Tax Policies in Struggling the Covid-19 Pandemic: The Role of the Social Law State in the Efficiency and Justice Paradox

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Abstract

The COVID-19 pandemic, which affects the economies of all countries on a global scale, has produced different results in terms of the public sector and the private sector. The public sector, whose existence has been constantly discussed in the historical process according to the currents of economic thought, has also played a leading role in the solution of this unprecedented pandemic-based crisis. This crisis, which affected all sectors, especially the health sector; has produced unsolvable results and increased the need for global collaborations. However, these collaborations have the potential to produce different results according to the internal dynamics of the country in terms of tax policies. For this reason, national measures should also be examined within the scope of tax policies. In the study, after examining the role of tax policies, which are seen as one of the solution mechanisms, in the struggle against the pandemic; the problems caused by the principle of efficiency or justice in tax policies are discussed. This study is shaped within *"it is not possible to establish an absolute balance of efficiency and justice within the scope of social law state and a tax policy that prioritizes efficiency may lead to negative consequences in the struggle against the pandemic"* of hypothesis. It is aimed to explain the policies implemented in other countries, especially in Turkey, which is a social state of law, within the framework of positive and normative approaches. In the study, which also examines the OECD recommendations in terms of the global struggle against the pandemic, the tax policies applied in different countries and the tax policies applied in our country were analyzed comparatively. In addition, for the problems that have arisen or are expected to arise, solutions have been proposed for this issue, which is limited by various norms, especially the Constitution.

Keywords: Tax policy, fiscal policy, efficiency, justice, COVID-19 pandemic, social rule of law.

JEL Code: H21, H51, K34.

1. Introduction

The COVID-19 pandemic, which has had a global impact as of last year, was declared a pandemic by the World Health Organization on March 11, 2020. Since then, various crises have emerged in every field, especially in the health sector. Not only developing countries; but also, this situation, which deeply affected the economies of developed countries, led countries to urgent action plans. Considering the magnitude of the effect, the fact that the basic principles of classical economics are invalid and the private sector's opportunities in the struggle against the pandemic are very limited has increased the need for the public sector. In direct proportion to the rate of diffusion, there has been an actual increase in public expenditures. This situation brought along potential increase expectations.

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For the financing of these unforeseen expenditures, states have turned to various policies according to their current state understanding. However, whatever the prevailing understanding; it should be accepted that fiscal policies are an important crisis management tool in this process due to the size of the effect caused by the pandemic. So that fiscal policies have always been on the agenda throughout history in terms of realizing various goals with their own unique means. To ensure economic stability, many goals, especially supporting the private sector[2], providing free vaccines in the active struggle against the pandemic for health, which is a global public good, and financing excessively increased public expenditures, are achieved through public finance policies. In this context, in this study, the potential of taxes, which is one of the most effective tools of fiscal policy, to create financing in the current situation will be examined. Establishing a balance within the framework of various Constitutional limits and principles that affect this potential; in the paradox of efficiency and justice, it is aimed to evaluate the principle of social rule of law from a critical perspective and to make normative suggestions for possible scenarios. For this, the position of the current tax policies implemented in our country against the existing balance and different country approaches will be examined to create a model for the proposals.

2. The Qualifications of Tax Policies with Regards to The Covid-19 Pandemic

Health is accepted as a global public good in the doctrine due to the area in which its externality spreads. The epidemic, on the other hand, is considered global public bad (Özgül & Susam, 2021: 175-176). The World Health Organization declared the current epidemic as a 'pandemic' on March 11, 2020 (WHO, 2020). Since a pandemic is defined as the worldwide spread of a new disease, it is undisputed that it is considered global public bad.

Due to its nature, the pandemic necessitated the use of all fiscal policy instruments. Taxes and public expenditures, due to their automatic stabilizer characteristics, help the economy to come back into balance in case of instability in the conjuncture, without the need for the government's voluntary intervention (Pınar, 2017: 58). Therefore, the fiscal policies to be planned in the pandemic are not only related to the health dimension of the pandemic; it also has the potential to have a healing effect on the socio-economic dimension.

3. Tax Policies and Social Law State Principle in The Paradox of Efficiency and Justice

The paradox, which is expressed as 'contradiction' in the dictionary, arises from the contradiction in the structure of efficiency and justice purpose when it comes to tax policies. The equivalent of the efficiency in tax law is the realization of the financial

[2] For example, the Economic Stability Shield measures announced by the President at the beginning of the pandemic included delaying the loan payments of companies with impaired cash flow to banks, additional financing support when necessary, and stock financing support to the exporter.

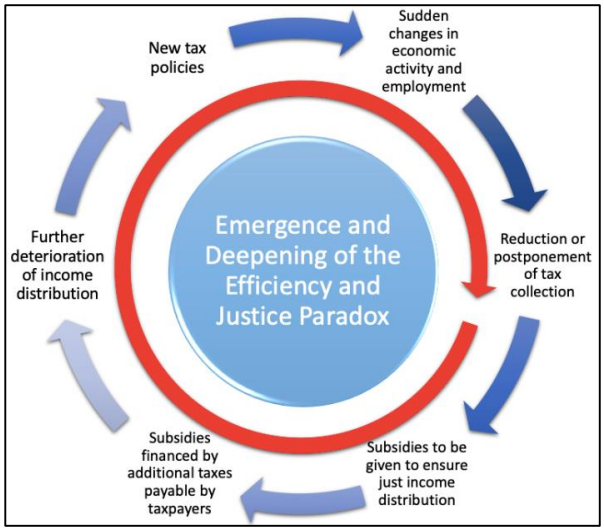
purpose. In other words, efficiency is to turn to taxes on expenditures, regardless of financial power. Efficiency is aimed at obtaining the highest tax revenue, and therefore it is inversely with justice, which prioritizes impartiality in taxation (Karayılmazlar & Güran, 2005: 145). A just tax is one that generally imposes equal obligations on people of the same ability to pay (Rosen & Gayer, 2010: 365-366).

The paradox between efficiency and justice has been studied in the literature within the framework of optimal taxation approaches. In a policy where efficiency is prioritized, justice deteriorates, whereas, in a policy where justice is prioritized, efficiency is impaired. So much so, while the progressive taxation of income is foreseen for justice; for efficiency, it is foreseen that taxes should be collected on expenditures in order not to play a distorting role in investments and savings (Akkaya, 1988: 352).

4. A Paradox Examination of The Role of Tax Policies in Struggling The Pandemic

Taxes are a tool frequently used by policymakers to balance fluctuations in the business cycle. The capacity of taxes to finance the fluctuations that came with the pandemic and the increase in expenditures made or planned to be made is high when its share in budget revenues is taken into account. Therefore, taxes play a key role in this process (Tunç, 2020: 53).

Figure 1: Paradox Cycle



Source: Created by the author.

If this whole mechanism based on the efficiency of taxes is not systematized correctly; when the subsidies to ensure just income distribution are paid by the taxpayers through taxes, a more disruptive cycle will emerge. This will give rise to a deeper paradox. Moreover, the severity of the paradox will increase when the restructuring laws, which have been in effect recently, are added to this cycle.

The pandemic, which triggered a global crisis, made it necessary for each country to design its policies. For example, corresponding to the seven[3] most important countries of the world economy, Similar policies of G7 countries are generally relief and recovery plans (e.g.: *Coronavirus Aid, Relief and Economy Security Act "CARES Act", Coronavirus Preparedness and Response Supplemental Appropriations Act, Plan de Relance, Relaunch, Emergency Economic Package Against COVID-19*); tax deferrals; temporary VAT discounts refunds and installments; property tax holidays; financial supports for local governments; mainly sustained within the framework of subsidies in the form of grants (IMF, 2021). Similar policies are modeled not only in the G7 countries but also in China, Singapore, and Greece. Policies in this direction aim to prevent the decrease in the disposable income of households and companies (PWC, 2020).

In our country, many tax regulations have been made since last year, both due to the pandemic and independent of the pandemic. For example, although it does not directly include the pandemic in the justification of the regulations, the SCT regulation, which is indirectly related, is important in terms of efficiency and justice paradox, based on the social law state approach. Tax policies for vehicle use in pandemic conditions can be examined multidimensionally. Increasing the use of personal vehicles in compliance with the social distance rules and the approach that prioritizes the financial purpose affect the taxpayer tendencies in different ways, the expectations of increasing MVT, SCT, and VAT in vehicle purchases and their results (qv: Tunç, 2020). As a matter of fact, with the decision made in August, although there is no relationship with the pandemic in the text of the reason (the reason is to reduce imports and increase domestic production), SCT regulation was made. Since the SCT is already in the category of taxes that prioritize efficiency in terms of its structure when the role played by personal vehicles during the pandemic period is added to it; this regulation is far from the understanding of the social state and world practices in the struggle against the pandemic.[4] Because SCT is a tax that is applied equally to all people, that is, it is an objective tax, it is a tax that serves the efficiency function, not the justice function.

However, it is seen that measures are taken in the form of delaying the short-term effects of the pandemic rather than a real tax policy in our country. These are regulations far from crisis-preventing solutions. Because the market will not return to the pre-pandemic situation during the payment period for the deferred taxes, radical policy changes should be considered as a necessity.

It is seen that regulations with direct pandemic reasons do not offer a way out of this paradox (especially in force majeure regulations). The first force majeure regulation, [5] which covers a three-month postponement, came to an end at a time

[3] The European Union is among these countries.

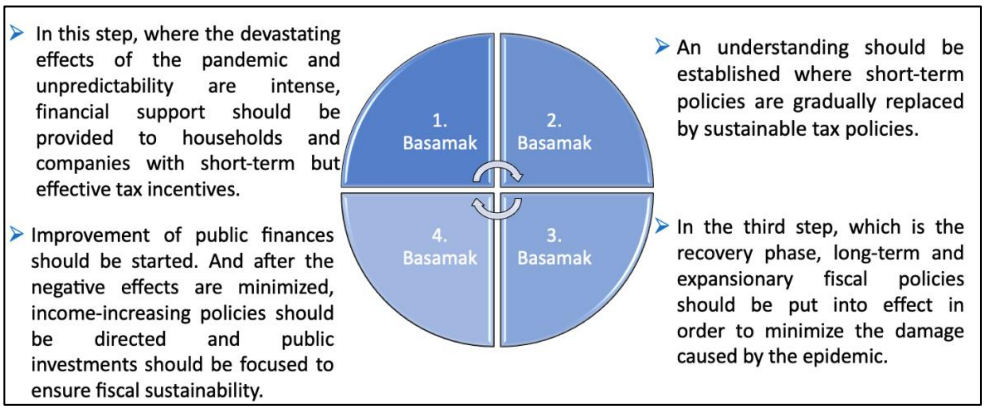
[4] 2912 Sayılı Cumhurbaşkanı Kararı, 31229 Sayılı ve 30/08/2020 Tarihli Resmi Gazete (Presidential Decision No. 2912, Official Gazette No. 31229 dated 30/08/2020).

[5] Vergi Usul Kanunu Genel Tebliği (Sıra No: 518), 31078 (Mükerrer) Sayılı ve 24/03/2020 Tarihli Resmi Gazete (Tax Procedure Law General Communique (Sequence No: 518), Official Gazette No. 31078 (Repeated) and dated 24/03/2020).

when the severity of the pandemic was increasing, unlike the expression "during force majeure" in the law. The second force majeure declaration, [6] just like the first regulation, has been subjected to the same criticism as a regulation that does not cover all taxpayers.

Even in an approach where epidemics are not considered in the category of natural disasters; It is possible to categorize the pandemic within the "like situations" (qv: Oktar & Tunç, 2020) in the force majeure provisions of the Tax Procedure Law (TPL). Here, the authority is not as a general force majeure declaration; carried out specifically for certain taxpayer groups (Coşkun Karadağ, 2020: 403-404).

Figure 2: OECD's Roadmap in the Struggle Against the Pandemic



Source: OECD, 2020b: 10-11.

When this cascading structure, which is an advisory roadmap of the OECD, is taken into account, it is seen that Turkey has passed the 4th step, which is the income increase step, early. This hasty policy that prioritizes efficiency is likely to have other devastating effects in the long run.

Coordination between countries can make tax policies more effective, as countries' policies are limited. The effects of the pandemic will not be symmetrical on a sectoral basis, and these effects will not be seen in different countries at the same time. With globalization after the 80s, no country can control the economic crisis alone. Unilateral policies have the potential to worsen social and economic costs in the context of externalities spreading abroad. Therefore, international cooperation will be more effective in controlling the economic crisis (OECD, 2020A: 15). Countries that enter stimulus policies too early or on their own may face funding difficulties, and new tax policies developed to finance this difficulty may prevent the aim of justice.

However, if this mechanism, which is based on the efficiency of taxes, is not properly systematized, when it is thought that the subsidies to be given to ensure just

[6] Vergi Usul Kanunu Genel Tebliği (Sıra No: 524), 31375 sayılı ve 25/01/2021 Tarihli Resmi Gazete (Tax Procedure Law General Communique (Sequence No: 524), Official Gazette No. 31375 and dated 25/01/2021).

income distribution will be provided by the taxpayers, a cycle that will distort the income distribution. This situation will cause a deeper paradox by disrupting the balance of efficiency and justice. Because the crisis caused by the current pandemic, unlike the crises that emerged in the recent past, affects every segment from households to companies economically, It has brought with it many different sociological and psychological depressions. For this reason, there is no room for error, especially in an intervention by the state.

For example, SCT, which is subject to constant changes during the pandemic period and tends to increase in general, has a characteristic that distorts justice in income distribution and the principle of solvency, as it prioritizes efficiency but does not take into account the special conditions. But this is not the failure of policymakers or tax rules. The priority of each policy and rule in the tax system serves a different purpose (Tunç, 2020: 54). Therefore, what is sought in tax policies is not the absolute truth, but the 'right balance'.

When it comes to tax policies, what is 'good' taxation or 'undesirable' tax policy has always been a subject of debate within the scope of different approaches. The views put forward on this subject have evolved according to the conditions of the period and schools of economic thought (Hettich & Winer, 2004: 109-110). For this reason, tax rules -and therefore tax policy- cannot be examined alone, independent of the taxation relationship and other elements in the tax system.

For example, when designing a tax policy, the order of priority between two or more conflicting policies requires some compromises (Ting, 2013: 22). In this multi-faceted contradiction, namely paradox, a new tax rule to be created within the scope of the determined policy is expected to be compatible not only with other provisions but also with the general principles of fiscal policy, even if it is not perfect (Tunç, 2021: 423).

5. Conclusion

There are studies in the literature that show that policies based on public expenditures give more effective results compared to Turkey's economic structure between tax cuts and public expenditures. In this context, there is a need for more normative research in the doctrine to increase the effectiveness of tax policies, which are thought to be less effective. As a matter of fact, the use of unidirectional fiscal policies in different scenarios on the grounds of divergences in-country dynamics may lead to repetitive and cumbersome policy processes.

As it is accepted in the doctrine; apart from the complementary structure of economic policy as monetary and fiscal policies, it is not possible for a unidirectional policy understanding to offer an effective proposal for solving the crisis that came with the pandemic. The -implemented- tax policies that will be discussed in the study are necessary to be the savior of the countries in the struggle against the pandemic; however, it is not sufficient. Unless the theories produced are supported by the tax rules to be introduced to meet the needs; although the pandemic passes, it is a fact

that its negative impact on both the private and public economy will not pass. As a result, the out-of-balance operation of tax policies creates a situation with the risk of bringing along some problems such as fiscal drag.

Predicting the policies implemented or expected to be implemented only for certain sectors will lead to deviation from the target. Because it is not possible to reduce the effects of the COVID-19 pandemic to any sector. Maybe the processes or weight of the policies can be differentiated according to the sectoral damage; however, the complete exclusion will also undermine the long-term effectiveness of existing policies and neutralize the positive effects.

Along with the understanding of the state, the understanding of policies has also changed with the turning points in history. The Great Depression and the Oil Shock are the best known of these. The Covid-19 pandemic can also be considered a turning point for a change in the classical fiscal policy understanding. Because regardless of the global conjuncture, country or sector; as it brings with it a crisis of an unprecedented nature; here, the necessity of a modern approach and policies in which farsightedness is internalized emerges. In this context, within the framework of the approaches in the doctrine, the policies that have been implemented and continue to be implemented and the policies that are expected to be implemented will be examined; various solutions will be offered in the context of tax policies about possible problems that may arise.

As a final word; To eliminate the destructive effects created by the aim of providing efficiency, which is hastily acted according to the leading countries in global struggle policies, policies focusing on the purpose of justice are required. The second requirement is that these policies should be extended to the entire economy, not to specific sectors, unlike the policies up to now.

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