

Digital Transformation of Tax Administrations in the EU

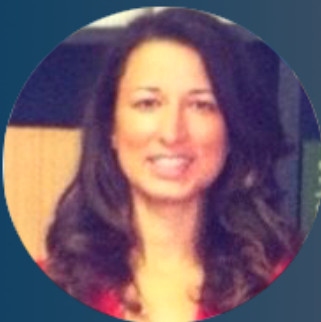
JEAN MONNET **DIGITAX PROJECT** International Conference

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Digital Government Taxpayer's Charter

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Thank you Alvaro and thank you to all the minds behind this great project and above all I would like to thank you for involving us in this project. This is the last presentation so we will try to do our best to make it as lively as possible. It is a dual presentation so stay focused because we will be bouncing the ball between the two of us.

We have been talking about taxpayer rights and there is a wide consensus on the need that the digitalization process and tax authority Big Brother powers go along with a set of taxpayer rights. We have been talking a lot about these in these two days conferences. So now which is the state of art?

List the slide.

The next slide.

I think you need the second number 2 second. Yes, the 2nd right the the one which has titled the state of art.

All the state of ideas we are watching that one. OK, OK. I don't know why I cannot see it, but it's it's not important.

So which is the state of art? Uh, not much to be honest.

Uh, we have this recent, quite relevant communication from the from the European Commission and which is a proposal for a joint solemn declaration between the European institution and this would set a shared political intention to citizens, businesses, public administration and policy maker based on common European values.

This is a quite interesting document, but of course it is dedicated to general citizens, not in particular to taxpayers.

The same happens at the national and often right regional level, as many charter are provided and General citizen digital rights are listed. Of course we have also the national charters and bills of taxpayers rights, so in this case we have the opposite situation. We have taxpayer rights but they are not updated to the digital transformation.

Process of course, regarding international.

It didn't international level. We have the international European principle and the corresponding case law. Next slide, please.

So why should we think of a digital government taxpayer charter? On the one hand, this would be an expression of the reciprocity principle, because as long as the modernization process of tax administration goes ahead, we also need the modernization of taxpayers rights. This would lead to a certain degree.

Of certainty and quite an important level of minimum harmonization at the international in the international scenario, because the case law in the matter has not been brief enough so far, this is another reason why we need. Maybe we might need a Charter and this also implies 2 important.

Consequences on the one hand, the Charter would be an element for building the public opinion, consensus and trust in digital transformation, and this is also underlined in the European proposal that I mentioned before, whose motto is putting people at the center of digital transformation. So public opinion trust is quite an important element for the digital transformation success and last but not least.

The Digital Taxpayer Charter would be a driver for an international taxpayer Bill of Rights.

Everybody knows that in the international scenario there's been a lot of progress with the fight to tax fraud, tax evasion, but there is a complete silence on the side of taxpayer, right? So the digital rights could be the driver.

For a modernization also of taxpayers rights. In general.

And now San Francisco will be taking over from here.

And everyone thank you. Thank you very much for inviting me and for the excellent organization of this of this workshop. Yeah, well, many of the issues we are addressing have been touched on during the conference and by Sylvia, so I will focus on some specific topics. Partly that you recommend.

The first question, the first question is strictly linked to the second one. What is the right charter in place or propose are not sufficiently protective for taxpayer, but the answer is quite simple because taxpayer citizens have a number of basic rights as well as application in relation to their government and its tax authority and the tax authority are no exception and the most common evidence election governing taxpayer right and obligation in relation to taxation.

The problem is that the taxpayer is also a citizen, but not only citizen and the protection need of tax law are very specific.

For example, the tax procedure are administered at the Ministry of Procedure but marked by specific requirements and needs this and that. This question is strictly linked to the second one. What is the problem? Firstly, is clear the Charter are designed in a historical period that did not contemplate digitalization, but however this conclusion, the assumption is not entirely true because national charters. For example, in Italy, as there is in Italian language statute, contribute provide principle and guideline that, of course must also be applied with reference to digital procedures, digital acts and the digital transactions general. For example, the right of being formed the right to be assisted and heard the right to to to, to to to live a certain certainty. For example. Clearly, the digital world introduced new problem with reference in particular.

To the transportation and the accessibility of the technical procedure for, for example, the creation of administrative acts. The content of these acts and the quality of the information provided. This is a new problem, a technical problem also, not only a legal problem but also technical problem and the information for the taxpayer is not completely clear in this historical period, but I think a good starting point would therefore be to amend the existing legislation in a more specific way in the digitalization perspective, with reference to to the old right please the the next slide, Sylvia.

OK, another point that we should address while thinking of these. These futuristic charter is if is if we should just adapt all rights to the new digital environment. Of course we have been talking a lot about these in these today's conference or the rule of law right to access right to challenge, right to present communication right to a proper hearing and so on. Or also we.

Should shape new rights, to be honest, is quite difficult to imagine brand new right, so I had to put among the new rights the the data protection rights and or the limits to data collection which cannot be considered really entirely new rights at the same time. So if you think for instance the right of avoiding.

All of the digital bias caused by algorithms, algorithms, even this is cannot be considered a new writing as it is an expression of the principle of non discrimination or of fairness.

So it is quite hard to imagine new rights.

question could be if we should take into consideration the so-called ethic by design.

Ethic by design is an approach which which is usually used in the research methodology and implies an immediate updates between ethical principle and rights and.

Research, UM, it is quite interesting because I think it could be a source of inspiration. Just because most of the principles such as transparency, accountability, fairness are quite can be considered quite familiar for our context. So it could be a source of inspiration for the principle and the immediate updating of the values.

Inspiring the hypothetical charter.

Yes, I think, uh, uh, this is one of the central points of this problem, and it was also mentioned by Professor Matavire yesterday afternoon in the course of recent years. It's clear that tax law has been dominated, but a continuous increase of multi level source of low in a broad sense and also the clear distinction between binding law and so called are low and soft. Low has also been significantly reduced.

And that in it's, uh, it's, uh, well known the rule of the CD and the rule is providing matching the respect and the and at the same time the European political difficulties in regulating does matter have emerged in the in the last year. One example, one example, the extraordinary experience of base erosion and profit shifting project.

Induced nation induced national legislature to make significant legal change without any specific obligation to do so.

For example, there there was an an ancient study of the CD in 1990 / 30 years ago suggested the implementation of general chart of taxpayer rights and duplication, and I think this part seemed to be one of the one of that could give the best result. Also with the regard of the preparation of the Charter of the Digital right on the tax pressure or the sorry, the taxpayer and and so in this case.

Some low I think is that better solution in the historical period. Clearly the role of individual legislature will remain absolutely crucial, especially in in in areas of exclusive domestic jurisdiction, but is very very important. This implementation of national legislation within a framework of of clearly defined European and international principle and the and the and the guideline.

OK, thank you.

Uh, the last point, UM, a starting point is no. **That digital transformation development is not predictable and it is therefore necessary to understand what is the best regulatory model in the literature. American literature, Anglo American literature is well known.**

The distinction between standard and rules that the the so-called standard.

Also, lose the versus rule literature and there is a broad agreement that lawmakers cannot effectively foresee all of the particular circumstance to which their law could apply.

And but it's at the same time well known that tax law is characterized by detailed rule. But it's widely accepted that in unpredictable and constantly evolving areas, a regulation based on standard, for example, 0 clues, general clues and principle in general is more efficient, and the debate in tax matter of the dichotomy between case.

OK, uh, in this, uh futuristic chart should? Shall we only think to passive rights are also active rights?

Uh, by passive I mean oppositional, right? So the case in which taxpayers aim at preserving the situation against tax administration powers and active, I mean a claim, right? So the possibility to imagine that the taxpayer has freezed on the right to receive.

Digital reimbursement to to present digital communication requests and this of course would be an ideal situation. An idea apotheosis in the chart of the future and this.

Goes directly to the to the question that I lightened.

Do taxpayer have the right to good digital administration? Of course I think yes. **The European Court of Justice has designed these rights**. In some case loads and even recently. I just want to mention one of the most recent cases such as the CHP, the Court of Justice put the attention on the balance between taxpayers rights and obligation.

And design the right to a good administration. So if we decide to modernize taxpayer rights, of course we should also take into into consideration a good the right to a good digital administration as balance between the passive and the active site of taxpayer rights. Now I'm going next slide please.

I'm going to the last part of my my part of the presentation.

And I will, just, uh, I. I would like just to underline that we there are of course non qualifiable rights which are really important. In particular I would like to stress the fact that even imagining initial Charter, some paramount preliminary issues should be addressed. In particular they deal with digital culture.

Also, on the side of tax authorities and on the side of tax and administration on the on the side of taxpayers. And of course also the digital right awareness by taxpayer is also an important issue that should be addressed if we want to implement the tax futuristic taxpayer.

Digital rights Charter, so uh now I, uh, next slide, please, and Francisco will conclude our presentation.

And Francesco Lucente micro please..

Is not easy to to to give some conclusion because there are some questions that you recommend or in this area is clear, but the state of art, digital Rights Charter are designed for citizen but not for taxpayer but General Charter of taxpayer lie right. For example, general principle must be applied with regard to the digital areas and scenario.

To digital tool of tax authority. But this is at national level. They were contendo multilevel source depending on different taxation area and and needs. And. But I think that the more the most relevant experience is that OCD experience the software experience in the field of BFC project, that set and an excellent present President for for them.

Limitation of of digital right for taxpayer. But we have a more difficult for political reason. In the European legislation. But nowadays the implementation of National Charter of the Spray right could be an initial step really important. What is that the the best regulatory models? The regulatory model? In my opinion, the **unpredictable of digital transformation lies for model from the on general clothes or principle and the principle, the more reconsignment that rule.** But this this is only a conclusion, the Recondo and we I hope we we will try to start in depth of this problem and also at an institutional level. Thank you for your attention.