Athens Journal of Law - Volume 9, Issue 2, April 2023 – Pages 173-186

European Union Fundamental Rights Reflected in Tax Procedures. The Key for Tax Harmonisation inside The European Union?

By Mihaela Elvira Pătrăuş [±] &
*Tudor Dumitru Vidrean - Căpuşan**

Although it has an internal market with the aim of obtaining full tax harmonisation, the European Union is still struggling to provide a common standard for 27 different tax systems. Because there are almost no European Union tax procedural regulations, after the entry into force of the Lisbon Treaty, the fundamental rights of the EU have begun to play an increasingly active role inside the European Union. Therefore, the European Union Court of Justice is ever more often required to deliver decisions related to the compatibility between national tax procedures and the rights guaranteed by the EU Charter of Fundamental Rights. The present article aims to make a presentation of the most important decision delivered by the Court of Luxembourg and to analyse the way in which these decisions can support the European project of tax harmonisation.

Keywords: *Tax; Harmonisation; Procedures; Fundamental rights; EU Charter*

Introduction

The European Union is a unique construction in the history of international relations. As is well known, the EU was created in the aftermath of the Second World War with the aim to reconstruct Europe[1]. The idea was to develop an economic union between the countries of Europe that would be used as a tool for the social, military, and political union of the European continent[2].

Being an economic project, the EU was confronted with taxation problems from the beginning. The Treaty of Rome provided the legal framework for the first success of the taxation harmonisation in the history of the EU. The Treaty of Rome called for the Member States to eliminate all custom duties within 10 years[3].

By 1968, this objective was already achieved and there were no more custom duties that affected the intracommunity trade between Member States. The custom

[±]Ph.D., Associate Professor, Faculty of Law, University of Oradea, Romania.
Email: mihaelapatraus@yahoo.com.
[*]Ph.D., University Assistant, Faculty of European Sciences, Babeș-Bolyai Univserity of Cluj-Napoca, Romania.
Email: tudor.vidrean.89@gmail.com
[1]Dinan (2001) at 11-12.
[2]Gillingham (1995) at 21-22.
[3]Vanke (2007) at 456-460.

https://doi.org/10.30958/ajl.9-2-1 doi=10.30958/ajl.9-2-1

union of the EU was completed by the end of the 1980`s when the first EU Custom Duties Code was adopted. Furthermore, following the adoption of the White Paper in 1985, the objective of the EU was extended to the completion of the internal market[4]. 31 December 1992 was the deadline set for a definitive regime for the VAT in the European Union. Unfortunately, this objective was only partially achieved due to lack of political support[5].

At this point in time, the EU shares competences with the members in applying the most important indirect tax: VAT. In the area of direct taxes, the EU has limited competences and its actions are provided by the ECJ`s decision (see for example: *Schumaker*[6] case) which focusses on defending the fundamental freedoms of the EU Member States[7].

From the procedural point of view, the competences of the EU are limited as well. For example, we can offer Directive 24/2010/EU which provides the legal framework for assistance between Member States to recover tax revenues. The lack of regulations in this field provides a free hand for the fundamental rights enshrined in the Charter for the Fundamental Rights inside the EU. This Charter was adopted as a political document during the Nice Council of 2001 and has become a legal document since the entry into force of the Lisbon Treaty (1 December 2009)[8].

The Charter became an influential document in the life of the EU and a good indicator is the growing number of cases before the ECJ related to the Charter. Because of the lack of provision of tax procedure regulations, the Charter is a good instrument that can be used for providing a minimum standard of procedural rights for the taxpayers in the area of taxation. In the following, we are going to present some of the latest ECJ decisions connected to our topic and will try to understand if the reflection of EU fundamental rights in tax procedures can be used as a foundation for tax harmonisation.

Literature Review

The Role of EU Charter of Fundamental Rights and its connection to Taxation

At its roots, the EU was only a community based on a strong economic cooperation between its Member States to ensure the recovery of the European economies after the Second World War. At that time, there was no legal perspective for the European Community. Only after the White Paper of 1985, the need for a supranational legal tie appeared[9]. After the Nice Summit of 2001, a political document was adopted, which for the first time, proclaimed the

[4]Lodge (1986) at 209-210.
[5]De la Feria (2015).
[6]ECJ, decision C-279/93.
[7]Kaye (1996) at 110.
[8]Endt (2017) at 4-5.
[9]Glasner (1986) at 450-451

preoccupation of the European Union in relation to the fundamental rights of its citizens.

Until the entry into force of the Lisbon Treaty, the Charter was only a political document with no legal force. After the Lisbon Treaty, however, the Charter became an official treaty of the European Union with compulsory legal force. The main role of the Charter was to guarantee the application of fundamental rights relating to the European Union citizens.

As is known, the area of taxation is of key importance for the European Union. The European Union has an exclusive competence in custom duties and shared competence in VAT and excise duties[10].

In the area of direct taxation, however, there is no EU competence because of Member States' reluctance to transfer their competences to a European level[11]. Accordingly, there are no European Union tax code procedures, the procedure rules being the exclusive competence of the Member States. In this context, the EU Charter plays the decisive role in protecting European taxpayers' rights when they fall under tax procedures across the Member States[12].

Accordingly, the European Union Court of Justice case law becomes an important instrument for explaining the application and interpretation of fundamental rights and in developing the harmonisation process in taxation procedures. As a preliminary conclusion, it can be noticed that there is a strong link between the EU Charter and tax procedures within the European Union and special focus should be given to this relationship to determine the magnitude of the European harmonisation process.

According to art. 5 par. (1) of the Charter, the Charter applies only in the case when Member States are in a process of applying the EU law. We consider this an important point in the ECJ case law established in the cases of *Wachauf*[13] and *ERT*[14]. Although both cases are non-tax cases, in both cases the Court underlined the fact that Member States have the obligation to abide by EU general law principles, while all national measures must be in accordance with EU law principles when the EU legal order is applicable.

Consequently, the case law related to art. 5 par. 1 of the Charter has broadened considerably. From the case law of the ECJ, it can be noticed that the fundamental rights will apply not only in the cases when directives, regulations and decisions are implemented, but also in the cases where national measures implement the EU law. In the following, we will present some of the most important ECJ cases in the relationship between fundamental rights and tax procedures.

[10]De la Feria (2009) at 1-5.
[11]Van Thiel (2008) at 145.
[12]Weber (2006) at 586.
[13]ECJ decision C-5/88.
[14]ECJ decision C-260/89.

Fransson[15] Case: The First Interaction between Fundamental Rights and Taxation

The case concerned a Swedish fisherman, Mr Åkerberg Fransson, who was accused of serious tax offences by providing false information in his tax returns for 2004 and 2005, underpaying income tax, value added tax (VAT) and employer contributions. Of the underpayment for 2004 of 319,143 Swedish kronor (SEK), an amount of SEK 60,000 (around €7,000) concerned VAT; of the underpayment for 2005 (SEK 307,633), an amount of SEK 87,550 (around €11,200) concerned VAT.

In 2007, Mr Åkerberg Fransson was ordered to pay additional assessments and to also pay punitive tax surcharges for 2004 and 2005: €11,250 for underpaying income tax, €1,800 for underpaying employer contributions and €1,025 for underpaying VAT. Mr Åkerberg Fransson did not challenge these surcharges, which thus became final. Meanwhile, criminal proceedings before the Haparanda District Court were brought against him, "based on the same acts of providing false information" as the tax surcharge.

That Court stayed the proceedings and referred several questions to the Court of Justice asking, inter alia, (1) whether the bringing of criminal proceedings after a decision imposing a tax surcharge in respect of "the same act of providing false information" would come under the *ne bis in idem* principle laid down in art. 4 of Protocol No.7 ECHR and art. 50 of the Charter of Fundamental Rights; and (2) whether the Swedish rule that "there must be clear support in the ECHR or the case law of the European Court of Human Rights" in order for a national court to be able to set aside national provisions that could infringe the rights set out in the ECHR, and therefore also the Charter, would run counter to the primacy and direct effect of EU law.

It is relevant to emphasise the fact that the only connections of the case with the EU was only the VAT debt, besides the fact that Mr. Fransson was asked to pay income tax and contribution taxes. It is important to mention the fact that the VAT Directive does not contain any provision related to the problems where there is accusation of tax fraud. Because of this the decision, that was about to be delivered by the Court, it would be a landmark decision related to harmonisation of tax procedures in the European Union by using fundamental rights.

Reiterating the existing body of case law on the scope of applying EU fundamental rights "as general principles of EU law", it first observed that the "definition of the field of application of the fundamental rights of the European Union is borne out by the explanations relating to art. 51 of the Charter which … have to be taken into consideration for the purpose of interpreting it." Where national legislation falls "within the scope" of Union law, this "entails applicability of the fundamental rights guaranteed by the Charter." By contrast, the Court does not have the jurisdiction to rule on "a legal situation" or on any of the provisions of the Charter where that situation does not come within the scope of EU law,

[15]ECJ decision C-617/10.

because the provisions of the Charter cannot themselves "form the basis for such jurisdiction."

The Court considered the case of Mr Åkerberg Fransson to fall within the scope of the Charter. It construed the necessary link with EU law from three sources: (1) the provisions of VAT Council Directives 77/388 and 2006/11; (2) art. 4(3) TEU, obliging every Member State "to take all legislative and administrative measures appropriate" for ensuring the collection of VAT due on its territory; and (3) art. 325 TFEU, requiring Member States to "counter illegal activities affecting the financial interests of the EU."

The Court emphasised that VAT forms part of the system of the European Union's own resources, which provided "a direct link between the collection of VAT revenue in compliance with the European Union law applicable, and the availability to the European Union budget of the corresponding VAT resources." For these reasons, both the tax surcharges imposed on Mr Fransson as well as the criminal proceedings brought against him "constitute implementation … of European Union law" for the purposes of art. 51(1) of the Charter.

As for the cumulation of criminal and administrative proceedings and the scope of the *ne bis in idem* principle of art. 50 of the Charter, the Court found that the latter "does not preclude a Member State from imposing, for the same acts of non-compliance with declaration obligations in the field of VAT, a combination of tax penalties and criminal penalties." The Court considered that to ensure that all VAT revenue is collected, and the financial interests of the European Union are protected, "the Member States have freedom to choose the applicable penalties," which may be administrative or criminal in nature, "or a combination of the two."

The Court added that only if the tax penalty is criminal in nature for the purposes of art. 50 of the Charter would this "[preclude] criminal proceedings in respect of the same act from being brought against the same person" and went on to examine whether that was the case. To that end, it reiterated the *Engel* criteria, which it had already adopted in the *Bonda* judgment: (1) the national legal characterization of the offence; (2) the very nature of the offence; (3) the degree of severity of the penalty liable to be incurred.

Remarkably, the Court refrained from reaching any conclusions on the application of these criteria in the present case, and instead held that it "is for the national court to determine" whether there was indeed a breach of the *ne bis in idem* principle. Finally, as regards the requirement under Swedish law that there must be "clear evidence" in the case law of the ECtHR or the Court of Justice for a Swedish judge to be able to set aside any provision in national law that runs counter to a fundamental right as guaranteed by the ECHR or the Charter, the judgment is conclusive.

The Court first pointed out that it could not rule on the compatibility of the national provision with ECHR rights, "whilst fundamental rights recognised by the ECHR constitute general principles of the European Union's law and whilst Article 52(3) of the Charter requires rights contained in the Charter which correspond to rights guaranteed by the ECHR to be given the same meaning and scope as those laid down by the ECHR. The latter does not constitute, as long as

the European Union has not acceded to it, a legal instrument which has been formally incorporated into European Union law."

As far as Charter rights are concerned, however, the Court emphasised its case law requiring the judiciary in the Member States to give full effect to provisions of EU law, and to disapply provisions of national law where necessary to this end. The conclusion followed that:

> *"European Union law precludes a judicial practice which makes the obligation for a national court to disapply any provision contrary to a fundamental right guaranteed by the Charter conditional upon that infringement being clear from the text of the Charter or the case-law relating to it, since it withholds from the national court the power to assess fully, with the cooperation of the Court of Justice, whether that provision is compatible with the Charter."*

The importance of the case is related to the following guidelines [16]. First, the Court points out that the phase "implementation of the EU" is going to be interpreted in a very broad sense. The essence of the Court decision is the fact that the fundamental rights guaranteed by the Charter will be applied to tax procedures, whether there are direct taxes or indirect taxes involved. Member States will have the obligation to take into consideration the fundamental rights of the EU in every tax procedure.

Secondly, the importance of the *Fransson* case is attached also to the relationship between the tax and criminal procedures and to the principle *ne bis in idem*. Because of the application of art. 325 TFEU, the EU and the Member States have the obligation to prevent and combat against any problem that may endanger the financial security of EU budget.

Because of this objective, in many situations in the financial life of the EU there are many situations where tax issues are tackled by both procedures: tax and criminal. Accordingly, the *Fransson* case, based on the rights guaranteed by the Charter, explains the distinctions that should be made between tax sanctions and criminal sanctions. As can be noticed from the decision, the Court clarified that financial sanctions can be considered as criminal sanctions.

This will have influence over the criminal procedures because in situations where financial sanctions are considered, criminal sanctions will generate the closure of the criminal procedures. Furthermore, the *Fransson* case has influence the connection between fundamental rights and tax procedures.

Methodology/Material and Methods

.

The Development of Taxation Harmonisation Process under Direct Influence of the EU Charter Fundamental Rights

[16]Peeters (2018) at 182-185.

Clearly, the combination between fundamental rights and taxation produced good results for the harmonisation process inside the European Union. No other European affairs areas recorded such progress such as taxation, especially related to procedural rules and rights. Previous cases proved that this significant progress happened because of the influence of the fundamental rights after entry into force of the Charter (1 December).

To prove the aim of our article, which is based on qualitative research, we would like to continue to expose the way in which fundamental rights and taxation produced important rules and rights for taxpayers all over the EU, becoming a role model for the harmonisation process in all areas of competences of the EU.

Next, we will present a series of ECJ decisions of immense impact over the development of tax procedural rules inside the European Union, which indicate the future of the European harmonisation process. We suggest that the outcome of these decisions can be used for the conclusions of our article.

Fundamental Rights and Unlawfully Obtained Evidence in Tax and Criminal Procedures

The continuation of the *Fransson* case is the decision that the Court delivered on 17 December 2015 in the case *WebMindLicense*[17]. Again, the role of the fundamental rights derived from the Charter was necessary to referee in a case where tax and criminal procedures were involved. WebMindLicense is a Hungarian-based affair that involved the question of transfer from the criminal procedure to the tax procedure.

WebMindLicense (WML) is a Hungarian company in the field of erotic services provisions. The company transferred its headquarters to Madeira (Portugal) and kept an office in Budapest (Hungary). The reason for this was that, in Madeira, the VAT rate was only 5%, whereas in Hungary the VAT rate was 27%.

The Hungarian criminal authorities opened a criminal procedure against WML on charges related to tax evasion. The Hungarian authorities had access to the company`s emails and tax records and, therefore, put the company`s representatives' telephones under surveillance. The evidence obtained in the criminal procedure was transferred to the Hungarian authorities. The Hungarian authorities used this evidence and issued a tax decision through which they imposed additional VAT surcharges.

The Hungarian Supreme Tax Court made a preliminary ruling referenced under art. 267 of the TFUE to determine the lawfulness of evidence between procedures related to art. 7, art. 47 and art. 52 of the Charter. The Court realised an extensive analysis of the fundamental rights role and applicability, even making references to the values set by the European Court of Human Rights in its case law of interpreting the European Convention for Human Rights.

The main conclusion of the EU Court was that there was no EU law issue that two procedures are running parallel in connection with the same facts. This is an important explanation on the part of the Court, after the essential decision in the

[17]ECJ decision C-419/14.

Fransson case. The two procedures culminated by applying different types of sanctions. But the uniqueness of the decision was elevated by the fact that the Court decided that it was unlawful to have a transfer of evidence from one procedure to another in the situation where the legality of obtained evidence did not fall under the scrutiny of a judge.

The decision in *WML* case is a landmark case because it ends the practice developed in many Member States of no control over evidence transfer between procedures. Through this decision, we may understand that the EU Court has set the standard of a fair trial and of the principal al legality in the case where two procedures – a tax one and a criminal one – that run in parallel.

The *Dzivev*[18] case is strongly connected with the principles developed in the WML case because it sets another important standard in tax and criminal procedures at the European level. The problem discussed in the *Dzivev* case is related to the influence over criminal procedures due to tax evasion accusations to exclude illegally obtained evidence, because of the lack of competence of national authorities, in the situation where that evidence is the only opportunity to prove that the offenses in question were committed.

The facts in the *Dzivev* case are related to the circumstance that the Bulgarian tax authorities made an accusation of tax evasion against several Bulgarian citizens. The national authorities said that there was a VAT fraud, and the action was justified by art. 325 TFEU (protection of EU financial interests). To obtain evidence, the national authorities intercepted electronic communications

While criminal procedure was pending, the Bulgarian criminal court decided that the authorization for the interception of electronic communications was given by a noncompetent authority. Therefore, a preliminary ruling was opened, and the Court was asked if the Charter permitted the exclusion of criminal evidence which was illegally obtained, when that evidence was the only opportunity to prove tax evasion accusations against the financial interests of the European Union.

By its 17 January 2019 decision, the Court began by stating that the protection of European Union financial interests was a common obligation for both EU and Member State institutions. But this goal could not overcome the values protected by the Charter. Accordingly, Member States must protect the fundamental rights of EU citizens at any cost.

The interpretation of the EU Court was that, when evidence is illegally obtained, it should be automatically excluded from any EU procedure because the Charter values are to be respected. As a conclusion, it is clear that another standard was set in the process of tax harmonisation inside the European Union by using the values of the Charter. Ultimately, the ECJ decisions such as WML and Dzivev can be considered an unwritten procedural code for tax and criminal procedures that run parallelly and are directly connected to EU financial interests.

The Right to Defence and Tax Procedures

[18]ECJ decision C-310/16.

In light of the previously presented decisions, another question may arise; What is happening when taxpayers do not have access to all relevant information? Does the taxpayer have a right to prepare its defence before national tax authorities? The answer to these question lies in the principle of the right to defence. Like all other fundamental rights, the right to defence must be interpreted in a broader manner with all its multiple meanings. Of course, because of a lack of tax procedures, the meanings have been explained by the EU Court decisions.

The first important case is *Soprope*[19], where the Court explained that, in tax procedures, Member States should provide a sufficient time framework for taxpayers to have time to prepare and to display their explanations. The Court emphasised that in the absence of guaranteed taxpayer fundamental rights in European tax procedures, their rights are infringed. This decision provided a new framework in the relationship between Member States and taxpayers because it provides that the defence should be of quality, not only of quantity.

The next important decision is *Ispas*[20], where the Court emphasised another component of the fundamental right to defence. Here, the focus was on the right to access to the administrative file during administrative procedures. The access to the administrative file is highly important because it underlines the fact taxpayers must have the possibility to consult and be aware of all public and non – public information used by Member State administrative authorities.

The importance of the decision in connection with the that delivered in *WebMindLinceses* is notable. The right to have access to the administrative file provides the possibility for the taxpayer to have communication with non-public information, such as evidence transfer between procedures, and to prepare a quality defence. Surely, through these decisions, another standard for all European tax procedures has been set from the point of view of fundamental rights: the right to access to the administrative file. The fact that fundamental rights work in tax procedures is an indicator that this can be a path for tax harmonisation in the European Union firstly with the EU Court decisions.

Furthermore, another key decision is the *CF*[21] decision, where the Court declared that the sanction giving access to the administrative file is the nullity of the whole administrative procedure. By this decision, the Court underlined the importance of this fundamental right in tax procedures. Moreover, the Court also explained the role of the national courts who have the obligation to exercise control over the national administrations to ensure the applicability of the fundamental rights in the procedures.

In conclusion, it is apparent that Member States should pay considerable attention to the right of defence in relation to tax procedures. The right to defence has become an important tool for the harmonisation of tax procedures inside the European Union.

Findings and Results

[19]ECJ decision C-349/07.
[20]ECJ decision C-298/16.
[21]ECJ, decision C-430/19.

Another key element of the tax harmonisation inside the European Union is related to GDPR protection rules. GDPR rules have an important aspect because they stipulate the rules related to tax information transfer between Member States. The first important case is the *Sabou*[22] case. It is important to stress that the *Sabou* case happened before the entry into force of the Charter. The EU legal rules used by the Court to solve this case were the general principle of defence and the Mutual Assistance Directive (77/799/CEE)[23].

In the *Sabou* case, a Czech resident was the subject of a tax investigation from Czech tax authorities. The Czech tax authorities requested information from several Member States to confirm the nature and extent of Mr. Sabou's business and the verity of its tax statements. Mr. Sabou considered that his fundamental rights (the right to defence) were infringed upon because he was not informed in advanced about the information exchange procedure, while he was not involved in the procedure.

The Court decided that the national tax authorities' action was lawful because the exchange procedure was not a public procedure, and that the information was necessary only for domestic decisions within the tax authority. It is important to point out that the Sabou case was based on facts that occurred before the entry into force of the Charter and the Court did not have the instruments available at that moment.

The next important case is of Romanian origin, the *Bara*[24] case. *Bara* has influenced decisively the relationship between data protection rules and tax procedure inside the European Union. According to Romanian legislation prior to 2015, contributions to the National Health Fund were the responsibility of the Health Ministry through the National Chamber for Health Contributions. It is important to specify that, according to Romanian legislation at that time, the contributions were considered budgetary debts.

For enforcement procedures, the National Chamber requested and obtained access to the data base of the national tax authorities. By using this personalisd data, the National Chamber issued a tax decision retroactively. The Cluj Court of Appeal demanded a preliminary ruling to determine if this personal data transfer between two national public bodies, necessary for tax purposes, was a legal one from the viewpoint of personal data, whilst the purpose (of the transfer) was a tax one.

The Court started its analyses indicating that the collection and the use of personal data should be made only for legal purposes. The Court recalled that tax collection can be considered a legal purpose. Because of this purpose, the collection and the use of personal data can be made only through legal venues. Therefore, the Court upheld the view that, to abide to the rules of the protection of personal data, the transfer conducted by the Romanian public institution to impose tax debts should have been approved by a normative regulation (law of the

[22]ECJ, decision C-276/12
[23]Chaouche & Haslehner (2017) at 179-180.
[24]ECJ decision C-201/14.

Parliament, ordinance of the government, minister order) and published in the official journal for accessibility to all interested parties.

Because the protocol concluded by the Romanian authorities did not meet these standards, it was deemed that all tax decisions issued were null and void because data protection rules of the taxpayers were infringed. From our point of view, we consider that this decision of the European court plays a very important role in the process in which fundamental rights are reflected in tax procedures. Subsequently, this decision set an important rule for European tax procedures in their harmonisation process.

Last but not least, we will refer to the decision delivered by the Court in the *Berlioz*[25] case. This case was the result of the necessity to interpret Directive 2011/16/EU and art. 47 of the Charter. The particulars occurred when a taxpayer from Luxembourg rejected the request of the French tax authorities to deliver information about a French taxpayer. In this context, the French tax authority asked the Luxembourg tax authority to impose a penalty upon the Luxembourg taxpayer because of his behaviour.

The Luxembourg taxpayer challenged the penalty before a court of law. The national court requested a preliminary ruling to interpret Directive 2011/16/EU (the directive that regulates the exchange of tax information between Member States) and of art. 47 of the Charter (the right to have access to a court of law). The problem was whether the court of law from the addressee Member States has the leeway to analyse the substance of the exchange request or only to analyse the form of the request. Furthermore, the ECJ was asked to examine the depth of the of taxpayer right to have access to the information that was exchanged between Member States.

The Court decided that to fully respect art. 47 of the Charter, the court of law from the addressee Member State has the leeway to examine not only the form of the exchange request, but also its substance[26]. If the national court of law decided that the principle of proportionality in the exchange of information is not respected, it is at liberty to annul the penalty. Regarding taxpayer access, as in the *Sabou* case, the Court decided that it was sufficient to provide access only to general information, because tax confidentiality was still effective.

Unquestionably, the importance of this decision is reflected in the obligation to harmonise tax procedures that must come under the full control of a court of law. Furthermore, this decision also defined the role of the taxpayer and his/her fundamental rights in the situation of European tax exchange information between Member States. In conclusion, it is evident that in the situation of the European tax exchange system, the fundamental rights of the EU provided full harmonisation.

Conclusions

As noticed, taxation problems played a key role in the process of European unification and harmonisation. Although taxation is a sensitive area because of the

[25]ECJ decision C-682/15.
[26]Pantazatou (2018) at 145–149.

rule of unanimity, European harmonisation is most advanced in taxation for two reasons: the involvement of the European Union Court of Justice and the role of the European Charter of Fundamental Rights.

An important conclusion that must be underscored is the fact that after the entry into force of the Charter (1 December 2009), the number of preliminary rulings related to taxation concerns and fundamental rights increased and proved to be the basis for the advancement of the European common rules in the realm of taxation. The combination between taxation and fundamental rights is surely a success for the European process of harmonisation and can be used as an instrument for harmonisation in other sensible European domains (politics, military, social, etc.).

Furthermore, we believe that it is important to underline the role played by the European Union Court of Justice in the successful combination between taxation and fundamental rights in the European harmonisation process. The Court cleverly used its competences as a "negative integration" to fill in the gaps of the "positive integration." In the future, we trust that the fundamental rights interpreted by the Court of Justice can be a powerful tool for the advancement of the European harmonisation process.

References

Chaouche, F. & W. Haslehner (2017). 'Cross-Border Exchange of Tax Information and Fundamental Rights' Ch. 9 in W. Haslehner, G Kofler, A. Rust & W. Kluwer (eds.) (2017) *EU Tax Law and Policy in the 21st Century, (EUCOTAX Series on European Taxation, 55).* Walters Kluwer.

De La Feria, R. (2009). *The EU VAT System and the Internal Market*. Amsterdam: IBFD.

De La Feria, R. (2015). Blueprint for Reform of VAT Rates in Europe, *Intertax* 43(2): 155-172.

Dinan, D. (2001). *Ever Closer Union, An Introduction to European Integration*, 2nd ed. New York: Palgrave.

Endt, G.B. (2017). The End of an Affair? The Danish-British Relationship in the EU and the Brexit. MA thesis. https://studenttheses.uu.nl/handle/20.500.12932/26639

Gillingham, J. (1995). 'American Monnetism and the European Coal-Steel Community in the Fifties' in *Journal of European Integration History* 1:21-36.

Glasner, H-J (1986). 'The Single European Act: Attempt an Appraisal' in *Fordham International Law Journal* 10(3):446-502.

Kaye, T.A. (1996). 'European Tax Harmonisation, and the Implications for the US Tax Policy' in *Boston College International and Comparative Law Review* 19(1):110-172.

Lodge, J. (1986). 'The Single European Act: Towards a New Euro-Dynamism?' in *Journal of Common Market Studies*, 24(3):203-223.

Pantazatou, K. (2018). Fundamental Rights in the Era of Information Exchange – The Berlioz Case (C-682/15), in M. Lang (ed.) *Series on International Tax Law* in M. Lang, P. Pistone, A. Rust, J. Schuch, C. Staringer & A. Storck (eds.) *CJEU – Recent Developments in Direct Taxation 2018*. Vienna: Lindeverlag.

Peeters, B. (2018). 'Ne bis in idem rule: Do the EUCJ and the ECHR Follow the same track?' in *EC tax review* 27(4):182 -185;

Van Thiel, S. (2008). 'The Direct Income Tax Case Law of the European Court of Justice: Past Trends and Future Developments' in *Journal Tax Law Review* 62(1):143-192.
Vanke, J. (2007). 'The Treaty of Rome and Europeanism' in *Journal of the Historical Society*, 7(4):434-474.
Weber, D. (2006). 'In Search of a (New) Equilibrum Between Tax Sovereignty and the Freedom of Movement Within the EC' in *Intertax* 34(12):585-616.

Judgments of the European Court of Justice

ECJ decision C-5/88 – Judgment of the Court (Third Chamber) of 13 July 1989: Hubert Wachauf v Bundesamt für Ernährung und Forstwirtschaft.
ECJ decision C-260/89 - Judgment of the Court of 18 June 1991: Eleniki Radiophonia Tiléorassi AE and Panellinia Omospondia Syllogon Prossopikou v Dimotiki Etairia Pliroforissis, Sotirios Kouvelas, Nicolaos Avdellas and others.
ECJ decision C-279/93 - Judgment of the Court of 14 February 1995: inanzamt Köln-Altstadt v Roland Schumacker.
ECJ decision C-349/07 - Judgment of the Court (Second Chamber) of 18 December 2008: Sopropé - Organizações de Calçado Lda v Fazenda Pública**.**
ECJ decision C-617/10 - Judgment of the Court (Grand Chamber), 26 February 2013: Åklagaren v Hans Åkerberg Fransson.
ECJ decision C-276/12 - Judgment of the Court (Grand Chamber), 22 October 2013: Jiří Sabou v Finanční ředitelství pro hlavní město Prahu.
ECJ decision C-201/14 – Judgment of the Court (Third Chamber) of 1 October 2015: Smaranda Bara and Others v Casa Naţională de Asigurări de Sănătate and Others.
ECJ decision C-419/14 - Judgment of the Court (Third Chamber) of 17 December 2015: WebMindLicenses kft v Nemzeti Adó- és Vámhivatal Kiemelt Adó- és Vám Főigazgatóság.
ECJ decision C-682/15 - judgment of the Court (Grand Chamber) of 16 May 2017: Berlioz Investment Fund SA v Directeur de l'administration des contributions directes.
ECJ decision C-298/16 - Judgment of the Court (Third Chamber) of 9 November 2017: Teodor Ispas and Anduţa Ispas v Direcţia Generală a Finanţelor Publice Cluj.
ECJ decision C-310/16 - Judgment of the Court (Fourth Chamber) of 17 January 2019: Criminal proceedings v Petar Dzivev and Others.
ECJ decision C-430/19 - Judgment of the court (Sixth Chamber) of 4 June 2020: Sc.C.F. SRL v a.j.f.p.m., d.g.r.f.p.c.