

The Imposition Of Environmental Taxes And The Principle Of Sustainable Development: Necessity Or Not?

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Abstract: In the scope of application of Tax Law in the modern market, environmental protection has emerged as a more specific manifestation of the concept of "public interest", which limits the rights of taxpayers. The principle of proportionality, which balances and harmonizes the conflicting legal goods: a) environmental protection with b) economic freedom and property, operates as a "limitation of restrictions". More specific manifestations of the above principle are considered to be the principle of sustainable development, which incorporates the concept of proportionality already by definition, and the "polluter pays" principle, which embodies the principle of proportional tax equality. The purpose of the proposal is to highlight the appropriateness, necessity and effectiveness of the imposition of environmental taxes, under the strict condition that its imposition does not unduly affect and does not excessively limit the "hard core" of the individual rights of taxpayers, which have an impact on the market economy. In order to achieve the above purpose, a research was conducted on judicial decisions of the Hellenic courts and the ECJ, as well as on hellenic and foreign bibliography.

Keywords: Environmental taxes, principle of sustainable development, "polluter pays" principle.

1. INTRODUCTION

My present contribution attempts to shed light on a contemporary field of Tax Law, both in Greece and worldwide, which is the imposition of environmental tax burdens. This is considered important, for the reason that the imposition of financial burdens – whether in the form of taxes, or in the form of fees or other charges – as well as the imposition of related sanctions by the Public (Tax) Administration, on the grounds of environmental protection as a reason of "public interest", raises various issues and concerns. The most basic legal concern that arises is whether the imposition of environmental taxes in general is compatible with the effective exercise of taxpayers' rights. This is because the latter are limited by the imposition of these taxes for the protection of the environment. Obviously, it is desirable and necessary to take measures to protect the environment, but are the measures taken, which are usually economic (fiscal), appropriate and necessary to ensure, on the one hand, the environment and, on the other hand, the unhindered exercise of taxpayers' rights? What, then, is the limit of restricting taxpayers' rights through the imposition of environmental tax burdens? The above reasonable questions are attempted to be answered by this presentation in the light of Greek Tax Law, taking into account, however, the general principles of Environmental Law, which, in principle, should be, first of all, universally accepted.

In the presentation, in addition to the introduction (1), where the legal issue is delimited, the basic legal concepts of environmental taxes and the principle of sustainable development, their operation and

their purpose (2) are developed. This is followed by the development of the issue of the limitation of taxpayers' rights by the imposition of environmental taxes, with particular reference to the "limitation of the limitation" of the aforementioned rights (3) and finally, the presentation is completed with the conclusions (4) and references.

2. ENVIRONMENTAL TAXES AND THE PRINCIPLE OF SUSTAINABLE DEVELOPMENT: CONCEPT, FUNCTION AND PURPOSE

This section (2) develops the concept, function and purpose of the two basic elements of the proposal, namely environmental taxes (2.1.) and the principle of sustainable development (2.2.). The above is necessary in order, through the clarification of the concepts, the reference to their function and the explanation of their purpose, to highlight the concern mentioned in the introduction of this (1) and developed in the following section (3), regarding the necessity or not of restrictions on the individual rights of taxpayers. This section therefore functions as a "bridge" between the aforementioned two sections, so that the transition from one to the other can be smooth, without creating "logical leaps" or semantic misunderstandings.

2.1. Environmental Taxes

According to the provision of paragraph 1 of article 24 of the current Greek Constitution, the environment is explicitly protected (see court decisions: Supreme Court 1075/2024, 539/2024, 1725/2023, 1110/2023, 290/2023, 111/2023, 10/2022 in plenary session, 9/2022 in plenary

session, Council of State 1972/2020, 520/2014 in plenary session), as is also the case at EU level with the provisions of articles 191 et seq. TFEU and art. 37 of the Charter of Fundamental Rights of the EU. The above constitutional provision, among other things, stipulates that:

"The protection of the natural and cultural environment is an obligation of the State and a right of everyone. For its preservation, the State has an obligation to take special preventive or repressive measures within the framework of the principle of sustainability. [...]"

Based on the science of Constitutional Law, the right to the environment, as reflected in the above constitutional provision (article 24 par. 1 subsection a), is considered a "third generation" right, namely a "right of solidarity", following the "first generation" rights, which are individual and political rights, and the "second generation" rights, which are social rights (Chrysogonos & Vlachopoulos, 2017, p. 81-82). In this context, it is argued that the State is obliged to take the necessary measures for the "preventive protection of the environment" (Remelis, 1989, p. 27). One of the above preventive measures in favor of the environment and its a priori protection is the imposition of environmental taxes, which is part of the exercise of a "green" tax policy of the State.

Environmental taxes can be defined as those taxes whose basis on which they are imposed is a physical object, the existence or use of which has a negative effect, that is an adverse impact on the environment (Lazaretou & Krinis, 2019, p. 1156). These taxes are imposed by the State on a product or service whose existence, use (of the product) or action (of the service) has a harmful consequence on the environment and for this reason their imposition can be considered as a quasi-"penalty", in order to somehow offset the adverse consequences with the economic benefits that the State will derive from the collection of environmental taxes. It is argued that the aforementioned "green"/environmental policy through taxation should be neutral: environmental taxes should not increase or decrease the total amount of taxation, but the tax burden on society should remain unchanged and therefore, the tax policy in question should be fiscally neutral, and their imposition should be accompanied by a corresponding reduction in the mandatory financial burdens and/or contributions of society, namely the reduction of income tax from work, but also the

reduction of social security contributions (Lazaretou & Krinis, 2019, p. 1157).

From the above function of environmental taxes, it follows that the purpose of their imposition is to reduce pollution and the consumption of natural resources (Lazaretou & Krinis, 2019, p. 1156). Their imposition and collection aims to enhance environmental awareness and "green" behavior of consumers (Parcharidis, 2025, p. 301). This is also reflected in the strengthening of the "green" economy, especially through investments in the field of renewable energy sources, where the State aims to develop the economy by exercising an environmental tax policy. Therefore, in order to promote such "ecological investments", the State provides tax exemptions and imposes reduced taxation compared to other ("non-ecological") businesses. Therefore, "green" businesses and "ecological" investments in general seem to be treated by the State, in the context of exercising its tax policy, more favorably compared to other "non-green" and "non-ecological" businesses and investments (Parcharidis, 2025, p. 302).

It should be noted that the imposition and collection of environmental taxes brings several advantages compared to other taxes. More specifically (for more details, see Parcharidis, 2025, p. 304 et seq.):

- Environmental taxes are considered to be the most proportionate, for the reason that, with respect to income tax and their general economic behavior, they are less distortive (see Withana et al., 2014, p. 48 et seq.). Environmental taxes incorporate the environmental cost into the price of services and goods, without burdening the entire society, but rather the one who uses services or goods that have harmful effects on the environment, and only then is the consumer burdened with the relevant tax or fee and not other taxpayers, in application of the "polluter pays" principle (see European Environment Agency, 1997, p. 6).
- At the same time, tax avoidance is quite difficult for them. This is because when integrating the environmental cost into the price of the service or product, then only with the use of the service or the purchase of the product, such as the purchase of a plastic bag and the imposition of the relevant fee, will the taxpayer be directly burdened and the possibility of tax avoidance will be more difficult (Lazaretou & Krinis, 2019, p. 1157).
- Finally, according to EU studies (European Environment Agency, 1997, p. 5 et seq.) it is

observed that environmental taxes are cost-effective: they have managed to achieve the environmental objectives for which they were established at a reasonable cost, such as, for example, the taxes on leaded fuels, nitrogen oxides and sulphur dioxide in Sweden, the taxes on toxic waste in Germany and on water pollution in the Netherlands, etc.

2.2. Principle of Sustainable Development

The principle of sustainable development is enshrined in the provisions of art. 24 par. 1 subparagraph b', as well as art. 106 par. 1 subparagraph a' of the current Greek Constitution. The principle of sustainable development is defined "as that development which satisfies the reasonable needs of contemporary generations without compromising the ability of future generations to satisfy their own needs" (Parcharidis, 2025, p. 292). The Greek courts emphasize the principle of sustainable development, that first of all, it is necessary to preserve the "natural capital" of the State, in order for it to be transferred in its entirety to future generations, so that there is the required equality in the satisfaction of needs between generations (see Council of State 1443/2016, 700/2016, 207/2016, 161/2000, LAW). Subsequently, the Ministry of Foreign Affairs of Greece explains the above term as follows:

"Sustainable development concerns the balancing of different and often competing needs at the environmental, social and economic level. It responds to the satisfaction of the needs of the present, without compromising the capabilities of future generations to satisfy their own needs. Coordinated actions are, therefore, needed to build a sustainable future for people and the planet, with primary objectives: the eradication of poverty, the change of unsustainable patterns of production and consumption, and the protection and management of natural resources for economic and social development" (Ministry of Foreign Affairs of Greece, 2019, p. 6).

Thus, the content of the right in question in article 24 par. 1 of the Greek Constitution is both the protection of the environment as a legal good (2.1.), but also the preservation of appropriate conditions that allow the human personality to develop freely, under conditions of decent living for both present and future generations (Chrysogonos & Vlachopoulos, 2017, p. 604, Remelis, 1989, p. 36-38, Parcharidis, 2025, p. 291). The basic individual

conceptual legal elements that constitute the content of the principle in question are: the prevention of environmental damage, in order to ensure continuity for future generations, the maintenance of environmental development through the effective action of the State organs, whose action should be carried out with balance and harmony between the interests of both sides (State-citizen), as well as economic development to be carried out with appropriate means to the extent that is absolutely necessary without excessive consumption of natural resources (Tachos, 2006, p. 80-81, 87-89). It, therefore, follows that the principle of sustainable development is a complex concept, encompassing both economic development and environmental protection (Parcharidis, 2025, p. 293). It falls within the legislative function to weigh the above, namely the need for environmental protection, on the one hand, and unhindered economic development, on the other, taking into account the principle of proportionality. However, already from the formulation of its definition as above, it seems that the element of proportionality is included in it. This is because the above constitutional principle is the one that balances and harmonizes the claims, on the one hand, to promote economic development and at the same time the claim to protect property and economic freedom and, on the other hand, the claim to protect the environment, within the framework of the operation of the formal equivalence of the provisions of the Constitution (Parcharidis, 2025, p. 291, Papakonstantinou, 2018, p. 687. See also court decisions by the Council of State no. 1911/2020 and 1772/2020).

The purpose of sustainable development is therefore to meet the needs of the present without compromising the ability of future generations to meet their own needs (Halim & Rahman, 2022, p. 1-11, O'Hare et al., 2022, p. 1-8, Mosquera Valderrama, 2020, p. 1-21). In our time, a new framework for sustainable development is being promoted. This is achieved by integrating sustainable development into all areas of sectoral policies and in its three dimensions: (a) social, (b) economic and (c) environmental (which, the last dimension, is analyzed in this proposal in relation to the imposition of environmental taxes), as follows from the "17 Sustainable Development Goals" of the United Nations, in accordance with the "2030 Agenda for Sustainable Development" and promoting the interconnection and coherence of legislative and policy frameworks linked to the sustainable development goals (United Nations, UN Regional Information Centre, 2017, OECD, 2017, p.

90, graph 3.2., Savvaïdou, 2020, p. 212, Parcharidis, 2025, p. 295).

The achievement of these goals can be implemented through an appropriate tax policy, so that by collecting revenue, it is possible to achieve the necessary public spending (Savvaïdou, 2020, p. 213, Parcharidis, 2025, p. 296). This tax policy does not aim to increase taxation, but rather to more fairly distribute the tax burden among taxpayers, to broaden the tax base and to improve the proper functioning of the Tax Administration (Long & Miller, 2017, p. 13, Mathieu-Bolh, 2017, p. 135 et seq.), such as ensuring the taxation of profits from business activity in the place where "economic value is created" (Savvaïdou, 2020, p. 214), the adoption of the OECD action plan to combat tax base erosion and profit shifting abroad (OECD, 2013, p. 14 et seq., ICC, 2018, p. 4). These goals, therefore, are not achieved by imposing more taxes, but by more effective and fairer taxation. This, in turn, will enhance the taxpayer's sense of security towards the State, influencing the choices of individuals who have an impact on the economy, enhancing justice and economic development and at the same time, creating financial resources with which to finance activities supporting sustainable development goals (Savvaïdou, 2020, p. 221, Savvaïdou, 2019, p. 387 et seq., Parcharidis, 2025, p. 300).

3. THE LIMITATION OF TAXPAYERS' RIGHTS FOR ENVIRONMENTAL PROTECTION: WHAT, IN THE END, IS THE LIMIT OF THE LIMITATION?

This section (3) examines the protection of the environment as a more specific manifestation of the concept of public interest, which limits the individual rights of taxpayers (3.1.), in particular the right to property (art. 17 of the Constitution) and to participation in the economic life of the State (art. 5 of the Constitution, economic development). This limitation is often achieved through taxation, especially in our time with the imposition of environmental taxes and fees. However, this limitation of the said individual rights cannot be absolute, but should be set within certain limits (3.2.), i.e. the "hard core of the right" should not be affected and the principle of proportionality should be respected, as a "limitation of limitations" of the taxpayers' rights. Due to the particularity of environmental taxes - namely that they aim at protecting the environment, the protection of which is also a right of every citizen - the method of harmonizing constitutional provisions is considered more accurate, as it is applied, for example, in art. 17 of the Constitution, which protects property, with art. 24 of the Constitution, which protects the

environment, without excluding the parallel application of the principle of sustainable development, which was analyzed in detail in the above subsection (2.2.).

3.1. Environmental Protection as a Reason of "Public Interest" and Restriction of Taxpayers' Rights

As follows from the above, the legislator aims to protect the environment through the adoption of appropriate and necessary legislative measures (imposition of environmental taxes), such as, for example, energy taxes (ECJ, C 201/08, *Plantanol GmbH & Co. KG*), transport taxes (European Commission, 2010, p. 12), as well as taxes on polluting activities and the exploitation of natural resources (Yildiz, 2017, p. 367-384, Steiner Brandt & Tinggaard Svendsen, 2014, p. 1-9), which restrict the rights of citizens and, in this case, taxpayers (such as the free development of economic activity) on the grounds of environmental protection as a reason of public interest, such as health protection. In Greece, the tax legislator deemed it necessary to impose specific environmental taxes and/or fees on products, activities and/or services that cause harm to the environment. Thus, the following were established for the protection of the environment, among others: (a) the vehicle registration fee, (b) traffic fees, (c) the special tax on luxury goods, (d) the single airport modernization and development fee (TEAA), (e) the special consumption tax on energy products and electricity, (f) the special fee on energy products and electricity, (g) the special fee for reducing gas pollutant emissions (ETMEAR), (h) the special landfill fee, (i) the environmental fee on plastic bags of art. 6 of Law 4496/2017. By imposing the above environmental financial burdens, either in the form of a tax or a fee, free economic development is restricted, as well as the right to property, because anyone who uses the items and services listed in the above legislation is obliged to bear the financial burden for their use (Parcharidis, 2025, p. 307).

3.2. The Harmonization Between Environmental Protection and Ensuring the Substantial Exercise of Taxpayers' Rights

As previously stated, invoking the need to protect the environment as a reason of public interest, taxpayers' rights are limited, such as the right to property and free participation in the economic life of the country, resulting in taxpayers suffering harm, which in many cases is extensive and/or excessive, especially in the case where a business (industry) is taxed unfavorably "for reasons of environmental protection". A counterbalance to this unfavorable tax policy could be the application

of the principle of sustainable development, in the above sense and function (2.2.), taking into account that the very concept of sustainable development is the one that contains the element of proportionality (Parcharidis, 2025, p. 292), as well as the harmonization of legal goods that seem to conflict, namely individual property and the environment (Parcharidis, 2025, p. 294).

More specifically, the harmonization between environmental protection and ensuring the effective exercise of taxpayers' rights occurs, according to the author, with the application of the principle of sustainable development. The legislator himself proceeds to the appropriate balancing between the need for environmental protection and the factors related to the economic freedom and development of the Country, the utilization of national wealth, economic and regional development, as well as economic freedom and the security of employment (Remelis, 1989, p. 35), in the light of the principle of proportionality, as not exceeding the "absolutely necessary measure for the satisfaction of the intended public interest objective", as ruled by the decision no. 710/2020 of the Council of State in plenary session. A more appropriate and effective means of balancing could be considered (environmental) taxation, provided that it is fair and the principle of proportionality is respected as a "limitation of limitations" of the individual rights of taxpayers.

It is accepted (Papakonstantinou, 2018, p. 690) that the above principle weighs the legal goods at stake (individual property and environment) and balances the conflicts between constitutional rights, in application of the principle of proportionality. At the core of the constitutional principle of sustainable development is the principle of proportionality, in the sense that economic development must take place in such a way that environmental goods are not damaged, but also that the "environmental reserve" is preserved for future generations (Remelis, 1989, p. 37, Papakonstantinou, 2018, p. 692). This means that economic freedom with the aim of economic development and the exercise of the right to property are limited to the point where a minimum of "natural capital" (Council of State 161/2000) remains for future generations. In this way, the "formal equivalence" of constitutional provisions is applied, where the claims for both the promotion of economic development and the protection of the environment are weighed, based on the content of the principle of sustainable development (Parcharidis, 2025, p. 294). In other words, based on the principle of proportionality, weighings of the

legal goods at stake -that are equally protected by the Constitution- are made, with "the imperative of the greatest possible harmonization of their content, depending, of course, on the specific circumstances of each case" (Papakonstantinou, 1989, p. 693). By applying the principle of sustainable development, the interpreter of the Constitution moves from the assumption of the "conflict" of the legal goods protected in the Constitution, such as the protection of the environment against property or economic development, to a new assumption of "harmonization" of formally equivalent constitutional provisions, where it is not possible to exclude a provision of the Constitution on the grounds that it is contrary to other principles or provisions of the Constitution, but a balance is sought between the restriction of an individual right and the public interest (Tachos, 2006, p. 71). Thus, some constitutional legal goods do not prevail over others, but the aim is to connect and harmonize the legal goods of the Constitution that are at stake (Parcharidis, 2025, p. 294). This is done within the framework of applying the principle of proportionality/fair balance, as applied in this case with the principle of sustainable development (Parcharidis, 2025, p. 294-295, Papakonstantinou, 2018, p. 692-693).

A particular aspect of the principle of proportionality, as a limit to the above restrictions, in addition to the principle of sustainable development, which already includes the concept of proportionality by definition, is also found in the legal principle "the polluter pays", which is also provided for in art. 191 par. 2 TFEU. This principle means that the person, who is responsible for environmental pollution, also bears the cost of avoiding and eliminating the environmental damage that he has caused or may cause (Koutoupa-Regakou, 2008, p. 63). Therefore, the imposition of financial burdens, usually in the form of taxes or fees, not only aims to attribute the cost of this harmful action to the environment, but is also an effective means of protecting the environment and highlighting the causal connection between the person who is responsible for the damage and the causing of environmental damage (Parcharidis, 2025, p. 308). This (the imposition of environmental taxation) has the effect of restricting the right to free economic development of the taxpayer, especially large enterprises, to the point that the "untouched core" of this taxpayer's right is not affected. Based on the above principle, it is considered by the author that an effective way of protecting the environment is to impose environmental taxes and fees, depending on the

damage caused to the environment, and thus, the application of the principle of proportionality in environmental taxation becomes evident through the principle of "the polluter pays" (Parcharidis, 2025, p. 308-309). This position is also confirmed by the earlier case law of the ECJ (ECJ, C-293/97, *The Queen*), which ruled that: "the polluter pays principle is an expression of the principle of proportionality". Furthermore, if there is pollution from different causes, those responsible are liable according to the degree of their participation in it. Therefore, when imposing the tax burden (e.g. a fine), the percentage of participation and responsibility of the "polluter" must be taken into account, so that the proportional burden can be attributed to him and the fine can be imposed, depending on his participation in the pollution, in accordance with the principle of proportional equality in public burdens, according to article 4 par. 5 of the Constitution, in order to achieve a "fair balance" between the conflicting legal interests (Parcharidis, 2025, p. 309).

4. CONCLUSIONS

According to the principle of sustainable development, as stated above, the existence of environmental taxes is a necessity for the preservation of the natural environment for future generations, as well as for the promotion of economic development. This, however, is subject to the condition that the principle of proportionality is observed, i.e. the more harmful an act is to the environment, the greater the tax burden should be and vice versa. In order to protect the environment, the imposition of environmental taxes on specific economic activities is considered appropriate and necessary. With the same reasoning, tax sanctions of an environmental nature are also imposed in cases of environmental offenses (according to the "polluter pays" principle). Consequently, the imposition of "green" and fair taxes can be considered an appropriate and effective means to strengthen environmental protection. Therefore, it would not be strange to say that contemporary Tax Law is a "green" Law, in the sense of the tendency for prominent environmental protection and perhaps it would not be an exaggeration to speak today of a "Tax Environmental Law" (see Parcharidis, 2025, p. 719).

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