern the legislator's true intent. Applied here, it distinguishes the "spirit" from the "letter" of tax law in categorizing conduct: extra legem tax abuse, inter leges aggressive tax planning (exploiting loopholes); and contra legem offences.

B. Complementary Methods

- *The interdisciplinary method* integrates insights from cognate disciplines to enrich legal analysis beyond doctrinal confines. Here, it manifests through fusions of law with economics, political science, sociology and international relations theory. Economic perspectives underscore fiscal policy's role in macroeconomic stability and tax revenues' dominance. Political science links fiscal sovereignty to national interests. Sociological and historical lenses explore taxation's legitimacy and social contract preservation.
- *The systemic method* positions fiscal security within the broader architecture of national security, in line with multi-level categorizations and strategic frameworks.
- *Inductive and deductive reasoning* are employed to derive conceptual and definitional constructs from empirical data and to apply them within a normative legal framework.

III. RESULTS AND DISCUSSION

A. The Concept of Fiscal Security. The Collection of Tax Revenue as an Element of the Fiscal Security System.

"Security" is generally understood to mean the absence of risks and threats, or protection against them, thereby ensuring certainty and stability in the environment. The etymology of the term is linked to the Latin word *securus* ("secure"), which breaks down into two elements: *se* ("without") and *cura* ("care"). If we take the antonym "uncertainty" as our starting point, security can be viewed as a state of certainty in interactions. In a social sense, security as a state leads to trust, which in turn is the result of "the level of certainty in the mutual expectations of the actors" [7]. H. Morgenthau links security to national interests [8]. T. Koburov notes that, defined negatively, security means the absence of threats; defined positively, it upholds certain principles and values [9]. According to D. Yonchev, the term "security" denotes a state of equilibrium [10].

In one of the popular categorizations of security, it is divided into five main levels: individual security (personal, individual security), group security (security of a group of people), security of a single state, collective security (of several states or a union of states), and global security (universal, general) [11], [12]. In general, the first three are grouped under the category of "national security," while the remaining two fall under the category of "international security." N. Slatinski points out that "the growing interdependence in global, continental, regional, and national processes blurs the boundaries between different levels of security. Issues inherent to the national security system are taking on aspects that were until recently characteristic of the international security system, and vice versa [13].

In light of the above ideas, we can define fiscal security as a state of equilibrium and order in the formation and use of public finances, in accordance with pre-established principles and values, whereby public financial interests are guaranteed and protected, as well as the financial and socio-economic foundations of the development of society and the state. Fiscal security is a key instrument for ensuring the stability and predictability of public administration as a whole, a prerequisite for the implementation of all national policies and objectives, and the foundation of the entire national security system.

The modern public finance system derives its legitimacy from the idea of providing mechanisms to manage uncertainty and ensure a predictable future and development within social systems. It serves as a code for legitimizing and protecting social groups and interests—through it interests, values, and goals are financially secured and prioritized as legitimate and urgent for implementation. The budget and public finances are not merely economic, financial, or legal matters, but also instruments for connecting and dividing, integrating and disintegrating communities and social groups that comprise them. M. Belov defines them as “phenomena of the system-sustaining culture of every society”. The author notes that the budgetary integration or disintegration of individuals, groups, classes, and institutions at national level is now heavily dependent on and linked to integration into the European and even global process of public finance management in the context of power inclusion and recognition within the European Union and the global political-financial community [14].

The concepts of finance, sovereignty, and security have always been closely intertwined in historical and political contexts. Finance is an important instrument of power within the framework of national sovereignty, but also beyond it, in the context of international relations. Sovereign states operate under structural constraints imposed by international financial mechanisms. Financial instruments are used to strengthen control over power and often serve the security and strategic interests of economically powerful states. According to M. de Goede, the spheres of finance and security are linked not only in an instrumental and causal sense (where finance is placed at the service of security or vice versa), but demonstrate a much deeper conceptual intertwining. Finance represents the economic counterpart of security [15].

Fiscal security can be additionally defined as a state of stable and predictable functioning of the public finance system in the state at the attributive level (order in public relations) and the institutional level (state bodies and mechanisms through which it is achieved). There are many factors on which fiscal security depends, but the leading role is played by an adequate fiscal policy that guarantees a balance between private and public interests, between market-based and regulatory regimes in the financial system, an effectively functioning state administration, the lawful and effective implementation of the revenue and expenditure sides of public budgets, effective administrative and judicial oversight, and thereby the preservation of stability and confidence in the financial system. Ensuring stability and security for public finances, including the proper assessment and effective collection of taxes, is directly linked to the ultimate goals of the state’s fiscal policy—stability, security, and economic and social development. Stable and sustainable public finances, and consequently sustainable and inclusive growth in the Member States, are among the key priorities of the European Union.

Fiscal security corresponds to the exercise of a state’s fiscal sovereignty. Fiscal sovereignty reflects a state’s ability to conduct fiscal policy in accordance with its national interests, while taking into account international agreements and the state of the global political and economic environment. Fiscal sovereignty is at the core of state sovereignty in general, since material resources—in particular financial resources—are essential for the effective exercise of all functions related to sovereignty. In this sense, the treasury is the state itself. In a narrower legal-political context, fiscal sovereignty encompasses the state’s independent legal authority to establish, in the public interest within its territory, regulatory rules to govern and ensure the development of budgetary, tax, monetary, credit, foreign exchange, and customs legal relations.

Tax revenues are the main pillar of budget revenues both in Bulgaria and in the other member states of the European Union. Statistical data show that tax and social security revenues constitute the predominant share of state revenues. Data on the implementation of the Consolidated Fiscal Program (CFP) in Bulgaria as of December 2025 show that revenue from taxes and social security contributions accounts for 78.6% of total revenue under the CFP [16]. According to Eurostat data for 2024, the structure of general government revenue in the EU is as follows: For the European Union (EU) as a whole: Taxes account for 57.2% of total revenue, and net social contributions for 30.4% [17]. These figures clearly demonstrate the dominant role of tax and social security revenues in shaping public finances in Bulgaria and the European Union.

Tax revenues, as the main component of the state budget’s revenue side, are also the central source for financing public goods and services. Alongside fiscal considerations, taxation is often linked to additional socio-economic objectives—redistribution of national income to reduce social inequalities and maintain social cohesion, promotion of certain sectors of production, public healthcare and protection of the environment, and so on. There is hardly any phenomenon that exerts such a significant influence on a country's economy and social sphere, and is at the same time so closely intertwined with culture and society, as taxes. From a historical and sociological perspective, the structure, method of assessment, and collection of taxes in societies have always reflected their political philosophy, social organization, and societal development.

Taxes are an expression of the relationship between individuals and the government. The payment of taxes by citizens is a fundamental principle of a state-organized society. The fundamental importance of taxes for the construction of the state order and governance is reflected, for example, in the Bulgarian Constitution, which enshrines in Article 60 the obligation of citizens to pay taxes as a fundamental duty (same in Article 53 of the Constitution of Italy and Article 31 of the Constitution of Spain). In the modern state, taxes are established through universal legislative enactment, and their collection is ensured through the law enforcement activities of the executive and judicial authorities. Through legal enactment, the tax—which constitutes a financial constraint on individuals and an encroachment on private rights—is transformed into a lawful and legally binding payment [18]. At the same time, the laws guarantee the equality of citizens in taxation by establishing a general obligation unrelated to specific individuals. In this way, the law serves as a guarantee of the legitimacy of taxes in modern societies.

In order to fulfil their public purpose, both the law and taxes must, in all cases, be implemented according to pre-established rules rather than on an ad hoc basis, and there must be no discrepancy between the rules and their actual application. In this sense, effective tax collection is not only a prerequisite for the normal functioning of the public sector, the quality of public services, macroeconomic stability, curbing the shadow economy, and increasing transparency in economic life, but also a key mechanism for ensuring the principle of "equality before the law" and for maintaining the social legitimacy of the tax system.

B. *Non-compliant tax conduct as a threat to the state's fiscal security. Concept and types*

A key aspect of fiscal security is countering non-compliant tax conduct. This can have serious consequences for sound financial management and effective public financing in countries, thereby posing a threat to national security as well. Its most significant consequences are felt at the level of transnational business organizations whose activities span multiple national jurisdictions. Non-compliant tax practices affect both the efficiency and fairness of taxation. They deprive jurisdictions of significant revenue, thereby limiting tax systems' ability to serve redistributive purposes. At the same time, practices involving non-compliant tax conduct violate the principle of fair and proportionate sharing of the tax burden among individuals and undermine the legitimate interests of both states and regular taxpayers. As a result, fundamental principles of taxation such as neutrality, equality, and social acceptability are undermined. Such practices often generate and legitimize capital whose origin is linked to criminal activity. In order to formulate countermeasures, it is necessary to develop theoretical models that examine the nature and forms of non-compliant tax conduct.

We use the term "non-compliant tax conduct" as an umbrella concept encompassing various taxpayer's behaviour aimed at improperly avoiding tax obligations. Non-compliant tax conduct is carried out through **circumvention** or **violation of tax law.**

a) Circumvention of the Tax Law

Circumvention of the tax law refers to conduct through which a taxpayer seeks to obtain a tax advantage that contradicts the spirit (meaning and purpose) of the tax law, without the letter of the law directly opposing that tax advantage. Circumvention of tax law may consist of both an attempt to circumvent a tax-triggering factual scenario and an effort to comply with the letter of the law, but contrary to its purpose, by failing to meet the factual requirements for a tax relief or exemption. In such cases, there is often also an abuse of the otherwise permissible right to freely structure business activities for the purpose of tax savings [19], [20]. In this sense, the concepts of "circumvention of tax law" and "abuse of tax law" are closely related, as can be inferred from EU legislation and the ECJ's case law. The following can be considered subtypes of circumvention of the law: ***abusive tax avoidance*** and ***aggressive tax avoidance***.

- Abusive tax avoidance

Abuse of tax law constitutes unlawful conduct whereby, through the use of fictitious legal forms, the link between taxation and the economic reality that underlies it is severed. Taxpayers give their actions and relationships a form (external appearance) that leads to tax exemption or the use of tax preferences without any real economic justification. This often involves "wholly artificial arrangements" which, although formally compliant with the law, are contrary to its spirit and purpose. (Case C-251/16 Halifax). To establish abuse, the ECJ requires the cumulative presence of two elements (the Halifax test): 1) objective—lack of economic reality and valid commercial reasons; and 2) subjective—the primary purpose of obtaining a tax advantage. This conduct may be characterized as "extra legem" [21]. As J. Ghosh argues, "the notion that "tax avoidance" is reprehensible constitutes an established legal norm of presumptive application in statutory interpretation" [22].

The prohibition on the abuse of tax rights is established in the General Anti-Abuse Rule (GAAR) in Article 6 of Directive (EU) 2016/1164 (ATAD 1) and in sectoral directives such as the Parent-Subsidiary Directive (2011/96/EU) – Article 11, the Merger Directive (2009/133/EC) – Article 15, and the Interest and Royalties Directive (2003/49/EC) – Article 5. It has been transposed differently in the legislation of the Member States. For example, a similar general clause is enshrined in § 42 of the German Tax Code (Abgabenordnung - AO), which states that tax law cannot be circumvented through the abuse of legal structuring options (Missbrauch von rechtlichen Gestaltungsmöglichkeiten). The approach in Bulgarian legislation is more case-specific, as the Corporate Income Tax Act (Art. 16) and the Tax and Social Security Procedure Code (Art. 19, Art. 57, para. 2, item 3, and Art. 122) provide specific examples and corresponding procedural rules related to tax abuse.

- Aggressive tax avoidance

This concept corresponds to the notion of "aggressive tax planning." The theory states that it represents a transition between the rules— "inter leges" —established by several countries [23]. In principle, taxpayers' behaviour remains within the bounds of the law (*intra legem*), but exploits technical features, loopholes, or inconsistencies in the legislation to achieve a tax advantage, which is generally undesirable under the tax legal order. According to H. Lenz, this behaviour is characterized by a focus on the literal interpretation (letter of the law) and little regard for the intent of the legislature (spirit of the law), with the behaviour "that aims to stop just before the illegal abuse of tax laws; the latter is called abusive tax avoidance (*extra legem*)" [21]. Unlike abuse, circumventing the law in this case does not necessarily require the creation of a "wholly artificial" structure.

Aggressive tax avoidance (aggressive tax planning) in the European and international legal sphere has been established as an undesirable tax practice, addressed legislatively, for example, through specific anti-abuse rules (SAARs)—such as rules limiting interest expenses, rules on controlled foreign companies, hybrid mismatches, exit tax under Directive (EU) 2016/1164 (ATAD 1) and Directive (EU) 2017/952 (ATAD 2), and through transparency measures such as those in Directive (EU) 2018/822 on mandatory automatic exchange of information on cross-border tax arrangements (DAC6), which sets out "typical features" of aggressive tax planning under Directive (EU) 2018/822 (DAC6), which are subject to disclosure to tax authorities.

The legal consequences provided for by the legislature in cases of circumvention of tax law are generally corrective in nature—the intended tax advantage is denied, and the tax liability is calculated as if the artificial arrangement had not taken place (Art. 6, para. 1 of Directive (EU) 2016/1164) or other corrective measures are taken—for example limiting interest expenses and exit tax when a company transfers assets, operations, or its tax residence outside the country, as a result of which the state loses its right to tax, etc. In some cases, as a corrective consequence of circumvention of tax law, legislation may provide for joint and several liability for tax due and unpaid by another person (e.g., Art. 177, para. 3, item 2 of the Bulgarian Value Added Tax Act). These measures essentially constitute a compensatory legal mechanism for the protection of the treasury and for addressing non-compliant tax conduct.

b) Violation of the Tax Law

This category covers explicitly unlawful acts that directly violate the letter of the law—constituting conduct *contra legem*. They can be broadly defined as tax offences—unlawful, culpable acts (actions or omissions) that are declared punishable by law. In the context of European Union law, international tax practice, and established English terminology, they are primarily associated with the concepts of tax fraud and tax evasion. Depending on the degree of public danger, tax offences are classified as either administrative violations or crimes.

- Administrative violation

Administrative violations are less serious form of tax offences—they constitute culpable acts that violate the established order of state governance in the tax sphere and are punished through administrative proceedings and by the tax authorities. They may be committed intentionally or negligently. In Bulgarian legislation, the general framework is regulated by the Administrative Violations and Penalties Act, while the specific offences are defined in the Tax and Social Security Procedure Code and in the substantive tax laws (VAT Act, Corporate Income Tax Act, Personal Income Tax Act, etc.). In the German Abgabenordnung, they are regulated in §§ 377–384. Instead, the tax administration in the United Kingdom imposes so-called civil penalties, primarily financial penalties for violations such as errors in returns (regulated under Schedule 24 of the Finance Act 2007) or failure to provide information.

- Tax crime

Tax crimes are the most serious tax offences, criminalized due to their significant public danger. They are regulated, for example, in Chapter Seven of the Bulgarian Penal Code, and §§ 369–376 of the German Abgabenordnung. Unlike administrative violations, crimes are committed only intentionally and are typically associated with tax evasion involving "large" or "particularly large" amounts (Art. 93, para. 14 of the Bulgarian Penal Code). Italy also applies a clear "double-track" model, distinguishing between administrative and criminal offences by introducing quantitative thresholds for evaded tax (Legislative Decree No. 74/2000). The aim is to avoid criminalizing less serious cases, which are effectively handled in administrative way.

In some cases, acts constituting circumvention of the law may constitute an offence; for example, the conversion of a company or transactions with related parties for the purpose of evading large amounts of tax constitute a crime under Article 255a of the Bulgarian Penal Code.

The legal consequences of all tax offences are punitive—they involve the imposition of administrative or criminal sanctions that affect the offender's legal sphere by depriving them of benefits, restricting their rights, or imposing new obligations. They constitute *a sanctioning legal mechanism for the protection of the treasury*, serving as the most rigorous tool for countering and preventing non-compliant tax conduct.

IV. Conclusion

This study has rigorously conceptualized fiscal security as a state of equilibrium and order in the formation and utilization of public finances, aligned with pre-established principles and values, whereby public financial interests are guaranteed and protected, alongside the financial and socio-economic foundations of societal and state development. It serves as a pivotal instrument for ensuring the stability and predictability of public administration, a prerequisite for all national policies and objectives, and the bedrock of the national security system.

The modern public finance system is legitimized by the idea of providing mechanisms to manage uncertainty and ensure a predictable future and development within social systems. Tax revenues, as the main component of the state budget's revenue side, are also a central source of funding for public goods and services. Geopolitical and financial-economic instability in the modern world reinforces the need for stable tax revenues, and in this context, the issue of non-compliant tax conduct is becoming increasingly relevant. Preventing and counteracting non-compliant tax practices plays a central role in building a just society and a strong economy, while simultaneously safeguarding the social contract and the rule of law.

The development of a unified theoretical concept of non-compliant tax conduct, distinguishing and outlining the legal consequences of the various categories of non-compliant tax conduct —as attempted in this study— contributes to both theory and practice, including improvements to the regulatory framework.

The practical applicability of these findings is multifaceted and targeted:

- For legislative activity, the analysis furnishes a theoretical scaffold for refining anti-abuse provisions, harmonizing with EU directives.
- Tax administration (e.g., National Revenue Agency) gains diagnostic tools for identifying hallmarks of aggressive planning and artificiality, enhancing audit efficiency and revenue recovery.
- Law enforcement agencies benefit from clarified delineations to streamline administrative-criminal delineations, reducing jurisdictional overlaps.
- The academic community acquires a unified conceptual framework, fostering interdisciplinary discourse on fiscal-national security nexuses.

In this regard, the following proposals for improving the legislation of the Republic of Bulgaria (de lege ferenda) may be advanced:

- Enactment of a general anti-abuse clause (GAAR) in Bulgarian tax law, mirroring ATAD 1 Article 6 and Germany's Abgabenordnung § 42, to supplant the current casuistic approach, capturing novel circumventions beyond enumerated cases.
- Legislative definition of "tax abuse" in the Tax and Social Security Procedure Code. Such a definition should mirror the established legislative model of the definitions for "administrative offense" under Article 6 of the Administrative Violations and Sanctions Act and "crime" under Article 9 (1) of the Penal Code. Adopting a general definition of tax abuse would yield profound practical benefits. It would enhance legal certainty for both taxpayers and tax authorities, foster a unified judicial interpretation, and improve the efficiency of tax audits by providing clear evidentiary criteria. Furthermore, it would ensure the full and correct transposition of EU law.
- Bolstering administrative-penal cooperation mechanisms to expedite hybrid cases. The existing Bulgarian framework, while providing a basis for cooperation, lacks the structured, mandatory protocols necessary to meet the ECJ's standards for coordination and efficiency. It is recommended that a formal, binding protocol for real-time information exchange between the National Revenue Agency and the Prosecutor's Office be developed, building on the legal basis of Article 26 of the National Revenue Agency Act. A shared digital registry should be established to track cases that have both administrative and potential criminal dimensions. For complex cases of suspected tax fraud, particularly those identified through mechanisms like DAC6, the formation of ad-hoc joint investigation teams comprising tax inspectors and prosecutors should be institutionalized.

In sum, fiscal security is indispensable to national security, with non-compliant tax conduct imperiling both amid geopolitical flux. This research reframes the issue strategically within EU-national security paradigms, advocating a robust, theoretically grounded arsenal for prevention and counteraction. Its conceptual innovations and reform proposals chart a path toward fortified public finances, equitable taxation, and resilient statehood.

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