



# REVISIONING THE "FISCAL EU": SOCIAL, GENDER, ENVIRONMENTAL, AND ECONOMIC NORMS

Ulrike Spangenberg, Umeå University, Sweden/  
Germany

Ann Mumford, Kings College London, UK





# Social, gender, environmental and economic norms...

1957: EURATOM/ECSC/EEC  
Rome Treaty



2016 - European Union  
Lisbon Treaty

- 1992 Maastricht Treaty/1997/99 Amsterdam Treaty/ 2007/09 Lisbon Treaty
- Inclusion of environmental, social and gender/ non-discrimination values and objectives in the Treaties





## Art. 2 Roman Treaty 1957:

The Community shall have as its task, [...] to promote throughout the Community a **harmonious development of economic activities**, a continuous and balanced expansion, an **increase in stability**, an accelerated **raising of the standard of living** and closer relations between the States belonging to it.



**Art. 3 [...] 3 TEU:** The Union shall establish an internal market. It shall work for the **sustainable development of Europe based on balanced economic growth and price stability**, a highly competitive social market economy, aiming at **full employment and social progress**, and a high level of protection and **improvement of the quality of the environment**.

It shall **combat social exclusion and discrimination**, and shall **promote social justice and protection, equality between women and men**, solidarity between generations and protection of the rights of the child.

It shall promote **economic, social and territorial cohesion**, and solidarity among Member States.

---

[...]



*Art. 8 TFEU:* **In all its activities**, the Union shall aim to **eliminate inequalities**, and to **promote equality, between men and women**.

*Art. 9 :* In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a **high level of employment, the guarantee of adequate social protection, the fight against social exclusion**, and a high level of education, training and protection of human health.

*Art. 10:* In defining and implementing its policies and activities, the Union shall aim to **combat discrimination** based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

*Art. 11:* **Environmental protection requirements must be integrated into** the definition and implementation of the **Union's policies and activities**, in particular with a view to promoting sustainable development.





# Social, gender, environmental and economic norms...

1957: EURATOM/ECSC/EEC  
Rome Treaty



2016 - European Union  
Lisbon Treaty

- 1992 Maastricht Treaty/1997/99 Amsterdam Treaty/ 2007/09 Lisbon Treaty
- Inclusion of environmental, social and gender/ non-discrimination values and objectives in the Treaties
- Additional standards/targets due to international obligations and commitments binding to Member States or EU itself, e.g. UN-Conventions, Paris Agreement





FairTax

# Limited mechanisms to address social, gender, environmental and economic norms in tax policies

- Legislative tax competences date back to 1957 – predominantly shared competence based on unanimity with a focus on fiscal neutrality
- Activities address mostly indirect taxation; direct taxation influenced by the CJEU, increasing use of soft law mechanisms
- Tax policy within EU 2020 (Strategy for smart, sustainable and inclusive growth): social, gender and environmental aspects
- ? Comprehensive approach on a sustainable tax policy concept that includes social, gender, environmental and economic norms





# Relevance of social, gender, environmental and economic norms for tax policies

## Example: Gender equality

- Relevance for taxation: joint taxation, tax expenditures, tax enhanced pension policies, lack of revenues resulting from tax cuts or tax evasion
- Obligations, e.g. Art. 157 TEUF (Equal Pay); Art. 2 TEU 8, 10 TFEU (value/cross-sectional objective) CEDAW, Platform for Action
- Limited legislative capacity of the EC/ EU in regard to direct taxation: Research, recommendations,...
- Lack of implementation: indirect taxation , soft law mechanisms, e.g. European Semester, pension policies,...





# Revisoning the „Fiscal EU“: Social, gender, environmental and economic norms...

Objectives and values incorporated in the European Treaties and obligations by international statutes and commitments



EU Governance capacities to apply obligations to member states tax and fiscal laws



## ***Essential research:***

Analysis of obligations the EU and/or Member States have to comply with in the area of taxation



Critical evaluation of the EU's legislative tax competence and governance capacities







# Interaction of research within FairTax

**WP 2: Harmonizing EU Tax Bases, Tax Rates and Tax Mixes: Growth, Fairness and Sustainability**

**WP 3: Gender Equality Income Inequalities, and Coordinating the Individualization of Tax-Benefit Unit Laws in EU Fiscal Policy**

**WP 1: Critical Assessment of EU Obligations and Governance Capacity to apply Tax Policy Norms to Member States**

**WP 4: European Pension Policies and Intergenerational Fiscal Sustainability, Fairness and Consolidation**

**WP 8: Sustainability of Options for European Union Own-source Budgetary Revenues**





## Research questions:

**Aim:** Design options for adequate legislative competences and governance mechanisms of the EU and EC in order to harmonize and coordinate member state taxation based on economic, social, gender and environmental values and objectives

- (1) What are the current European and international obligations in regard to social, gender, environmental and economic norms, the EU and/or Member States have to meet in the area of taxation?
- (2) Is the status quo (legislative competence/ hard and soft law mechanisms) adequate to implement those obligations?
- (3) What specific changes could be made to EU legislative competencies and/or soft law mechanisms to meet those obligations/ fiscal challenges of the future?





# Critical evaluation of fundamental tax policy norms – from comparative perspectives

*Country studies:* Sweden, UK, Canada, Germany, Brazil

- Emergence and shape of (fiscal) governance structures
  - Key historical events and developments
  - Nature of tax theories used to justify new or changed revenue and spending policies, including tax expenditures
  - Social, economic, environmental impact of revenue and spending policies
  - Specific measures, adopted to reduce inequality, address environmental challenges...
- 





## Critical evaluation of fundamental tax policy norms – from comparative perspectives

- Similar tax policy developments
- “Good” tax systems often evolve around principles: e.g. revenue adequacy, neutrality, equality, efficiency,...
- Principles are often ineffective in meeting essential social, gender, economic and environmental outcomes
- Research indicates the relevance of pragmatic problem-solving tax policies based on monitoring and evaluation mechanisms
- *Recognition of outcomes, that are defined by objectives of the treaties, but also new international commitments, e.g. SDGs, Platform for Action - CEDAW, Paris agreement*



# Evaluation of the EU's legislative competence and recent development in governance capacity



(1) Obligations to EU and/or MS and scope of obligations in regard to taxation

- Treaty of the EU/ Treaty on the Functioning of the European Union, e.g. Art. 2, 3 TEU/ 8,10,11 TFEU, Charter of Fundamental Rights, EMRK
- International obligations, such as CEDAW, ICESCR
- Commitments, such as Paris Agreement, SDG

(2) Adequacy / potential roadblocks

- Critical evaluation of (hard and soft law) competences of the EU and mechanisms to implement tax policies, taking into account the case law of the CJEU and national courts



# Evaluation of the EU's legislative competence and recent development in governance capacity



FairTax

(3) Options for change? EU legislative competencies and/or soft law mechanisms for meeting obligations/ fiscal challenges

- Good practice from other multi-state governance entities/ experience with harmonized tax regulations within the EU (e.g. VAT)
- Possibility for pragmatic outcomes (integrating findings from pensions research)
  - Enhance implementation within existing legal framework - changes in instruments/ institutional mechanisms
  - Discuss changes of legal competences
  - Use of EU own resources

