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Workshop 8

*Constitutional and Supranational Review on Tax Legislation Across the
Mediterranean*

directed by

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Workshop abstract

The objective of the seminar is to assess, in a comparative approach, the current trends of Legal, Constitutional, Religious and Supranational Limitations on the Taxing Power of domestic legislatures across the Mediterranean (and in nearby Countries as well); to evaluate and compare the impact of fundamental principles, concepts and rights on the taxing power of the sovereign states.

Special attention should be given to EU law for European countries, Religious laws for some of the Arab countries and to the Human rights recognized and implemented by the UN.

Under a theoretical perspective, Adams Smith was perhaps the first one to develop "canons or maxims of good tax" in the Western world, i.e tax should be certain, fair, efficient and considers the taxpayer's needs and situation. This model of "Good Tax" has become a benchmark for most of the legislatures and policy-makers around the world.

Nearly two centuries after Adam Smith's canons of good tax, nearly all the courts in Europe began to question the taxing power of the Sovereign State according to various principles (Constitutions, where available, Fundamental principles, Ethical and even Religious). In Europe, we ultimately are experiencing restraints of Supranational nature.

The EU has introduced new limitations that however are not related to a social dimension but rather to market-economic approach. At the same time, it could be argued that other consideration are used

in the Mediterranean countries, such as national constitutions, legal traditions, ethical, principles of distributive justice and even religious concepts.

The More the Mediterranean sea is considered a common area to share experiences and face common challenges, it is relevant to compare the various approaches to taxation according to the various aims pursued by the states and to the limits found within the fundamental principles of each one of them.

Workshop description

The seminar shall be focused on Tax law and Constitutional limitations and guidelines; the ones that exist already and the those that should or might be developed in different states, represented by the participants.

Every participant, and every paper delivered, are asked to debate the very basic issues of tax law in the participant's country, clarifying whether a constitution (both written or de facto) is present or not, whether it contains provisions related to tax law and why and how these provisions were implemented; what are the underlie rationales (the aims) pursued by the constitution.

Then the attention shall be transferred to the supranational principles that have an influence over taxation: EU law, Islamic law, International law, and others.

The first goal of the seminar is to allow the participants to present, in a comparative approach, the possible current limitations on the state's taxing power, and their own anticipations and predictions regarding the development in the coming future.

The second goal of the seminar is to identify the social, economic, legal, religious, and constitutional origins of such limitations, in a comparative fashion in states around the Mediterranean and the Middle East. Particular attention should be given to supranational limits mentioned above, such as International conventions, EU law for European Countries, and Religious law for some of the Middle East Countries.