



Lund University

School of Economics and Management
Department of Business Law

Empowering the Taxpayer
How the Charter of Fundamental Rights Helps to
Shape an Equitable European VAT System

by

Andréa Toresson

HARN60 Master Thesis
Master's Programme in European and International Tax Law
2022/2023

Spring semester 2023
Supervisor: Mariya Senyk
Examiner: Sigrid Hemels

Author's contact information:
an1038to-s@student.lu.se
+46 70 8 44 35 68

Table of Contents

1. Introduction.....	8
1.1 Background.....	8
1.2 Purpose and research question.....	9
1.3 Delimitations.....	10
1.4 Materials and Method.....	11
1.5 Structure.....	12
2. Breaking Down Hierarchy: A Path to Harmony through VAT, Primary EU Law, and the Charter of Fundamental Right.....	13
2.1 The Charter of Fundamental Rights as a Cornerstone for Upholding EU Taxpayers Rights.....	13
2.2 The Significance of a Fundamental Rights Core in EU Law. The Charter - A Vital Role in Safeguarding EU Law and Ensuring VAT Compliance.....	15
2.2.1 Navigating VAT Law in the EU. Member States' Obligations and the Crucial Role of the CJEU in Interpretation and Application of the Charter.....	16
2.2.3 Crucial Principles and Provisions. Exploring the Charter of Fundamental Rights in VAT Law within the EU.....	17
3. Defending Fundamental Rights. The Charter's Influence in European VAT Law.....	19
3.1 Balancing Revenue and Rights: Designing Transparent EU VAT Laws.....	19
3.1.1 Harmonised VAT System: Principles of Neutrality, Prohibition of Abuse, and Fair Competition.....	19
3.2 The landmark case - Åkerberg Fransson.....	21
3.2.1 The Power of the Charter - European VAT and the Far-Reaching Influence of EU Law on National Tax Penalties and Criminal Proceedings.....	23
4. VAT Impact on Taxpayers' Fundamental Rights. Exploring the Relationship Between Property Rights and Fair Trials in the EU.....	24
4.1 The Role of the Charter of Fundamental Rights in Resolving VAT Disputes.....	24
4.2 Case Law.....	26

4.2.1 Charter and Denial of VAT Rights in VAT Evasion Cases	
- Joined Cases C-131/13, C-163/13, and C-164/13 Italmoda.....	26
4.2.2 Case C-105/14 Taricco - Charter and the Fight Against VAT	
Evasion Examined.....	27
4.2.3 Case C-42/17 M.A.S. and M.B - Charter and European Convention	
on Human Rights as Safeguards in VAT Disputes.....	28
4.2.4 Case C-662/13 Surgicare - The Charter and the right to be heard.....	29
4.2.5 C-419/14 WebMindLicenses - The Charter and the right to respect	
for private life.....	30
4.2.7 Case C-399/11 Melloni - The Charter and the right to a fair trial.....	31
4.2.8 Case MV C-97/21 - The Charter and the Ne Bis In Idem.....	32
4.3 Balancing VAT Enforcement and Fundamental Rights.	
The Charter's Influence on EU VAT Disputes.....	32
5. The Impact of the Charter on VAT Law in The European Union	
- Conclusion.....	34

Abstract

C-617/10 *Åkerberg Fransson*¹ is the landmark case of the Court of Justice of the European Union (CJEU) that dealt with the interpretation and application of the Charter of Fundamental Rights of the European Union (Charter). In brief, the case concerned a Swedish national who was accused of tax evasion and faced criminal charges for failing to pay value added tax (VAT) on certain business transactions. The defendant argued that the criminal charges violated his right to *ne bis in idem*, which is a principle that prevents a person from being tried or punished twice for the same offence.² He argued that the VAT assessment by the Swedish tax authorities was equivalent to a penalty, and therefore, the criminal charges constituted a second penalty for the same offence.³ With that, the *Åkerberg Fransson* case established that, to a large extent, the VAT Directive falls within the scope of the Charter.⁴

The Charter plays a vital role in shaping an equitable VAT system in the EU. It ensures that no individual or legal person is to be discriminated against within this system. By upholding the principles outlined in the Charter, the European VAT strives to treat all individuals, and legal entities equally under the law. The Charter is a legally binding document that sets out a range of fundamental rights that apply to all individuals in the European Union (EU).⁵ These rights include, among others, the right to non-discrimination, the right to fair trial, and the right to an effective remedy.⁶ In essence, the Charter serves as a crucial instrument in guaranteeing the equity of the European VAT, ultimately promoting a just economic environment for taxpayers.

¹ Case C-617/10 *Åkerberg Fransson*, ECLI:EU:C:2012:340.

² *Ibid.* para 50.

³ *Ibid.* para 14.

⁴ Fontanelli, Filippo, ‘Hic Sunt Nationes: The Exclusive Limits of the EU Charter and the German Constitutional Watchdog’ (2013) 9 *European Constitutional Law Review* 315; Szwarc, Monika ‘Application of the Charter of the Fundamental Rights in the Context of Sanctions Imposed by Member States for Infringements of EU Law: Comment on *Fransson Case*’ (2014) 20 *European Public Law* 229; and Emily Hancox, ‘The Meaning of “Implementing” EU Law under Article 51 (1) of the Charter: *Åkerberg Fransson*’ (2013) 50 *Common Market Law Review* 1411.

⁵ Article 6, Consolidated Version of the Treaty on European Union [2012] OJ C 326.

⁶ Preamble, Charter of Fundamental Rights of the European Union [2012] OJ C 326.

Foreword

First and foremost, I would like to express my gratitude to all the brilliant minds of the many authors that have contributed to my research on this subject, especially to Cécile Brokelind and Katarina Fast Lappalainen. Their insights, knowledge, and expertise have been invaluable in shaping my understanding and enriching my work.

With a humble state of mind, I have attempted to delve into the depths of this subject, seeking to uncover small pieces that would add value to this thesis. It is my hope that these efforts will provide a meaningful contribution to the body of knowledge on this subject. I hope that this thesis will do justice to the collective wisdom and knowledge that I have gained from all these wonderful individuals and that it will make a meaningful contribution to the academic community.

I would like to extend my sincere appreciation to my professors, fellow students, and family who have provided me with guidance, support, and encouragement throughout this journey. Their feedback, criticism, and encouragement have helped me to refine my ideas and strengthen my arguments.

My deepest gratitude to Mariya Senyk, my master thesis tutor, for her invaluable guidance, unwavering support, and profound expertise throughout the entire research process. Mariya, your dedication to the field of VAT and your commitment to fostering academic growth have been truly inspiring. Your knowledge, attention to detail, and ability to offer constructive feedback have greatly enriched my learning experience.

To my academic skills tutor, Hanna Glad, I would like to express my sincere gratitude for your support and guidance throughout my academic journey. Your knowledge and expertise have been invaluable in enhancing my writing abilities. Your patience and understanding in explaining complex concepts and providing constructive feedback have been a source of motivation for me. Thanks to your dedicated efforts, I have been able to overcome my challenges and reach new heights in my academic pursuits. I am truly fortunate to have had the opportunity to learn from you. Your impact on my academic development will be cherished for years to come.

I would also like to express my heartfelt appreciation to my close friends and fellow students, Ariana and Deniz, for their invaluable support and collaboration throughout this journey. Ariana and Deniz, your commitment, intellectual curiosity, and dedication to our shared academic passion have been truly remarkable. The countless hours we spent discussing research, analysing, and exploring various perspectives have been both enlightening and enjoyable. Moreover, your support and encouragement during moments of doubt or frustration have been nothing but love. Your willingness to lend an ear, provide feedback, and offer words of encouragement is pure friendship. Working alongside both of you has been a privilege, and I am grateful for the collaborative spirit that we have.

Finally, I would like to acknowledge the support and love of my family, who have been a constant source of inspiration and motivation. Their belief in me has given me the courage and determination to pursue my academic goals.

To my daughters Valérie and Beatrice, your presence and encouragement have been a constant source of inspiration for me. Despite the demanding nature of this academic pursuit, you both have been understanding and patient, providing me with the space and time I needed to focus on my studies. Your belief in me and the countless moments of joy we shared along the way have fuelled my determination to succeed.

Mattias, your support and belief in my abilities have been the foundation upon which this thesis was built. Your understanding of the sacrifices required, the late nights and early mornings spent in the hunt for knowledge, have been both remarkable and humbling. Your love, encouragement, and willingness to take on additional responsibilities have allowed me to dedicate myself fully to this. I am deeply grateful for your presence by my side, serving as a pillar of strength and motivation.

Abbreviations

Charter	The Charter of Fundamental Rights of the European Union
CJEU	European Court of Justice
Commission	EU Commission
EU	European Union
ECHR	European Court of Human Rights
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
VAT	Value added tax

1. Introduction

1.1 Background

The Charter, which was adopted in 2000 and became legally binding in 2009, sets out a range of fundamental rights that must be respected by EU institutions and Member States.⁷ These include the right to property, the right to a fair trial, and the right to equality before the law.⁸ In recent years, there has been increasing interest in the ways in which the Charter can be used to shape VAT law in the EU, and to promote an equitable VAT system that protects the fundamental rights of taxpayers.⁹

C-617/10 Åkerberg Fransson is the landmark case of the CJEU that dealt with the interpretation and application of the Charter and its impact on the collection of VAT.¹⁰ In brief, the case concerned a Swedish national who was accused of tax evasion and faced criminal charges for failing to pay VAT on certain business transactions.¹¹ The defendant argued that the criminal charges violated his right to *ne bis in idem*, which is a principle that prevents a person from being tried or punished twice for the same offence.¹² Åkerberg Fransson, one of the leading VAT cases from the CJEU established that, to a large extent, the VAT Directive falls within the scope of the Charter.¹³

The EU has a complex and evolving system of VAT.¹⁴ While VAT is an important source of revenue for Member States, it can also have significant impacts on taxpayers.¹⁵ In recent years, there has been a growing recognition of the need to ensure that tax systems are fair and equitable, and that they respect the fundamental rights of taxpayers.¹⁶ This topic is important because it raises fundamental questions about the relationship between indirect taxation, in this case VAT and fundamental rights. By examining the ways in which the Charter

⁷Preamble, Charter of Fundamental Rights of the European Union [2012] OJ C 326.

⁸Charter of Fundamental Rights of the European Union [2012] OJ C 326, article 17, article 47 and article 20.

⁹Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. OJ L 347.

¹⁰Case C-617/10 *Åkerberg Fransson*.

¹¹*Ibid.* para 12.

¹²*Ibid.* para 50.

¹³*Ibid.* para 14.

¹⁴Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. OJ L 347.

¹⁵Report from the Commission to the European Parliament and the Council, Ninth report from the Commission on VAT registration, collection and control procedures following Article 12 of Council Regulation (EEC, EURATOM) No 1553/89.

¹⁶Proposal for a Council Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation COM/2022/707 final.

has been applied to VAT case law by the CJEU, insights can be gained into how tax systems can be designed to promote and respect fundamental rights, as well as the challenges that exist in this area.

1.2 Purpose and research question

The purpose of this thesis is to examine the role of the Charter in shaping a fair equitable European VAT system that protects the fundamental rights of taxpayers. The taxpayer's perspective typically pertains to the standpoint of an individual or a legal entity obligated to fulfil tax obligations to the Member State. Within this thesis, the taxpayer perspective will only pertain to a legal entity, specifically the once engaged in economic activities.

The thesis aims to answer the following questions:

- Which are the main principles and provisions of the Charter that are relevant to VAT in the EU?
- How have CJEU interpreted and applied the Charter in VAT cases law, and what implications does this have for VAT law and policy in the EU?
- Can the presence of the Charter be identified within the VAT Directive?
- To what extent and under what circumstances does the Charter play a significant role in resolving VAT disputes?

1.3 Delimitations

Within the scope of this thesis, it is important to clarify that the implementation of the Charter in the EU VAT legislation of non-EU countries will not be considered.

The thesis does not encompass a detailed analysis of the European Convention on Human Rights. Rather, it will be referenced only for the purpose of cross-referencing as a source when required.

Furthermore, the discussion regarding whether VAT is considered an unjust tax or not will not be addressed.

Additionally, it should be noted that examples of other indirect taxes such as sales tax, excise duty, and customs duty will not be discussed in this thesis. The research will specifically concentrate on VAT and its interplay with fundamental rights, providing a comprehensive analysis of a selection of the relevant cases and legal arguments within this specific context.

The VAT cases that the thesis discovered are not exhaustive; they are selected cases in the impact of VAT and fundamental rights, it is crucial to acknowledge that the thesis will not cover all the case law there is. Instead, the chosen cases will serve to explore and understand the complex dynamics between VAT laws and fundamental rights within the defined scope of this thesis. The purpose of this selection process is to identify the most representative cases that effectively showcase key legal arguments, thereby providing valuable insights into the relationship between VAT regulations and the Charter.

1.4 Materials and Method

Legal pluralism is a methodology that recognises the existence of multiple legal systems and their interactions within a particular jurisdiction. In the context of researching the relationship between the Charter and the European VAT system, legal pluralism involves examining the various sources of law that may impact VAT regulations, including case law, the Charter, and EU VAT law.¹⁷

Case law will be examined to identify instances where the CJEU have considered the impact of the Charter on indirect taxation, specifically VAT. These cases will provide insight into how the CJEU interprets and applies the Charter in the context of VAT regulations and how they balance the need for revenue-raising with the protection of fundamental rights.

The Charter itself will be studied to identify specific provisions that relate to VAT and how these provisions may be used to challenge or shape VAT regulations. This will involve analysing the text of the Charter as well as any relevant commentary or guidance issued by EU institutions.

EU VAT law, including directives, regulations, and other relevant legislation, will be examined to understand how the principles of the Charter are incorporated into VAT regulations and how they impact the rights of taxpayers.

Overall, this methodology seeks to provide a comprehensive analysis of the relationship between the Charter and the European VAT system, with a focus on the protection of taxpayer rights and the promotion of an equitable VAT system.

¹⁷Miguel Poiares Maduro, 'Interpreting European Law: Judicial Adjudication in a Context of Constitutional Pluralism' (2007) 2 *European Journal Legal Studies*.

1.5 Structure

Chapter 2 examines the role of the Charter in safeguarding taxpayers' rights in the EU and ensuring compliance with VAT regulations. It explores the legal framework, principles, and provisions of the Charter relevant to VAT law. The chapter also discusses the crucial role of the CJEU in interpreting and enforcing the Charter in relation to VAT. It concludes by emphasising the Charter's significance in protecting taxpayers' rights within the EU.

Moving on to Chapter 3, it explores the challenge of balancing the generation of revenue and fundamental rights in VAT law. The chapter emphasises the need to design transparent VAT laws that ensure fairness while meeting fiscal requirements. It discusses the influence of the Charter, highlighting principles like neutrality and non-discrimination. Additionally, it examines the harmonised VAT system and its connection to the Charter. The chapter underscores the importance of transparency, clear procedures, and safeguards to protect taxpayers' rights. Ultimately, it emphasises the need for a balanced approach that upholds fundamental rights in VAT law.

In Chapter 4, the focus shifts to the influence of the Charter on VAT disputes in the EU. The chapter highlights the role of the Charter in protecting fundamental rights, such as the right to a fair trial and the right to be heard. It discusses relevant case law that demonstrates the Charter's impact on evidence collection, legal measures against fraud, and the delicate balance between VAT enforcement and fundamental rights. Additionally, it notes that the Charter's applicability in VAT disputes may depend on the presence of criminal proceedings. Overall, the Charter ensures the protection of fundamental rights and provides guidance for resolving VAT disputes in the EU.

Chapter 5 explores the impact of the Charter on VAT law in the European Union. It emphasises that while the Charter's principles guide the interpretation of VAT laws. The chapter underscores the importance of balancing tax administration and fundamental rights, as recognized by the CJEU. It highlights the pivotal role of domestic courts in upholding taxpayers' rights within their interpretations of VAT rules. It lifts the opinion that integration of fundamental rights within taxation is crucial for creating a fair society.

2. Breaking Down Hierarchy: A Path to Harmony through VAT, Primary EU Law, and the Charter of Fundamental Right.

2.1 The Charter of Fundamental Rights as a Cornerstone for Upholding EU Taxpayers Rights.

Taxpayers' rights have gained importance beyond being limited to national constitutions of EU Member States.¹⁸ These rights fall under a domain where Member States must ensure protection in compliance with common standards at the EU level.¹⁹ This shift is due to a significant development in Union law after the Treaty of Lisbon took effect on December 1, 2009.²⁰ Article 6 Treaty on European Union (TEU) gave binding force to the Charter.²¹ The Charter is a legally binding document that sets out a range of fundamental rights that apply to all individuals in the EU.²² These rights include, among others, the right to non-discrimination, the right to fair and equitable treatment, and the right to an effective remedy.²³

The Charter goes beyond the traditional rights and includes new rights, such as the right to data protection and the right to access healthcare.²⁴ It applies to all EU institutions and Member States when they implement EU law and provides a framework for the protection of fundamental rights in the EU, making it a vital part of EU law.²⁵ The Charter is a living document, meaning it can be amended and expanded to reflect changing societal values and needs. It has been incorporated into the TEU and the Treaty on the Functioning of the European Union (TFEU), making it a crucial component of EU law.

¹⁸Georg Kofler and Pasquale Pistone, *Human Rights and Taxation in Europe and the World. Part One: General Issues on Taxation and Human Rights General Report*, (2011), IBFD – Tax Research Platform.

¹⁹*Ibid.*

²⁰Pernice, I., "The Treaty of Lisbon and Fundamental Rights", in Griller, S., Ziller, J. (eds.), *The Lisbon Treaty: EU Constitutionalism without a Constitutional Treaty?*, Vienna, 2008, pp. 235-256

²¹Article 6 Treaty on European Union.

²²Pernice, I., "The Treaty of Lisbon and Fundamental Rights".

²³*Ibid.*

²⁴Article 8 of the ECHR.

²⁵Article 41 in the Charter.

The CJEU is responsible for interpreting and enforcing the Charter.²⁶ The Charter is a significant tool for protecting the fundamental rights and freedoms of EU taxpayers, ensuring that these rights are respected by EU institutions and Member States.²⁷ Overall, the Charter helps to ensure that the EU VAT law is equitable, and that all individuals and legal persons are treated equally under the law.²⁸ Although the Charter does not explicitly refer to taxes, the principles, and values in the first two categories of the Charter can be considered as the core values for taxpayers'.²⁹

The Charter, although it applies only to cases connected with Union law, has been used in various situations since its introduction in 2009.³⁰ This has resulted in the development of a significant amount of case law that provides helpful guidance to both Member States and taxpayers regarding the protection of taxpayers' rights in the EU.³¹ The CJEU has played a crucial role in this development by interpreting the term "scope of Union law" broadly, which allows more tax-related cases to be covered by the Charter's protection.³² This means that the Charter applies not only when Member States implement directives, but also when they apply national laws that complement or support these directives.³³ The Charter does not apply to cases that do not involve the implementation of Union law.³⁴ If a national court refers a case to the CJEU that does not relate to Union law, the CJEU would have to reject it.³⁵

²⁶Document 32007X1214(01), Explanations relating to the Charter of Fundamental Rights, OJ C 30, 14.2.2007. p.17-35.

²⁷Case C-617/10 *Åkerberg Fransson, CFE, Opinion Statement ECJ-TF 1/2014 of the CFE on the Decision of the European Court of Justice in Åkerberg Fransson (Case C-617/10) Concerning Ne Bis in Idem in Tax Law*, (2014), Journals IBFD.

²⁸Article 6 in TEU.

²⁹Cécile Brokelind, *Principles of Law : Function, Status and Impact in EU Tax Law*: Pasquale Pistone, *Chapter 5: The EU Law Dimension of Human Rights in Tax Matters*, (2014), IBFD – Tax Research Platform.

³⁰Perrou, Katerina, *The Application of the EU Charter of Fundamental Rights to Tax Procedures: Trends in the Case Law of the Court of Justice*, Intertax Volume 49, Issue 10. 2010 Kluwer Law International BV, The Netherlands.

³¹Ibid.

³²See section 4.1 The Role of the Charter of Fundamental Rights in Resolving VAT Disputes, in this thesis.

³³Article 267 in TFEU.

³⁴Ibid.

³⁵Article 267 (3) TFEU.

2.2 The Significance of a Fundamental Rights Core in EU Law. The Charter - A Vital Role in Safeguarding EU Law and Ensuring VAT Compliance.

The development of a fundamental rights core within Union law means that the basic rights and freedoms of EU taxpayers are protected by law.³⁶ This is important because it ensures that EU institutions and Member States cannot violate these rights.³⁷

The Charter is an integral part of EU primary law³⁸ and is legally binding at the same level as the Treaties and it thereby has the highest value as a source of EU law. The status of the Charter is directly stated in TEU Article 6 (1) first sentence:

The Union recognizes the rights, freedoms and principles set out in the Charter of fundamental rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that sets out the sources of those provisions.

The Charter gives EU individuals, legal persons, the European Commission (Commission), and Member States the right to seek legal remedies for violations of EU law through established procedures, such as referrals to the CJEU, preliminary rulings, and infringement procedures.³⁹ However, it is essential to understand that the general principles of EU law outlined in the Charter are not rules of law in themselves.⁴⁰ Rather, they are broad principles that need interpretation and application to specific situations.⁴¹

To understand when the Charter applies to a specific issue, it is important to know if the national law is related to implementing EU law.⁴² The meaning of "implementing Union law" can be found in the explanations related to the Charter and the CJEU's case law.⁴³ They both indicate that the phrase refers to acting

³⁶Cécile Brokelind, *Principles of Law: Function, Status and Impact in EU Tax Law*: Pasquale Pistone, *Chapter 5:2 On the nature of the EU Charter of Fundamental Rights and its implications in tax matters*

³⁷Ibid.

³⁸Case C-492/08 *Commission v France*, ECLI:EU:C:2010:348, para 1.

³⁹Article 51 (1) first sentence in the Charter.

⁴⁰Borbála Kolozs, 'Neutrality in VAT' in Michael Lang et al (eds) *Value Added Tax and Direct Taxation, Similarities and Differences*, p 203; and Dutheil de la Rochère p. 163

⁴¹Ibid.

⁴²Explanations Relating to the Charter of Fundamental Rights (2007/C/303/02) of 14 December 2007, 10 th paragraph of the explanation on Article 52.

⁴³Case C-617/10 *Åkerberg Fransson*, Para. 19. Explanations Relating to the Charter of Fundamental Rights (2007/C/303/02) of 14 December 2007, 10 th paragraph of the explanation on Article 52.

within the scope of EU law.⁴⁴ However, defining the scope of the Charter can be complex, but it's necessary in cases that may involve fundamental rights.⁴⁵

Understanding the legal framework of EU VAT law is essential when discussing taxation in the EU.⁴⁶ One critical aspect of this legal framework is the primary EU law that regulates VAT. To understand European VAT, it is crucial to grasp the principles enshrined in Articles 28-37 TFEU and 110-113 TFEU.⁴⁷ These articles cover crucial aspects such as the free movement of goods, customs union, prohibition of quantitative restrictions, and fiscal discrimination.⁴⁸ Moreover, they provide guidelines to ensure the harmonisation of VAT among Member States, prohibiting fiscal dumping and encouraging the adoption of further harmonisation provisions.⁴⁹

2.1.1 Navigating VAT Law in the EU. Member States' Obligations and the Crucial Role of the CJEU in Interpretation and Application of the Charter.

Member States must comply with the rules of the Charter whenever they are bound to comply with the EU and its primary status.⁵⁰ This means that when a Member State is obligated to comply with limits on its taxing sovereignty, set by EU rules on fundamental freedoms or is giving effect to VAT directives in its domestic system, it is implementing EU law.⁵¹

The CJEU plays a significant role in interpreting and applying the Charter to VAT in the EU.⁵² The CJEU has issued some landmark cases that have established important principles of EU law in relation to VAT, including the principle of fiscal

⁴⁴Explanations, second paragraph of the Explanation on Article 51, Case 5/88 *Wachauf* ECLI:EU:C:1989; Case C-260/89 *ERT*, ECLI:EU:C:1991:254; Case C-309/96 *Annibaldi*, ECLI:EU:C:1997:631; and Case C-292/97 *Karlsson* ECLI:EU:C:2000:202, para 37. See also Case C-159/90 *Society for the Protection of Unborn Children Ireland*, ECLI:EU:C:1991:378, para 31; and Case C-81/05 *Anacleto Cordero Alonso*, ECLI:EU:C:2006:529, para 37 and *Åkerberg Fransson* para 19. See also Thomas von Danwitz & Katherina Paraschas, 'A Fresh Start for the Charter: Fundamental Questions on the Application of the European Charter of Fundamental Rights' (2012), *Fordham International Law Journal* 1396, pp 1399-1409; Filippo Fontanelli, 'The Implementation of European Union Law by Member States under Article 51 (1) of the Charter of Fundamental Rights' (2014), *Columbia Journal of European Law* 194, part II C; and Hancox p. 1412.

⁴⁵C-617/10 *Åkerberg Fransson*

⁴⁶Terra, B., & Kajus, J. (2018). Introduction to European VAT. 1.7 Indirect taxation and primary EU laws: the *acquis*.

⁴⁷*Ibid.*

⁴⁸*Ibid.*

⁴⁹*Ibid.*

⁵⁰Article 2 -3 TEU.

⁵¹J. Englisch, *The Impact of Human Rights on Domestic Substantive Taxation*, in Kofler, Poirares Maduro & Pistone eds., *supra* n. 2, at sec. 16.4.2. Article 2-3 TEU.

⁵² Article 17 TFEU.

neutrality and the principle of proportionality.⁵³ The CJEU provided further clarification on the meaning of "implementation" in the VAT case Åkerberg Fransson.⁵⁴ This case concerned the levying of penalties for an infringement in the field of VAT and whether it was compatible with the prohibition of double jeopardy under Article 50 of the Charter. The CJEU determined that Member States have an obligation to ensure the correct application of VAT and must take measures to protect the financial interests of the EU.⁵⁵ Therefore, even if the matter of penalties is regulated by the Member States, it may still fall within the scope of the Charter and be analysed from the perspective of implementing EU law.⁵⁶

2.2.3 Crucial Principles and Provisions. Exploring the Charter of Fundamental Rights in VAT Law within the EU.

The Charter sets out a comprehensive range of civil, political, economic, and social rights for individuals within the EU.⁵⁷ While the Charter does not specifically address VAT, several principles and provisions can be relevant to the field of taxation in general.

Some of the key principles and provisions from the Charter that are relevant for VAT in the EU are article 20 of the Charter that prohibits discrimination on various grounds, including, but not limited to, nationality.⁵⁸ This principle ensures that any VAT measures implemented by EU Member States should not discriminate against individuals or legal persons based on their nationality. The right to property, in article 17 of the Charter implies that any VAT measures should respect individuals' property rights, including the right to enjoy and use their property without unjust interference.⁵⁹

Article 52 of the Charter establishes the principle of proportionality, which requires that any limitation on fundamental rights must be necessary and proportionate to achieve a legitimate aim.⁶⁰ In the context of VAT, this principle can be of relevance when assessing whether a particular tax measure excessively burdens taxpayers.

⁵³Case 295/84, *SA Rousseau Wilmot v. Caisse de compensation de l'Organisation autonome nationale de l'industrie et du commerce (Organic)*, ECLI:EU:C:1985:473, Case 252/86, *Gabriel Bergandi v. Directeur général des impôts*, ECLI:EU:C:1988:112, Case C-200/90, *Dansk Denkvit ApS and P. Poulsen Trading ApS, supported by Monsanto-Searle A/S v. Skatteministeriet*, ECLI:EU:C:1992:152, Case C-208/91, *Raymond Beaulande v. Directeur des services fiscaux de Nantes*, ECLI:EU:C:1992:524, Case C-130/96, *Fazenda Pública v. Solisnor-Estaleiros Navais SA*, ECLI:EU:C:1997:416, Joined Cases C-338/97, C-344/97 and C-390/97, *Erna Pelzl and Others v. Steiermärkische Landesregierung*, ECLI:EU:C:1999:285.

⁵⁴Case C-617/10 *Åkerberg Fransson*

⁵⁵Article 325 (1) TFEU.

⁵⁶Article 50 in the Charter.

⁵⁷Explanations Relating to the Charter of Fundamental Rights (2007/C/303/02) of 14 December 2007.

⁵⁸Ibid. Article 20.

⁵⁹Ibid. Article 17

⁶⁰Ibid. Article 52.

Ensuring the right to an effective remedy and a fair trial stated in article 47 means if a taxpayer believes that a VAT provision measure violates their rights, this provision guarantees the right to seek legal redress and challenge the measure in a court of law.⁶¹

Article 16 of the Charter protects the freedom to conduct a business within the EU.⁶² While not specifically related to taxation, this provision can be relevant when considering the impact of VAT on businesses' ability to operate freely across EU borders.

The Charter does not have a specific provision on consumer protection. However, the EU has separate legislation, such as directives and regulations, that govern consumer rights and protection.⁶³ These regulations may intersect with indirect taxation when it comes to issues such as VAT and pricing transparency.⁶⁴ VAT regulations also play a role in consumer protection by governing how taxes are applied to goods and services, aiming to prevent abuse or unfair treatment of consumers.⁶⁵

⁶¹Ibid. 47

⁶²Ibid. Article 16

⁶³CPC regulation fact sheet: Sharper teeth for EU consumer protection, Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (Text with EEA relevance), OJ L 345, 27.12.2017, p. 1–26 Current consolidated version: 01/01/2022.

⁶⁴Ibid.

⁶⁵Ibid.

3. Defending Fundamental Rights. The Charter's Influence in European VAT Law

3.1 Balancing Revenue and Rights: Designing Transparent EU VAT Laws

It is important to note that while VAT laws and regulations may impact the fundamental rights of taxpayers, they are also necessary for the functioning of the Member State.⁶⁶ The challenge for policymakers is to design a VAT law that balances the need for revenue with the protection of fundamental rights.⁶⁷ This can be achieved through transparency in tax laws and regulations, clear and accessible procedures for taxpayers, and appropriate safeguards and remedies for those whose rights may be impacted by VAT.⁶⁸

The Charter establishes the principles of non-discrimination, proportionality, and legal certainty that are relevant to the design and implementation of indirect taxes.⁶⁹ One of the primary objectives of the VAT legal system in the EU is to ensure that taxes are levied in a way that is equitable and does not unfairly discriminate against any individual or group.⁷⁰ For example, the EU VAT directive is based on the principle of neutrality, which means that it should not discriminate against any economic activity or industry.⁷¹

3.1.1 Harmonised VAT System: Principles of Neutrality, Prohibition of Abuse, and Fair Competition

The VAT system is not without its guiding principles.⁷² Dominated by principles of neutrality, prohibition of abuse, prohibition of alternative general taxes on turnover, and the principle of taxation in the country of destination, this system ensures equal treatment.

⁶⁶Dimitrievski, Nick, Johansson, Kjell, Kleist, David & Olsson, Stefan (red.), *Festschrift till Robert Pahlsson*, Upplaga 1, Iustus, Uppsala, 2022, Katarina Fast Lappalainen, *The Interplay Between Human Rights and Taxation*, p.139.

⁶⁷Ibid.

⁶⁸Ibid.

⁶⁹Article 18 TFEU: Terra, B., & Kajus, J. *Introduction to European VAT. 2.3 Fundamental rights, 2.2.3. The principle of non-discrimination on grounds of nationality.* (2018)

⁷⁰Ibid.

⁷¹Article 1 (2) VAT Directive. Terra, B., & Kajus, J. *Introduction to European VAT. 2.5 Fiscal neutrality.* (2018)

⁷²The neutrality of VAT has been recognised in Recital 5 in the Preamble to the VAT Directive. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (2006) OJ L347/1.

Neutrality lies at the core of VAT, an indirect tax on consumption that is proportional to the price paid and imposed at every stage of production and distribution.⁷³ Its primary aim is to achieve fair competition by ensuring that similar goods bear an equal tax burden within the EU, regardless of the length of the supply chain.⁷⁴

Unlike the principle of non-discrimination, the principle of neutrality does not possess a constitutional status in VAT application.⁷⁵

The principle of neutrality within EU VAT can be seen as a connection with the Charter. According to the Charter, all individuals and legal persons in the EU have the right to equal treatment and non-discrimination.⁷⁶

The principle of neutrality within EU VAT ensures that all goods and services are subject to the same VAT treatment, regardless of whether they are provided by domestic or foreign suppliers.⁷⁷ This principle ensures that businesses operating in the EU are subject to the same VAT rules, regardless of where they are based.⁷⁸

In this way, the principle of neutrality with EU VAT helps to ensure that all businesses are treated equally and do not face discrimination based on their location.⁷⁹ This principle supports the fundamental rights of free movement of goods and services, as well as the right to equal treatment, which are enshrined in the Charter.⁸⁰

The principle of neutrality ensures that VAT rules are applied consistently and impartially, regardless of the origin or location of the goods and services being provided.⁸¹

By implementing the principle of neutrality, the EU aims to create a level playing field for businesses operating in the internal market.⁸² It prevents unfair advantages or disadvantages that may arise from differences in VAT treatment based on the supplier's nationality or the location of their establishment.⁸³ All

⁷³Case C-284/03 *Temco Europe*, EU:C:2004:287, Opinion of AG Ruiz-Jarabo Colomer, para 25.

⁷⁴Eighth Recital of the preamble to the first VAT Directive: First Council Directive 67/227/EEC of 11 April 1967 on the Harmonization of Legislation of Member States Concerning Turnover Taxes

⁷⁵The neutrality of VAT has been recognised in Recital 5 in the Preamble to the VAT Directive. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (2006) OJ L347/1.

⁷⁶Article 21 of the Charter.

⁷⁷C-174/08, *NCC Construction Danmark A/S v. Skatteministeriet*, para. 42, C-44/11, *Finanzamt Frankfurt am Main V-Höchst v. Deutsche Bank AG*, para. 45.

⁷⁸*Ibid.*

⁷⁹C-259/10, *Commissioners for Her Majesty's Revenue and Customs v. The Rank Group PLC*, para. 36, C-174/11, *Finanzamt Steglitz v. Ines Zimmermann*, para. 33.

⁸⁰C-480/10, *Commission v. Sweden*, para. 17.

⁸¹*Ibid.* 18.

⁸²C-308/01, *Gil Insurance Ltd and Others v. Commissioners of Customs & Excise*, ECJ Case Law, C-475/03, *Banca Popolare di Cremona Soc. Coop.a.r.l v. Agenzia Entrate Ufficio Cremona*.

⁸³*Ibid.*

businesses, whether domestic or foreign, are subject to the same VAT rules and rates when providing goods or services within the EU.⁸⁴

Furthermore, the principle of neutrality aligns with the right to equal treatment, which is enshrined in the Charter.⁸⁵ It ensures that all legal persons, regardless of their origin, are treated equally under the VAT legal system.⁸⁶ This helps to prevent discrimination and promotes transparency. Overall, the principle of neutrality within EU VAT could serve as a connection to the Charter by upholding the principles of equal treatment and non-discrimination.⁸⁷ It supports the fundamental rights of legal persons and individuals within the EU, ensuring that they can freely engage in cross-border trade and operate on an equal footing in the internal market.

3.2 The landmark case - *Åkerberg Fransson*

VAT law has long been regarded as a technical subject, with little room for fundamental rights considerations.⁸⁸ However, as we go deeper into the complexities of VAT law, it becomes clear that fundamental rights play a vital role in ensuring that VAT is fair and just.⁸⁹ A good example to demonstrate the importance of that is the *C-617/10 Åkerberg Fransson case*.⁹⁰

Åkerberg Fransson concerns the subject of the right not to be convicted twice for the same action, which is protected by Article 50 of the Charter of Fundamental Rights. The case raised questions about the relationship between the Charter and the general principles of EU law, particularly in terms of the scope of the Charter with respect to Member States.⁹¹

The Swedish national was accused of tax evasion and faced criminal charges for failing to pay VAT on certain business transactions. The defendant argued that the criminal charges violated his right to *ne bis in idem*, which is a principle that prevents a person from being tried or punished twice for the same offence. He argued that the VAT assessment by the Swedish tax authorities was equivalent to a penalty, and therefore, the criminal charges constituted a second penalty for the same offence.

⁸⁴Ibid.

⁸⁵Article 21 of the Charter.

⁸⁶Explanations Relating to the Charter of Fundamental Rights (2007/C/303/02) of 14 December 2007, paragraph 21.

⁸⁷Principles of Law: Function, Status and Impact in EU Tax Law - Chapter 3: The Role of (Legal) Principles in EU Tax Law.

⁸⁸Terra, B., & Kajus, J. *Introduction to European VAT. 2.3 Fundamental rights, 2.3.1 Charter of Fundamental Rights of the European Union*. (2018)

⁸⁹Ibid.

⁹⁰Ibid.

⁹¹Explanations Relating to the Charter of Fundamental Rights (2007/C/303/02) of 14 December 2007, Article 50.

The significance of the Åkerberg Fransson judgement lies in its resolution of the apparent inconsistency between the Charter and the general principles of EU law.⁹² The CJEU clarified that the principle of *ne bis in idem* applies only to criminal proceedings that are intended to impose a penalty, rather than to proceedings that have a purely fiscal nature, such as VAT assessments. The CJEU also affirmed the authority of Member States to impose administrative fines or penalties for tax offences, if they do not violate fundamental rights protected under the Charter.⁹³

The CJEU held that the principle of *ne bis in idem* applies to criminal proceedings that are intended to impose a penalty, but not to proceedings that have a purely fiscal nature, such as VAT assessments. The CJEU also held that the right to a fair trial and the right to effective judicial protection, both enshrined in the Charter, apply to criminal proceedings but do not prevent national authorities from imposing administrative fines or penalties for tax offences.

The case is significant because it clarified the scope and limitations of the *ne bis in idem* principle in the context of VAT assessments and criminal proceedings. It also affirmed the authority of Member States to impose administrative fines or penalties for tax offences, while ensuring that such penalties do not violate fundamental rights protected under the Charter.

In conclusion, the Åkerberg Fransson case puts the weight on the importance of upholding fundamental rights in the context of tax law and highlights the need for a balanced approach to tax enforcement that considers both the fiscal interests of the state and the rights of the individual.

The case of Åkerberg Fransson clarified the priority of the Charter in EU law-related cases, as well as the relationship between domestic law and EU fundamental rights.⁹⁴ National authorities and courts are free to apply national standards of protection of fundamental rights, provided that the level of protection provided for by the Charter and the primacy, unity, and effectiveness of EU law are not compromised.⁹⁵

⁹²50 Common Market L. Rev. 1411 (2013), Meaning of Implementing EU Law under Article 51(1) of the Charter: Åkerberg Fransson.

⁹³Case 5/88 *Wachauf*, 1989, ECR 2609, para 19.

⁹⁴J. Englisch, *The Impact of Human Rights on Domestic Substantive Taxation*, in Kofler, Poirares Maduro & Pistone eds., *supra* n. 2, at sec. 16.4.2.

⁹⁵Brokelind, Cécile, *Case Note on Åkerberg Fransson (Case C-617/10)*, European Taxation 2013 (Vol 53) No 6.

3.2.1 The Power of the Charter - European VAT and the Far-Reaching Influence of EU Law on National Tax Penalties and Criminal Proceedings

In the *Åkerberg Fransson*, the CJEU expanded the scope of the Charter to cover situations where national legislation on which tax penalties and criminal proceedings are based was not specifically adopted for the purpose of transposing the VAT Directive.⁹⁶ Despite this, the CJEU believed that the national legislation was intended to penalise infringements of the VAT Directive, and therefore fulfil a Member State's obligation to impose effective penalties for conduct prejudicial to the financial interests of the EU.⁹⁷ As a result, Article 51(1) of the Charter applies not only when implementing EU law but also when there is an intention to impose penalties for conduct that could harm the financial interests of the EU. This interpretation seems to broaden the scope of the Charter, particularly in cases involving national rules on administrative tax penalties. In general, it could be seen as extending the applicability of the Charter to situations where there is merely an intention, without implementing EU VAT regulations, to implement national VAT rules to prevent conduct that could harm the financial interests of the EU. This may be a more indirect approach to interpreting the scope of the Charter in VAT cases, but it would appear to expand the actual wording of Article 51(1) of the Charter beyond a strict literal interpretation.⁹⁸

The CJEU has said that national courts cannot ignore a provision of the Charter just because it seems clear that it has been violated.⁹⁹ Instead, they must fully examine whether the provision is compatible with the Charter.¹⁰⁰ This means that national courts must follow EU fundamental rights and refuse to apply any national law that conflicts with them, even if not prompted to do so. The Charter must be followed in any area of national law within its scope, which will often be the case for VAT law due to EU harmonisation. This is because national VAT rules are usually connected to the collection of VAT revenue in compliance with EU law and the availability of VAT resources to the EU budget.

⁹⁶C-617/10 *Åkerberg Fransson*.

⁹⁷Article 325 (1) TFEU.

⁹⁸Explanations Relating to the Charter of Fundamental Rights (2007/C/303/02) of 14 December 2007.

⁹⁹C-617/10 *Åkerberg Fransson* para 30.

¹⁰⁰*Ibid.* para 49.

4. VAT Impact on Taxpayers’ Fundamental Rights. Exploring the Relationship Between Property Rights and Fair Trials in the EU.

4.1 The Role of the Charter of Fundamental Rights in Resolving VAT Disputes.

The Charter is an important legal document that outlines the basic rights and freedoms of taxpayers in the EU.¹⁰¹ When it comes to VAT related disputes, the main regulations are found in EU VAT legislation and national tax laws.¹⁰² However, the Charter still has a role to play in resolving VAT disputes under specific conditions. The Charter applies to EU Member States when they are implementing EU law, including VAT law. Member States are required to interpret and apply VAT laws in a way that aligns with the fundamental rights protected by the Charter.¹⁰³ Therefore, if a VAT dispute involves an issue connected to a fundamental right safeguarded by the Charter, it may be taken into account in the resolution of the dispute. For example, the Charter includes provisions that protect the right to property, the right to an effective remedy, the right to non-discrimination, and the right to a fair trial. In certain situations, VAT disputes may touch upon these rights. For instance, if a taxpayer's right to property is affected by an excessively high VAT assessment or an unjust confiscation of assets, the Charter's provisions on the protection of property rights may be relevant.¹⁰⁴

Nevertheless, it is important to note that the role of the Charter in resolving VAT disputes is limited. The primary legal framework for such disputes is established by EU VAT law, which consists of directives, regulations, and case law from the CJEU.¹⁰⁵ The CJEU has the authority to interpret EU law, including the VAT directives, and its decisions are binding on Member States. The importance of the

¹⁰¹Charter of Fundamental Rights of the European Union (2012) OJ C 326. Category one and two of the Charter.

¹⁰²Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (2006) OJ L347/1.

¹⁰³Charter of Fundamental Rights of the European Union (2012) OJ C 326. Category one and two of the Charter. Article 51.

¹⁰⁴Ibid.

¹⁰⁵Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax [2006] OJ L347/1.

Charter in VAT disputes will depend on the specific circumstances and the extent to which the fundamental rights protected by the Charter are directly involved.

4.2 Case Law

While the Charter does not have a direct and specific role in resolving VAT disputes, it can still be relevant in certain circumstances when the dispute raises issues related to fundamental rights protected by the Charter. The interpretation and application of EU VAT law must be in line with the fundamental rights enshrined in the Charter. Ultimately, the resolution of VAT disputes primarily relies on the applicable VAT legislation and the interpretation provided by the CJEU, Member States, and national courts.¹⁰⁶

By examining VAT cases, the forthcoming section of the chapter aims to provide insight into the effects of the Charter on VAT law in the EU. In this chapter, the thesis will go through a selection of VAT cases to gain valuable insights into to what extent and under what circumstances the Charter does play a significant role in resolving VAT disputes. The purpose is to provide an understanding of the effects of the Charter on VAT regulations.

4.2.1 Charter and Denial of VAT Rights in VAT Evasion Cases - Joined Cases C-131/13, C-163/13, and C-164/13 *Italmoda*

In the Joined Cases C-131/13, C-163/13, and C-164/13 *Italmoda*, the CJEU considered the extent to which the Charter of Fundamental Rights plays a role in resolving VAT disputes involving the denial of certain rights to taxable persons involved in VAT evasion during intra-Community supplies.¹⁰⁷

The CJEU concluded that if national law lacks provisions allowing for the refusal of rights such as the right to deduct input VAT, the right to a VAT exemption, and the right to a VAT refund in cases where the taxable person is aware or should have been aware of participating in VAT evasion, then such denial should occur.¹⁰⁸ However, the CJEU clarified that this denial is not considered a penalty or sanction under Article 49 of the Charter.¹⁰⁹

The CJEU's interpretation suggests that the denial of VAT deductions, exemptions, and benefits resulting from breaching VAT system conditions is not considered a criminal proceeding, even in cases of VAT fraud. As a result, the Charter, including Article 49, does not apply in such cases.¹¹⁰

¹⁰⁶Charter of Fundamental Rights of the European Union (2012) OJ C 326. Category one and two of the Charter. Article 51.

¹⁰⁷C-131/13, C-163/13 and C-164/13 *Italmoda* (2014) ECLI:EU:C:2014:2455, para 41, para 62.

¹⁰⁸Joined Cases C-131/13, C-163/13 and C-164/13 *Italmoda*, ECLI:EU:C:2014:2455, Second part of the ruling

¹⁰⁹*Ibid.* para 61.

¹¹⁰*Ibid.* para 62.

Therefore, in the specific circumstances of the *Italmoda* case, the CJEU determined that the Charter did not play a significant role in resolving the VAT dispute. The denial of certain rights to taxable persons involved in VAT evasion was based on the conditions outlined in the VAT Directive rather than on the application of fundamental rights protected by the Charter.¹¹¹

4.2.2 Case C-105/14 Taricco - Charter and the Fight Against VAT Evasion Examined

The case of *Taricco* illustrates the extent to which the Charter of Fundamental Rights can play a significant role in resolving VAT disputes, particularly in relation to the effective fight against VAT evasion and the protection of fundamental rights.¹¹²

In this case, individuals were accused of conspiring to commit various VAT offences. The issue at hand was whether a national rule on limitation periods for criminal offences, which resulted in potential *de facto* impunity for the accused individuals, hindered the effective fight against VAT evasion in a manner incompatible with the VAT Directive and EU law.¹¹³

The CJEU reframed the question to assess whether the national rule impeded the effective fight against VAT evasion in a way that was incompatible with EU law, particularly Article 325 of the Treaty on the Functioning of the European Union (TFEU).¹¹⁴ The CJEU clarified that if a national court sets aside a national rule due to its failure to fulfil an obligation under Article 325 of the TFEU, it must ensure that the fundamental rights of the individuals involved are respected. This means that penalties may not be imposed on them that would not have been imposed if the national provisions had been applied.¹¹⁵

In analysing the case, the CJEU considered Article 49(1) of the Charter, which states that no one can be found guilty of a criminal offence for an act or omission that was not considered a crime under national or international law at the time it occurred. The CJEU determined that the *Taricco* case could involve criminal sanctions and, therefore, an assessment of Article 49(1) of the Charter was relevant.

The CJEU examined Article 7 of the European Convention on Human Rights (ECHR), ECHR case law, and Article 49 of the Charter. It concluded that extending the limitation period and applying it immediately did not violate the

¹¹¹Ibid, para 61. Opinion of Advocate General Szpunar, point 60. The CJEU referred to Case C-110/99 *Emsland-Stärke*, ECLI:EU:C:2000:695, para 56, C-255/02 *Halifax* (2006) ECLI:EU:C:2006:121, para 93; and C-262/10 *Döhler Neuenkirchen* (2012) ECLI:EU:C:2012:559, para 43.

¹¹²C-105/14 *Taricco*, ECLI:EU:C:2015:555, para 18.

¹¹³Ibid, para 34.

¹¹⁴*Taricco*, para 58.

¹¹⁵Ibid, para 35. para 53; and the Opinion of Advocate General Kokott in Case C-105/14 *Taricco* point 113.

rights protected by Article 7 of the ECHR.¹¹⁶ This is because Article 7 does not prohibit the extension of limitation periods when the offences have never been subject to such limitations. Therefore, the national rule was not in conflict with Article 49 of the Charter and did not raise fundamental rights concerns.¹¹⁷

Overall, the Taricco case demonstrates the significance of the Charter of Fundamental Rights in applying legal measures to combat VAT fraud and abuse.¹¹⁸ It highlights the CJEU's use of the alignment principle, where national rules must align with the obligations and principles set forth in EU law, including the protection of fundamental rights. The case emphasises the need to strike a balance between effective tax enforcement and the safeguarding of individuals' fundamental rights in VAT disputes.

4.2.3 Case C-42/17 M.A.S. and M.B - Charter and European Convention on Human Rights as Safeguards in VAT Disputes

The case of M.A.S. and M.B. is an example where the CJEU highlighted the importance of the Charter and the European Convention on Human Rights as crucial safeguards.¹¹⁹

In this case, which originated from criminal proceedings in Italy related to VAT carousel fraud, conflicting interpretations arose regarding the time limitation for the legal action.¹²⁰ The Italian criminal courts deemed the case as time-barred, while an earlier CJEU ruling in the "Tarrico" case presented a different perspective. The CJEU in the "Tarrico" case stated that time limitations should not hinder the imposition of effective deterrent sanctions in cases of serious fraud that jeopardise the EU's financial interests, as emphasised in Article 325 of the TFEU.

However, in the M.A.S. and M.B. case, the CJEU made a significant decision by prioritising the fundamental principle of legality of criminal offences and penalties over the Union's financial interests. The Court highlighted that the requirements of predictability, precision, and non-retroactivity in criminal law derive from the principle of legality of criminal offences and penalties enshrined in the Charter of Fundamental Rights and the European Convention on Human Rights.¹²¹

The CJEU concluded that the indiscriminate enforcement of tax effectiveness sought by Article 325 of the TFEU was incompatible with these fundamental principles. The ruling emphasised that the protection of fundamental rights and adherence to the principles of legality and legal certainty should not be compromised for the sake of pursuing the Union's financial interests.

¹¹⁶Taricco para 57.

¹¹⁷Ibid, para 55. Opinion of Advocate General Kokott in Case C-105/14 Taricco point 127.

¹¹⁸Ibid, para 54.

¹¹⁹C-42/17 M.A.S. and M.B. ECLI:EU:C:2017:936.

¹²⁰Para 5.

¹²¹Para 60.

Therefore, in VAT disputes, the Charter plays a significant role in ensuring that procedural safeguards and fundamental principles are upheld, even in cases where financial interests of the Union are at stake.¹²² It establishes the importance of maintaining predictability, precision, and non-retroactivity in criminal law and highlights the need to strike a balance between effective tax enforcement and the protection of individuals' fundamental rights.¹²³

4.2.4 Case C-662/13 Surgicare - The Charter and the right to be heard.

In the Surgicare case, the CJEU specifically highlighted the importance of the right to be heard, which is protected by the Charter, in the context of the special national procedure.¹²⁴ The procedure was considered advantageous for individuals suspected of committing abuse since it aimed to safeguard fundamental rights.¹²⁵

Therefore, in VAT disputes, the Charter can significantly impact the resolution of cases, particularly in relation to the compatibility of national procedures with EU law, the protection of fundamental rights, and the right to be heard. The Charter serves as a framework for ensuring that measures taken against VAT fraud and abuse are carried out in a manner that respects individuals' rights under EU law.

The CJEU emphasised that while national law should effectively combat fraud and abuse in taxation, it must also ensure the judicial protection of individuals' rights under EU law, as guaranteed by Article 47 of the Charter.¹²⁶ This means that any legal measures taken against VAT fraud and abuse must align with the fundamental rights protected by the Charter.

The CJEU explicitly stated that legislative bodies and tax administrations should consider the Charter when implementing or administering measures to tackle VAT fraud and abuse.¹²⁷ This indicates that the Charter's provisions, including Article 47 and other relevant articles, should be taken into account in designing and applying procedures aimed at detecting and addressing abusive practices in VAT.

In the Surgicare case, the CJEU specifically highlighted the importance of the right to be heard, which is protected by the Charter, in the context of the special national procedure.¹²⁸ The procedure was considered advantageous for individuals suspected of committing abuse since it aimed to safeguard fundamental rights.

Therefore, in VAT disputes, the Charter of Fundamental Rights can significantly impact the resolution of cases, particularly in relation to the compatibility of national procedures with EU law, the protection of fundamental rights, and the right to be heard. The Charter serves as a framework for ensuring that measures

¹²² Taricco Para 59 and para 62.

¹²³ C-42/17 M.A.S. and M.B. ECLI:EU:C:2017:936, para 46.

¹²⁴ C-662/13 Surgicare (2015) ECLI:EU:C:2015:89, para 24.

¹²⁵ Ibid, para 29.

¹²⁶ Ibid para 37.

¹²⁷ Ibid para 15.

¹²⁸ Ibid para 29.

taken against VAT fraud and abuse are carried out in a manner that respects individuals' rights under EU law.

4.2.5 C-419/14 WebMindLicenses - The Charter and the right to respect for private life

In the WebMindLicenses case, the taxable person was denied access to evidence obtained through interception of telecommunications and seizure of emails during parallel criminal proceedings.¹²⁹

The main question was whether the actions of the tax authorities complied with the relevant articles of the Charter, including the right to respect for private life, protection of personal data, right to good administration, and right of defence.¹³⁰ The CJEU affirmed that the fundamental rights enshrined in the Charter are applicable in all situations governed by EU law, including VAT law.¹³¹ It was established that a VAT adjustment following the discovery of abusive practices falls within the implementation of EU law as defined in the VAT Directive and TFEU Article 325.¹³² Therefore, the use of evidence in this context must comply with the EU's fundamental rights, particularly the Charter.¹³³

The CJEU emphasised the limitation principle of interpretation, as provided in Article 52(1) of the Charter. Any restriction on the exercise of Charter rights must be prescribed by law and respect the essence of those rights.¹³⁴ It was the responsibility of the national court to determine whether these conditions were fulfilled.¹³⁵

Furthermore, the national court had to assess whether the company had been given the opportunity to access and address the evidence in accordance with the right of defence.¹³⁶ The WebMindLicenses case highlighted the extensive protection provided by the Charter in both formal and substantive matters and its potential impact on the outcome of a case.¹³⁷ The CJEU established conditions for

¹²⁹C-419/14 WebMindLicenses ECLI:EU:C:2015:832.

¹³⁰Articles 7 and 8 of the Charter. Case C-419/14 WebMindLicenses (2015) ECLI:EU:C:2015:606, Opinion of Advocate General Wathelet, points 108-109, Case C-73/07 Satakunnan (2008) ECLI:EU:C:2008:266, Opinion of Advocate General Kokott, point 40. WebMindLicenses para 28, Para 83.

¹³¹WebMindLicenses paras 23 and 61.

¹³²Articles 7 and 8 of the Charter. Case C-419/14 WebMindLicenses (2015) ECLI:EU:C:2015:606, Opinion of Advocate General Wathelet, points 108-109, Case C-73/07 Satakunnan (2008) ECLI:EU:C:2008:266, Opinion of Advocate General Kokott, point 40. WebMindLicenses para 28, Para 83.

¹³³WebMindLicenses para 67.

¹³⁴WebMindLicenses, para 66, para. 19 and the Opinion of Advocate General Wathelet in C-419/14 WebMindLicenses para 104. See also Texdata Software para 72.

¹³⁵Opinion of Advocate General Mengozzi in Case C-418/11 Texdata Software point 92; and the Opinion of Advocate General Cruz Villalón in Case C-201/14 Smaranda Bara point 81. See also the Explanations, Explanation on Article 52. WebMindLicenses para 91.

¹³⁶Joined Cases C-29/13 and C-30/13 Global Trans Lodzhistik [2014] ECLI:EU:C:2014:140 para 57; and Case C276/12 Jiří Sabou [2013] ECLI:EU:C:2013:678 paras 28 and 38.

¹³⁷ WebMindLicenses para 91.

the collection and use of evidence under national administrative rules based on the Charter. These conditions may have implications for other administrative procedures governed by procedural tax rules and should be considered accordingly.

Overall, the case emphasised the significance of the Charter in shaping the collection and use of evidence in tax-related administrative procedures, particularly regarding Article 7 of the Charter, which protects the right to respect for private life.

4.2.7 Case C-399/11 Melloni - The Charter and the right to a fair trial

In the VAT dispute context, the Melloni Case provides important insights into the role of the Charter of Fundamental Rights.¹³⁸ While this case primarily dealt with the compatibility of the Framework Decision on the European arrest warrant with fundamental rights, it established general principles regarding the significance of the Charter in resolving disputes and considering the most favourable conditions for fundamental rights protection.¹³⁹

The Court's ruling in Melloni confirmed that national authorities and courts have the freedom to apply national standards of fundamental rights protection, as long as they do not compromise the level of protection established by the Charter and the primacy, unity, and effectiveness of EU law.¹⁴⁰ This means that national law can be considered in VAT disputes, but it cannot undermine the fundamental rights guaranteed by the Charter.¹⁴¹

However, the CJEU also recognized certain limitations to this principle in cases exclusively governed by EU law, such as the European arrest warrant. In such cases, the CJEU argued that prioritising a more favourable national provision would risk undermining the principle of mutual trust and the efficacy of EU instruments like the framework decision.¹⁴² The CJEU stressed the importance of uniformity in the application of fundamental rights across Member States to maintain the functioning of the EU legal framework.¹⁴³

While the Melloni Case does not directly address VAT disputes, its interpretation of the Charter and the principle of considering the most favourable condition for fundamental rights has broader implications.¹⁴⁴ It establishes the primacy of the Charter and ensures that national authorities and courts take into account fundamental rights when resolving disputes, including those related to VAT. The

¹³⁸ C-399/11 Melloni ECLI:EU:C:2013:107.

¹³⁹ Council Framework Decision 2009/299/JHA of 26 February 2009 (OJ 2009 L 81, p. 24) ('Framework Decision 2002/584').

¹⁴⁰ C-399/11 Melloni Para 60.

¹⁴¹ C-399/11 Melloni Para 58, 59 and 63.

¹⁴² Ibid. Para 56.

¹⁴³ Ibid. Para 60.

¹⁴⁴ Ibid. Para, 58, 59 and 60.

Charter provides a framework for protecting fundamental rights in all areas governed by EU law, and its principles should be considered in VAT disputes to ensure compliance with EU law and fundamental rights.

4.2.8 Case MV C-97/21 - The Charter and the *Ne Bis In Idem*

In the MV case C-97/21, the CJEU invoked provisions of the Charter to assess the compatibility of national legislation with EU law and fundamental rights.¹⁴⁵

The Charter ensures that individuals involved in VAT disputes have access to fundamental rights such as the right to a fair trial, Article 47, and the principle of *ne bis in idem*, Article 50.¹⁴⁶ These rights protect individuals from being subjected to multiple penalties for the same offence and guarantee their right to an effective remedy and a fair trial.

In the specific case, the referring court raised questions about the compatibility of the Bulgarian legislation with EU law and the Charter.¹⁴⁷ The CJEU's judgement, taking into account the Charter, determined that the legislation allowing for the imposition of both a financial penalty and the sealing of business premises for the same offence in separate procedures was incompatible with EU law.¹⁴⁸ The CJEU emphasised the need for proportionality and coordination in the imposition of measures and the importance of effective judicial protection.¹⁴⁹

By applying the Charter, the CJEU ensures that fundamental rights are respected and protected in VAT disputes. It guarantees that individuals have access to fair procedures, effective remedies, and the principle of *ne bis in idem*. The Charter serves as a framework for upholding fundamental rights and promoting the rule of law within the EU, providing guidance for resolving VAT disputes in a manner that respects individuals' rights and ensures the proper application of EU law.

4.3 Balancing VAT Enforcement and Fundamental Rights. The Charter's Influence on EU VAT Disputes

The Charter plays a significant role in resolving VAT disputes in the European Union. Its influence is seen in both formal and substantive aspects of VAT law. The Charter's specific interpretive principles, outlined in Articles 51 to 54, must be considered when applying the legal method to matters covered by the Charter.¹⁵⁰

In VAT cases, the Charter ensures the protection of fundamental rights, including the right to a fair trial, the right to be heard, the right to good administration, and the right of defence. It establishes conditions for the collection and use of

¹⁴⁵C-97/21 MV, ECLI:EU:C:2023:371.

¹⁴⁶Para 62 and 63.

¹⁴⁷Para 19.

¹⁴⁸C-97/21 MV, Para 55.

¹⁴⁹Para 51, 56, 59, 61 and 62.

¹⁵⁰ See TEU Article 6 (1) Third paragraph.

evidence, emphasising the rights of taxable persons and their access to relevant documents. The CJEU considers the principles of legality of criminal offences and penalties enshrined in the Charter, ensuring predictability, precision, and non-retroactivity in criminal law.¹⁵¹

The Charter's impact on VAT disputes is particularly evident in cases involving VAT fraud and abuse. It establishes that legal measures against fraud and abuse must align with the fundamental rights guaranteed by the Charter, including the right to respect for private life, protection of personal data, and the right to a fair trial. In the cases mentioned above the CJEU emphasises the need to counter fraud and illegal activities that undermine the financial interests of the European Union.

However, it's important to note that not all VAT cases fall within the scope of the Charter. The CJEU distinguishes between cases involving criminal proceedings and those that do not. In cases without criminal proceedings, the Charter may not apply directly. Instead, the CJEU focuses on the conditions outlined in the VAT Directive and EU law in general. The Charter's applicability depends on the specific circumstances and whether the case involves the protection of fundamental rights.

Overall, the Charter of Fundamental Rights significantly influences the resolution of VAT disputes by safeguarding the rights of taxable persons, ensuring a fair trial, guiding the interpretation of EU law, and aligning legal measures against VAT fraud with fundamental rights principles.

¹⁵¹Miguel Poiars Maduro, 'Interpreting European Law: Judicial Adjudication in a Context of Constitutional Pluralism' (2007) 2 *European Journal Legal Studies* 1. Koen Lenaerts and José A Gutiérrez-Fons, 'To Say What the Law of the EU is: Methods of Interpretation and the European Court of Justice' (2014) 20 *Colombia Journal of European Law* 3; Anthony Arnall, *The European Court and its Court of Justice*, pp 607-621; and Lionel Neville Brown and Francis G Jacobs, *The Court of Justice of the European Communities*, pp 268-292.

5. The Impact of the Charter on VAT Law in The European Union - Conclusion

The Charter of Fundamental Rights of the European Union plays a significant role in shaping VAT law within the EU. Rather than functioning as independent legal rules, the general principles outlined in the Charter's provisions serve as guiding principles for interpreting specific legal rules in various circumstances. These principles establish a framework that facilitates the understanding and application of the relevant laws governing VAT. The Charter's broad scope encompasses various aspects of VAT law administrative procedures, criminal proceedings, VAT fraud and abuse, and VAT exemptions.¹⁵² However, the extent of the Charter's impact varies across different cases, ranging from no effect to being central to the main proceedings. While its direct impact on substantive VAT rules may be considered moderate, its influence is continuously evolving.

Within European VAT law, cases connected to the Charter have shed light on the limits of interpretation by domestic courts concerning taxable individuals and potential infringements on their fundamental rights. The CJEU has consistently emphasised the vital role of domestic courts as institutions within their respective Member States.

The CJEU has directed domestic courts to exercise caution when interpreting rules that may affect taxpayers and their fundamental rights. While acknowledging the importance of upholding tax regulations, the CJEU stresses the need for a balanced approach that respects fundamental rights within the domestic court systems. The aim of the CJEU is to ensure that domestic courts strike a fair balance between tax administration and the protection of fundamental rights in their interpretations of VAT rules. This approach highlights the significance of safeguarding the individual rights of taxable persons while acknowledging the legitimate interests of tax authorities. The CJEU's guidance serves as a reminder to domestic courts of their pivotal role in upholding fundamental rights within their jurisdictions. It urges them to consider the potential impact of their interpretations on the rights and interests of taxable individuals, emphasising the importance of harmoniously applying VAT regulations across the EU.

¹⁵²Borbála Kolozs, 'Neutrality in VAT' in Michael Lang et al (eds) *Value Added Tax and Direct Taxation, Similarities and Differences*, p 203; and Dutheil de la Rochère p. 163.

Fundamental rights and taxation are deeply connected. A well-functioning tax system not only collects revenue but also respects and upholds the rights of taxpayers. The integration of fundamental rights within taxation is essential for creating a fairer and more inclusive society.

The Commission has also taken steps to enhance taxpayers' rights within the EU. In October 2020, it published a guidance document called "EU Taxpayers' Rights in the Single Market" to increase awareness among EU taxpayers about their rights in taxation under EU law.¹⁵³ The document analysed taxpayers' rights, with a focus on individuals, the self-employed, and micro-businesses.¹⁵⁴ Based on this analysis, a communication on Taxpayers' Rights in the Single Market was issued in 2021, along with a recommendation to improve taxpayers' rights.¹⁵⁵

To further improve the situation of taxpayers in the single market, the Commission initiated a public consultation in March 2021 on a prospective recommendation.¹⁵⁶ This recommendation aims to provide guidance to Member States on enhancing the relationship between taxpayers and tax administrations, potentially requiring further coordination of national and international tax laws and procedures.¹⁵⁷

The Charter has a significant impact on VAT law within the EU. While its principles guide the interpretation of specific legal rules, their direct influence on VAT law may be considered moderate. However, the Charter's importance should not be underestimated, as its influence continues to evolve. The CJEU's guidance emphasises the balance between tax administration and fundamental rights, recognizing the pivotal role of domestic courts in upholding taxpayers' rights. The integration of fundamental rights within taxation is crucial for creating a fairer society. The Commission's efforts to enhance taxpayers' rights further emphasise the importance of upholding fundamental rights in the context of taxation within the EU.

In conclusion, this thesis has explored the significant impact of the Charter on VAT law within the EU. By examining key CJEU cases and analysing the interactions between fundamental rights and VAT, this thesis has shed light on the crucial role played by the Charter in shaping the interpretation and application of VAT law.

¹⁵³Communication on Taxpayers' Rights in the Single Market, Ref. Ares(2020)6140226 – 30 Oct. 2020, <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/>.

¹⁵⁴ Ibid.

¹⁵⁵ Recommendation to Improve the Situation of Taxpayers in the Single Market, Ref. Ares (2020)6140272 – 30 Oct. 2020, <https://ec.europa.eu/info/law/better-regulation/have-yoursay/initiatives/12627-Taxpayers-Rights-in-the-Single-Market-Recommendation>. (accessed on 05 May 2023).

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

The findings of this thesis have revealed that the Charter, as a legally binding document at the same level as the treaties, holds considerable weight in the realm of VAT law. Its broad scope encompasses various aspects of VAT, administrative procedures, criminal proceedings, and VAT exemptions. While the direct impact of the Charter on VAT law may be considered moderate, its influence is continuously evolving, and its significance should not be underestimated.

A prosperous society relies not only on collection of tax but also on ensuring the protection of its taxpayers' fundamental rights. It is crucial for the tax system to serve taxpayers and comply with specific criteria related to fundamental rights. This is crucial because taxpayers depend on a well-functioning tax system to finance the public expenses associated with fundamental rights. Hence, fundamental rights and taxation are deeply interlinked, and it is vital for every tax system to incorporate fundamental rights from its very design, by acknowledging the significance of fundamental rights in taxation. While this thesis has provided insights into the impact of the Charter on VAT law, it is important to note that the field is dynamic and continues to evolve.

Reference list / Bibliography

Table of Cases

CJEU

295/84 *SA Rousseau Wilmot v. Caisse de compensation de l'Organisation autonome nationale de l'industrie et du commerce (Organic)* [1985]
ECLI:EU:C:1985:473

252/86 *Gabriel Bergandi v. Directeur général des impôts* [1988]
ECLI:EU:C:1988:112

5/88 *Hubert Wachauf v Bundesamt für Ernährung und Forstwirtschaft* [1989]
ECLI:EU:C:1989

C-159/90 *Society for the Protection of Unborn Children Ireland* [1991]
ECLI:EU:C:1991:378

C-260/89 *ERT v DEP* [1991] ECLI:EU:C:1991:254

C-200/90 *Dansk Denkavit ApS and P. Poulsen Trading ApS, supported by Monsanto-Searle A/S v. Skatteministeriet* [1992] ECLI:EU:C:1992:152

C-208/91 *Raymond Beaulande v. Directeur des services fiscaux de Nantes* [1992]
ECLI:EU:C:1992:524

C-130/96 *Fazenda Pública v. Solisnor-Estaleiros Navais SA* [1997]
ECLI:EU:C:1997:416

C-309/96 *Annibaldi* [1997] ECLI:EU:C:1997:631

C-338/97 C-344/97 and C-390/97 *Erna Pelzl and Others v. Steiermärkische Landesregierung* [1999] ECLI:EU:C:1999:285

C-110/99 *Emsland-Stärke* [2000] ECLI:EU:C:200:695

C-292/97 *Karlsson* [2000] ECLI:EU:C:2000:202

C-284/03 *Temco Europe* [2004] ECLI:EU:C:2004:730

C-308/01 *Gil Insurance Ltd and Others v. Commissioners of Customs & Excise* [2004] ECLI:EU:C:2004:252

C-255/02 *Halifax* [2006] ECLI:EU:C:2006:121

C-81/05 *Anacleto Cordero Alonso* [2006] ECLI:EU:C:2006:529

C-475/03 *Banca Popolare di Cremona Soc. Coop.a.r.l v. Agenzia Entrate Ufficio Cremona* [2006] ECLI:EU:C:2006:629

C-174/08 *NCC Construction Danmark A/S v. Skatteministeriet* [2009] ECLI:EU:C:2009:669

C-492/08 *Commission v France* [2010] ECLI:EU:C:2010:348

C-259/10 *Commissioners for Her Majesty's Revenue and Customs v. The Rank Group PLC* [2011] ECLI:EU:C:2011:719

C-617/10 *Åkerberg Fransson* [2012] ECLI:EU:C:2012:340

C-262/10 *Döhler Neuenkirchen* [2012] ECLI:EU:C:2012:559

C-174/11 *Finanzamt Steglitz v. Ines Zimmermann* [2012] ECLI:EU:C:2012:716

C-44/11 *Finanzamt Frankfurt am Main V-Höchst v. Deutsche Bank AG* [2012] ECLI:EU:C:2012:484

C-276/12 *Jiří Sabou* [2013] ECLI:EU:C:2013:678

C-480/10 *Commission v. Sweden* [2013] ECLI:EU:C:2013:263

C-399/11 *Melloni* [2013] ECLI:EU:C:2013:107

C-131/13, C-163/13 and C-164/13 *Italmoda* [2014] ECLI:EU:C:2014:2455

C-29/13 and C-30/13 *Global Trans Lodzhistik* [2014] ECLI:EU:C:2014:140

C-662/13 *Surgicare* [2015] ECLI:EU:C:2015:89

C-419/14 *WebMindLicenses* [2015] ECLI:EU:C:2015:832

C-105/14 *Taricco and Others* [2015] ECLI:EU:C:2015:555

C-42/17 *M.A.S. and M.B.* [2017] ECLI:EU:C:2017:936

C-97/21 *MV* [2023] ECLI:EU:C:2023:371

Table of Legislation

European Union

Proposal for a Council Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation COM/2022/707 final.

Official Publications

European Union

Document 32007X1214(01), Explanations relating to the Charter of Fundamental Rights [2007] OJ C 30.

Explanations Relating to the Charter of Fundamental Rights (2007/C/303/02) [2007].

Council Framework Decision 2009/299/JHA [2009] OJ 2009 L 81, p. 24) ('Framework Decision 2002/584').

CPC regulation fact sheet: Sharper teeth for EU consumer protection, Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (Text with EEA relevance), OJ L 345, 27.12.2017, p. 1–26 Current consolidated version: 01/01/2022.

Report from the Commission to the European Parliament and the Council, the ninth report from the Commission on VAT registration, collection and control procedures following Article 12 of Council Regulation (EEC, EURATOM) No 1553/89. COM/2022/137 final.

Literature

Academic Journals and Books

Arnulf A., *Columbia Journal of European Law* 3;, *The European Court and its Court of Justice*, pp 607-621; and Brown L.N., and Jacobs F.G., *The Court of Justice of the European Communities*.

Borbála K., 'Neutrality in VAT' in Michael Lang et al (eds) *Value Added Tax and Direct Taxation, Similarities and Differences*.

Brokelind C., *Case Note on Åkerberg Fransson (Case C-617/10)*, *European Taxation* 2013 (Vol 53) No 6.

Brokelind C., *Principles of Law: Function, Status and Impact in EU Tax Law*, IBFD – Tax Research Platform.

Danwitz v.T. & Paraschas K., *A Fresh Start for the Charter: Fundamental Questions on the Application of the European Charter of Fundamental Rights* (2012) 50 *Common Market L. Rev.* 1411 (2013), *Meaning of Implementing EU Law under Article 51(1) of the Charter: Åkerberg Fransson*.

Dimitrievski N., Johansson K., Kleist, David & Olsson, Stefan (red.), *Festschrift till Robert Pålsson*, Upplaga 1, Iustus, Uppsala, (2022) Katarina Fast Lappalainen, *The Interplay Between Human Rights and Taxation*.

Englich J., *The Impact of Human Rights on Domestic Substantive Taxation*, in Kofler, Poiares Maduro & Pistone eds., *supra* n. 2, at sec. 16.4.2.

Fontanelli F., 'Hic Sunt Nationes: The Elusive Limits of the EU Charter and the German Constitutional Watchdog' (2013).

Fontanelli F., 'The Implementation of European Union Law by Member States under Article 51 (1) of the Charter of Fundamental Rights (2014) 20 *Columbia Journal of European Law* 194, part II C. *Fordham International Law Journal*.

Hancox E., *European Public Law* 229 'The Meaning of "Implementing" EU Law under Article 51 (1) of the Charter: Åkerberg Fransson' (2013) 50 *Common Market Law Review* 1411.

Kofler G. and Pistone P., *Human Rights and Taxation in Europe and the World. Part One: General Issues on Taxation and Human Rights General Report*, (2011), IBFD – Tax Research Platform.

Lenaerts K. and Gutiérrez-Fons J.A. *European Journal Legal Studies* 1., 'To Say What the Law of the EU is: Methods of Interpretation and the European Court of Justice' (2014)

Maduro M.P., *‘Interpreting European Law: Judicial Adjudication in a Context of Constitutional Pluralism’* (2007).

Pernice, I., "The Treaty of Lisbon and Fundamental Rights", in Griller, S., Ziller, J. (eds.), *The Lisbon Treaty: EU Constitutionalism without a Constitutional Treaty?*, Vienna, 2008.

Perrou, K., "The Application of the EU Charter of Fundamental Rights to Tax Procedures: Trends in the Case Law of the Court of Justice," *Intertax* Volume 49, Issue 10. 2010 Kluwer Law International BV, The Netherlands.

Szwarc M. *European Constitutional Law Review* 315; *Application of the Charter of the Fundamental Rights in the Context of Sanctions Imposed by Member States for Infringements of EU Law: Comment on Fransson Case* (2014).

Terra B.J.M, & Kajus J., *Introduction to European VAT* (Global Topics IBFD 2022).

Websites

Recommendation to Improve the Situation of Taxpayers in the Single Market, Ref. Ares (2020)6140272 – 30 Oct. 2020, <https://ec.europa.eu/info/law/better-regulation/have-yoursay/initiatives/12627-Tax-payers-Rights-in-the-Single-Market-Recommendation> (Accessed on 05 May 2023)

Communication on Taxpayers' Rights in the Single Market, Ref. Ares (2020)6140226 – 30 Oct. 2020, <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/> (Accessed on 05 May 2023)

