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FUNDAMENTAL PRINCIPLES OF ENVIRONMENTAL TAXATION

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ABSTRACT

The paper deals with the study of the main legal principles that base environmental taxation, emphasizing the important technical and legal difficulties that the implementation of these financial instruments imply; As well as legal strategies to overcome them with the intention of establishing taxable means able to achieve its objectives, which are to produce positive effects on the environment, in addition to raising revenue for the Public Treasury. Of course, the current concern for environmental protection is inherent in the entire legal system, so the legal-fiscal order cannot remain insensitive. In addition, the legal feasibility of such taxes and their effectiveness in preserving the environment were studied. Such impositions are presented as a means to internalize negative externalities. Through bibliographic research, it is demonstrated that the complexity of the environmental tax problems faced, with the objective of finding out how a solution to the underlined problem can be reached. It is concluded that the duty to contribute, whose foundation is the principle of solidarity, is presented as an appropriate instrument for the preservation of the environment.

Keywords: Environment; Environmental taxation; Extrafiscalidade; Fiscal Principles; Economic capacity.

PRINCIPIOS FUNDAMENTALES DE LA TRIBUTACIÓN AMBIENTAL

RESUMEN: *El trabajo aborda el estudio de los principales principios jurídicos que fundamentan fiscalidad ambiental, poniendo el énfasis en las importantes dificultades técnico-jurídicas que la implantación de estos instrumentos fiscales implican; así como, en las estrategias jurídicas para superarlas con la intención de establecer medios tributarios aptos para alcanzar sus objetivos, que son producir efectos positivos para el medio ambiente, además de recaudar ingresos para el Tesoro Público. Desde luego, la preocupación actual de la protección del medio ambiente es inherente al todo ordenamiento legal, así la orden jurídica-fiscal no puede quedarse insensible. Además, se estudió la viabilidad legal de tales impuestos y su eficacia en la preservación del medio ambiente. Tales imposiciones se presentan como un medio para internalizar las externalidades negativas. A través de investigación bibliográfica, se demuestra que la complejidad de los problemas fiscales ambientales enfrentados, con el objetivo de averiguar cómo se puede llegar a una solución a la problemática subrayada. Se concluye que el deber de contribuir, cuyo fundamento es el principio de solidaridad, se presenta como un instrumento apto de preservación del medio.*

Palabras-clave*: Medio ambiente; Fiscalidad ambiental; Extrafiscalidad; Principios tributarios; Capacidad económica.*

INTRODUCTION

Nowadays, the environment appears as a global problem. This circumstance requires reflection and, at the same time, the adoption of measures that correct human behavior contrary to ecological conservation.

The seriousness of the problem means that conservation of the environment is considered as a social necessity, incorporating itself to the set of political concerns.

So within the existing policy options for environmental control, we have the tax as an option for the internalization of negative external environmental effects. Its function is to charge over the economic agent (company or consumer), which with its activity produces harmful external effects, costs equivalent to such externalities; in this way, it would be obliged to consider, in its economic reasoning, not only internal costs but also external costs.

Likewise, lawyers reflect upon the difficulties involved in establishing green taxes. These are not few, nor easy to solve, but nonetheless are not impossible to resolve. We will analyze the position of the fiscal principles in relation to the environmental protection system.

1. THE FUNDAMENTAL RIGHT TO THE SUITABLE ENVIRONMENT

The Brazilian Constitution of 1988 brought in Article 225[1] the right to an ecologically balanced environment and the fundamental duty of protecting the environment, both for the State and for individuals. Government and society should participate in protecting the environment to preserve natural resources for present and future generations[2].

It is observed that the protection of the environment appears in

1 *Article 225.* Everyone has the right to an ecologically balanced environment, a common good used by the people and essential to a healthy quality of life, imposing on the public power and the community the duty to defend and preserve it for present and future generations.

2 While the Constitution of Spain 1978 (EC) chose environmental protection as the guiding principle of social and economic policy, which states: *Article* 45. 1. Everyone has the right to enjoy an adequate environment for personal development as well as the duty to preserve it. 2. Public authorities should ensure the rational use of all natural resources in order to protect and improve the quality of life and to defend and restore the environment by relying on the indispensable collective solidarity. In addition, in the case of Spain, environmental protection is referred to in Article 53. 3 EC by the legislator: *53. 3* The recognition, respect and protection of the principles recognized in chapter three informed the positive legislation, judicial practice and the actions of public authorities. They may only be claimed before ordinary jurisdiction in accordance with the provisions of the laws that develop them.

the constitutional configuration with new guidelines to be incorporated in all actions of a Socio-environmental Rule of Law State (YARZA, 2012, p. 371).

Thus, it is possible to maintain that everyone has the fundamental right to the necessary conditions to live in a quality environment that allows a life with dignity. That is, is there a fundamental right to the right environment?

The answer to this question is not so simple, because we are facing a new concern in the legal context, and many fear to recognize the *status* of jurisprudential of the environment based on the concept of fundamental rights in a doctrine of legalistic positivism (Martinez, 1973, p. 174).

The Spanish Constitutional Court (TC) does not recognize this right as fundamental[3], but rather as a guiding principle, where "courts must ensure respect for the environment, no doubt, but according to what the laws that develop the constitutional precept provide" (art. 53. 3 CE, SSTC 32/1983, legal basis 2nd, 149/1991, legal basis 1, and 102/1995, legal bases 4-7).

The Spanish doctrine, in large part, shares the position of the TC, summarizes Piqueras (1993, p. 51):

> Thus, in Article 45. EC, in its immediate context, it must be acknowledged, although its effectiveness and value are not identical with those of fundamental rights or the general principles of Article 9. 3. The nature of its fundamental right was maintained because of its teleological link with Article 10. 1 EC. In my judgment, given the location of Article 45 (1) in the Constitution and in accordance with Article 53. 3 EC - which indicates that the rights recognized under the heading "guiding principles of social and economic policy" according to what the laws that develop them "- with Article 53. 2 EC -, it is evident that the right to the environment did not obtain the position of fundamental right in our Magna Carta.

It does not seem appropriate in the Spanish TC doctrine not to recognize the protection of the environment as a fundamental right, since Article 2 of Organic Law 1/2008, July 30, states that: "In accordance with

3 The Federal Supreme Court of Brazil opines differently, stating: The preservation of the integrity of the environment: the constitutional expression of a fundamental right of the generality of the people. (*ADI 3,540-MC*, *rel. Min. Celso de Mello*, *trial on 1st-9-2005, Plenary,* DJ *of 3-2-2006.*)

the second paragraph of Article 10 of the Spanish Constitution of Article 1, section 8 of the Treaty of Lisbon, the rules on fundamental rights and freedoms recognized by the Constitution will be interpreted in accordance with the Charter of Fundamental Rights published on 14 December 2007 in the Official Journal of the European Union European Union".

Since Article 37 of the above-mentioned Charter calls for the protection of the environment as a fundamental right[4]. And Article 52[5] places normative development as an option for member states to apply and protect the principles described in the Charter and not as a condition of judicial protection as set out in the Constitution of Spain.

Spain has ratified the International Covenant on Economic, Social and Cultural Rights on 27 April 1997 where it states in its preamble that the States Parties to the Covenant recognize that the rights set out therein derive from the inherent dignity of the human person[6].

Finally, Article 10 of the Spanish Constitution establishes the dignity of the person as a fundamental right and recognizes that the norms concerning fundamental rights and freedoms addressed in the Constitution will be interpreted in accordance with the Universal Declaration of Human Rights and the treaties and international agreements on the same subjects ratified by Spain. Faced with all this legislative path, there is no denying the nature and scope of the fundamental right to environmental protection.

To establish the identity of the environment as a fundamental right one must change the lens of the observer. Robert Alexy (2007, p. 392) proposes a more complex nature to environmental law:

> The fundamental right to the environment responds better to what was once called the "fundamental right as a whole. " It consists of a set of positions of very different types. Thus, those proposing the establishment of a fundamental right to the environment or its interpretation of existing provisions of fundamental right may, for example, include in this set or combination of positions a right for the State to omit certain interventions in the environment (right of defense), a right that allows the

4 ARTICLE 37. - Environmental protection: In the policies of the Union, a high level of protection of the environment and the improvement of its quality shall be integrated and guaranteed, in accordance with the principle of sustainable development.

5 ARTICLE 52. 5 The provisions of this Charter containing principles may be implemented through legislative and executive acts adopted by the institutions, bodies, offices and agencies of the Union and by acts of the Member States when they apply Union law in the exercise of their respective powers. They can only be invoked before a court with respect to the interpretation and review of the legality of those acts.

6 ARTICLE 12 of the Covenant provides: 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Pact, in order to ensure the full effectiveness of this right, should include. . . (b) improvement in all aspects of occupational and environmental hygiene;

> State the protection of a fundamental right holder against the intervention of those who may harm the environment (right of protection), a right which the State allows the right holder to participate in the relevant proceedings (right to a procedure) and a right for the State itself to undertake factual measures to improve the environment (the right to a factual service).

Morales (2012, p. 554) argues that, as climate change and other environmental enemies have shown their worst side, some of the content of Article 45 EC has begun to move, driven by jurisprudence, towards the scope of fundamentality, in search of a direct efficacy that this precept lacks in relation to the fundamental rights recognized by the legal system.

Ariño (2003, p. 173-174) adds that the right to enjoy an adequate environment has become a fundamental right to protect. This is recognized in the Charter of Fundamental Rights of the European Union or in the case law of Strasbourg itself, recognizing environmental rights as a new generation of human rights. There is no doubt therefore that, with this line of Strasbourg case law, a genuine fundamental right is being built to enjoy an adequate, increasingly crucial environment for ensuring the health of people in a society in which, until now, well-being was measured in purely monetary terms.

We can conclude that the protection of the environment is projected in the areas of fundamental rights since it is directly connected with the dignity of individual and collective life.

2. OBJECTIVES AND FISCAL TECHNIQUES OF ENVIRONMENTAL INTERVENTION

The state has a responsibility to maintain an ecologically balanced environment, the public entity must use efficient public policies to combat the misuse of natural resources. Thus, a fiscal policy becomes an instrument linked to the maintenance of environmental goods[7].

The objective of " *green* " taxes is not to punish, but rather to encourage economic agents to reduce the demand for potentially polluting activities and/or the replacement of products with high polluting intensity

7 It should be noted that fiscal measures in favor of environmental protection are not the most appropriate legal instruments for this function; they have a complementary character, that is, that social agents respect the natural environment through financial inventions or the imposition of taxes. Administrative, civil, criminal and international law instruments are the keys to maintaining the right environment.

by other goods more compatible with the preservation of the environment (SIERRA, 2015, p. 21)[8].

In order to achieve these objectives through the tax system, there are fiscal techniques of environmental intervention that are materialized through the establishment of taxes, either with the help of exemptions, or through the redistribution among public persons of tax revenue generated by the defense and improvement of the environment (VILLAREAL, 2013, p. 102).

Environmental taxation was based on the attempt to obtain livestock resources from the polluters to meet state repair costs. The polluter pays according to the quantity and quality of the outflow issued. This meant at the same time the establishment of an incentive not to pollute, which will increase the amount of degradation increases (STERLING, 2002, p. 155-156)[9].

Thus, the basis of environmental taxes is the link between the duty to contribute and the obligation of public authorities to protect the environment; while its objective is to redistribute the environmental costs among the subjects involved in the degradation of this in benefit of the community to enjoy a healthy environment and well-being.

In addition, state intervention tax techniques can also play a role in stimulating those behaviors that are optimal for the environment. The legislator is fully aware of the importance of fiscal measures to encourage behavior that is totally respectful to the environment and discourage those who oppose it.

The technique is implemented in the provocation of a tax relief effect, total or partial, in relation to established taxes. Its objective is to encourage the incorporation of "clean" technology, purification mechanisms (GONZÁLEZ, 2008, p. 1134). They are also directed to situations in which the financial costs to be assumed by the polluting subjects are very high,

8 Sierra considers that: The green tax reform following the double dividend theory is about implementing different taxes on energy and polluting activities, with the dual objective of, on the one hand, encouraging behavior conducive to improving environmental quality and, on the other, to obtain greater economic efficiency through an additional collection with capacity to reduce the tax burden on the labor factor through a reduction of social contributions.

9 Sterling expounds in a very didactic way: the welfare school, led by Pigou, defended the thesis that the negative external effects produced for the society by a businessman who generated pollution had to be internalized by this same businessman; he should add to his private production costs, either the payment of compensation or the burden of an amount equal to the difference between the private and social costs of the production generated by him, unduly underestimated by not taking into account the damage suffered by certain individuals or by the collective as a whole.

that is, to encourage environmental technological research (PICHOT, 1994, p. 32)[10].

Another environmental fiscal technique is the redistribution of a portion of tax revenue among public entities, due to the adoption of environmental public policies aimed at protection and conservation. It represents a symbol of economic justice at a time when the environmental services provided are valued, remunerating this service. The distribution of the State's financial resources should be based on the efficiency that can be achieved through incentive mechanisms aimed at prioritizing the improvement of socio-environmental indicators and, consequently, a more equitable redistribution of public revenues (SCAFF, 2005, p. 746).

Therefore, these tax mechanisms are characterized as relevant instruments for the fundamental rights to the environment to be adequate, enabling a consolidation of sustainable development and improvement over the quality of life.

3. **THE UNDERLYING PRINCIPLE OF ENVIRONMENTAL TAXATION**

For the article, the general principles of Tax Law were selected, as well as specific environmental impositions, which together justify Environmental Tax Law.

Environmental oversight is based on the duty to contribute, and of course, this duty also settles the oversight's limits. From the legal configuration of the contribution duty, it is associated with other limits that are the principles that determine the legal configuration of the environmental tax measures that will be discussed next.

3. 1 Economic capacity as a limit for environmental taxation

The principle of economic capacity is inspired by the natural order of things: where there is no wealth it is useless to impose taxes. However, it's wording not only serves to preserve the effectiveness of the tax law but also wishes to protect the taxpayer by avoiding an inadequate

10 Pichot points out that: there may be circumstances where financial aid is justified, in particular to cover research and development (R & D) expenses in pollution control measures or clean technologies. Conducting research on new ones clearly goes in the direction of the search for the public good.

taxation on their ability to pay which, consequently, compromises their means of subsistence or free exercise of economic freedom and other fundamental rights.

Thus, the tax is not a mere supply of resources that individuals are required to perform for the public entity, in accordance with the power of taxation that it exercises. The imposition is a true juridical institution, which must consist of a *fair* payment (BUJANDA, 1963, p. 182-183).

The economic capacity binds the ordinary legislator in a double sense: a) On the one hand, in a positive sense, everyone who has a certain level of economic capacity should contribute, which obliges to classify as taxable events all situations indicative of this economic capacity. It will be necessary to combine the subjective aspect of economic capacity (any subject that has a certain level of economic capacity should contribute) with its objective aspect or dimension (taxation of all acts revealing this capacity); (b) On the other hand, in the negative sense, the principle of economic capacity prevents situations that are not indicative of this capacity to be subject to taxation. By this, we mean that it suffices that the situation chosen as a taxable fact is general and presumably indicative of economic capacity (GIARDINA, 1961, p. 438)[11].

Thus, environmental taxation aims to protect the environment through the acting of the duty to contribute. A tax law construction that rejects the demands of justice as in the duty to contribute increases the risk of distorting the tax institute (GONZALEZ 1987, p. 671)[12]. The doctrine disagrees with regard to the observance of the principle of economic capacity over extra-fiscal taxation. Some argue that the incidence of this principle is not possible, while others share the idea of seeking the

11 Giardina points out that: economic capacity can be spoken in two senses, in parallel, absolute economic capacity and relative economic capacity. *Absolute economic capacity* refers to the existence of capacity, the abstract ability to meet public tariffs. In the first instance - creation of the fiscal norm - it is necessary to define who are the subjects with economic capacity and, for that, it will be necessary to determine which facts or situations are those that indicate the existence of the economic capacity. Those who lead these facts indicative of economic capacity will be the subjects that should contribute. *The relative economic capacity* is absolute, and aims to delimit the degree of capacity. *O quantum.* It operates, therefore, at the moment of determining the quota.

12 Gonzalez warns that: Every institution, and therefore also the tax system, must be analyzed not only in terms of its structure and specific purposes, but also according to the constitutional budgets globally considered, this can not lead to the understanding that the tribute can be distorted in such a way that it becomes a sanction, since it would be as much as returning to the moment when the tribute was a hated institution, to the detriment of its current role: they contribute directly or indirectly to the financing of public expenditure.

compatibility of institutes (COELHO, 2009, p. 89)[13].

Klaus Tipke and Douglas Yamashita argue that (2002, p. 62):

> Thus, if the extra-fiscal purpose of certain taxes or fiscal rules is to even the trade balance, penalizing the polluter, discouraging smoking or alcoholism, or encouraging the hiring of people with physical disabilities, these taxes in part leave the area of the Tax Law to invade Economic Law, Environmental Law, Social Security Law, Labor Law, in which it does not make sense to speak of tax justice and principle of the ability to contribute. In these cases, it is another type of justice: social justice. Consequently, the principle of taxable capacity does not apply to non-fiscal taxes, which, however, have their constitutionality controlled by the principle of proportionality.

On the contrary, Juan Lapatza explains that maintaining public expenditure allows the legislator to impose taxes for purposes other than pure collection for extra-fiscal means, provided that the minimum requirements of the principle of capacity are respected and that such purposes are protected by the Constitution (LAPATZA, 2000, p. 188).

The use of the tax as an instrument of environmental policy should presuppose, as a condition of legitimacy, the polluting capacity, so that the capacity to contribute is linked to the purpose of taxation (ROSEMBUJ, 1995, p. 245).

Corroborating with this understanding, the jurisprudence of the Spanish Constitutional Court (1987, p. 13) indicates that:

> It is constitutionally permissible for the State and the Autonomous Communities, within the scope of their powers, to establish taxes that, without ignoring or contradicting the principle of economic capacity or payment, respond mainly to economic or social criteria oriented towards the fulfillment of ends or to the satisfaction of public interests that the Constitution defends or guarantees.

The fact that environmental taxation pursues purposes other than simple collection[14], does not authorize the removal of economic capacity

13 Sacha Calmon believes that extrafiscality is incompatible with the ability to contribute. For him no it would be necessary to speak in extrafiscality without the exacerbation of taxation, precisely because of the use of taxes in order to achieve results other than simple collection.

14 Nabais states: Not all ecological or environmental taxation is configured as (true) extraphysicality. Since the first and foremost, because the concern of environmental protection is inherent in all legal system, it is not therefore insensitive to the legal-fiscal system itself. So too the generality of taxes does not pass, nor can it pass, unnoticed, this ecological "tonality" of law. Secondly, the hypothesis, which has already been mentioned, of genuine ecological taxation in which the financial objective dominates is not excluded.

(NAB AIS 1997, p. 629). The extra fiscal character of a tax does not modify or alter in any way the taxable matter imposed by it, which must indicate a sign of wealth (ORTEGA, 2008, p. 105). We believe that the ability to pay must be respected at all times, otherwise the extra-fiscal rules would be allowed to confiscate and impose the existential minimum.

3. 2 Principle of Contributory Equality

The most important value that brings with it a political collectivity is equality. His assertion was only possible after the collapse of the old political order, with the French Revolution becoming one of the main demands of the liberal revolutionaries (VIDA, 2004, p. 84-85). The Spanish Constitution in its first article establishes equality as a supreme value, distinguishing the doctrine between a material equality (Article 9. 2 EC) and a formal equality (Article 14 EC), the fiscal equality specified in Article 31. 1 of the EC.

Equality under a fiscal prism prevents the tax system from being considered unfair in the distribution of tax burdens and imposes that all citizens have the obligation to pay taxes according to economic capacity, which is quantified in accordance with the principle of proportionality (ROJO, 2012, p. 69)[15].

The criteria defining tax equality in the doctrine of the Spanish TC are illuminating, let us see from STC sentence 76/1990, of April 26, 1990:

> a) nor any inequality of treatment in the law is an infraction of art. 14 of the Constitution, but which that breach is produced only by that inequality which introduces a difference between situations which may be regarded as equal and which lack objective and reasonable justification; (b) the principle of equality requires that equal legal presuppositions apply equal legal consequences and two assumptions must be considered when the use or introduction of differentiating elements is arbitrary or lacking in a rational basis; (c) the principle of equality does not prohibit the legislator from any unequal treatment, with the exception of artificial or unjustified inequalities because they are not based on objective and sufficiently

15 Rojo teaches: the principle of equality is opposed to discrimination in the treatment of situations that can be considered the same. This does not prevent the law from establishing unequal treatment based on objective and sufficiently reasonable criteria.

> reasonable criteria according to generally accepted criteria or value judgments; (d) Finally, in order for differentiation to be constitutionally lawful, it is not enough that the event is in accordance with the equality sought, but it is also indispensable that the legal consequences resulting from such a distinction be adequate and proportionate for that purpose, so that the relation between the adopted measure, the result produced and the objective sought by the legislator, overcome a judgment of proportionality in the constitutional seat, avoiding particularly heavy or unmeasured results.

However, a fiscal inequality can occur due to the extra-fiscal use of taxes, as long as this has a valid justification, in which in our study is justified by the defense of the environment. It should be added that the differences between environmental taxation and tax entities do not violate equality, unless they are clearly discriminatory and do not find their justification in other constitutional principles (PRIETO, 2008, p. 73).

3. 3 Progressivity

The principle of progressivity is also a direct requirement of the principle of justice, as is clear from Article 31[16]. Progressivity is understood as the characteristic of a fiscal system according to which, as the wealth of each subject increases, the contribution increases in proportion to the increase of wealth (ROJO, 2012, p. 72). This principle seeks to develop economic capacity and equality by adding new forces to the redistributive character of the tax system (ESEVERRI, 2011, p. 43).

Progressivity is not something specific for each tribute, it is something characteristic of the tax system so that when studying progressivity, it should be studied on all tax forms that fall under the taxable person[17]. In fact, if progressivity were not demanded solely from

16 There is no reference to progressivity in the Brazilian Constitution as a general principle of the tax system, but is expressly linked to the principles of reporting income tax (Article 153, §2, I); Rural property tax (Article 153, § 4) and; Tax on urban property (article 156, § 1, I).

17 The Constitutional Court in the Judgment of *Judgment 27/1981, July 20, Legal Basis 4*, emphasizes that: although a valid definition of what should be understood as fair, for fiscal purposes, would be a task that goes beyond the approach which we have here, what can not be ignored is that the constituent legislator made clear that the fair system that is proclaimed can not be separated under any circumstance from the principle of progressiveness or the principle of equality. That is why - because the equality claimed here is closely linked to the concept of economic capacity and the principle of progressivity - so it can not be simply brought back to the terms of art. 14 of the Constitution: a certain qualitative inequality is indispensable to understand this principle. Precisely, the one that is realized by the

the entire tax system, almost all existing taxes would be unconstitutional, because among them all the Brazilian IRPF (a tax similar to the Federal Income Tax) can be said to be - at least in good measure - a progressive tax, as soon as indirect taxation is inadequate for the application of this principle (AVILES, 2007, p. 76).

However, the existence of various types of rates within indirect taxes, especially in VAT, produces a kind of "qualitative progressivity" (ORTEGA, 2013, pp. 54-55). In this sense, within the environmental taxation is essential the existence of the so-called qualitative progressivity, that is, that provides higher rates for those consumptions of goods or services with greater environmental impact. The technique consists of establishing low tax rates for normal activities and consumption and increasing this type of tax as activity or consumption abandons the margins of legal rationality.

Tax justice in environmental taxes requires that the polluter pay more and that each unit of pollution that is added undergoes taxation rates that are progressively higher than those of previous units. In summary, the principle of progressivity should also be considered as an instrument to serve the extra-fiscal purpose of protecting the environment; the greater the pollution capacity, the more progressive the elements that shape the tax debt.

3. 4 Principles of Tax Law

In the foreground, from a democratic perspective, the reservation of a law is based on the requirement of self-imposition or consent of taxes *("nullum tributum sine lege*" or *"no taxation without representation")*, according to which public authorities cannot unilaterally require citizens (nor will they be obliged) to pay any patrimonial and public benefits if they have not previously been consented to or regulated by higher legal norms emanating from legitimate political representatives[18].

In the area of freedom and property, the regulation by the tax

global progressivity of the tax system in which it encourages the aspiration to the redistribution of income.

18 *Judgment of the Constitutional Court n. 185/1995 (legal basis 3)* indicates that: the principle of legality in tax matters corresponds in essence to the old idea, which dates back to the Middle Ages, to ensure that the benefits that private individuals representatives; the reservation of law is configured as a guarantee of the community's self-determination about itself and, ultimately, as a guarantee of the citizen's patrimonial and personal freedom (STC 19/1987).

law consists of preserving the unity of the legal system to guarantee basic equality or uniform treatment for taxpayers[19].

In addition, the principle of legality in tax matters is related to the principle of legal certainty, the certainty of the law allows taxpayers to know precisely the extent of their tax obligations and the consequences that may derive from their conduct (MADRIGAL, 1998, p. 44). Finally, legality as a mode of organization of power, after all, as a system of distribution of competences concretized in the political-constitutional sphere (ALONSO, 1999, p. 101). Now, we can raise issues that may arise in the reservation of law on environmental issues.

The environment is the subject of a fundamental protection duty of a constitutional degree entrusted to public authorities and individuals. In order to fulfill this collective burden, an economic cost is supposed to the state. The constitutional foundation of this type of taxation lies precisely in the need or duty of individuals to seek protection of the environment. This demand is especially urgent for those who, as a result of their business activities, generate special pollution factors, which assumes that the cost of environmental protection measures must be assumed by these economic agents (LÓPEZ, 2008, p. 141).

Another concern in the plan for environmental protection regulations lies in determining the limits of the jurisdiction of public finances, that is, determining the power of tax on environmental issues among tax authorities. The problem exists mainly due to the existence of a competing dispute between public bodies on environmental issues and the absence of a clear distribution of taxable events between tax entities so that they can safely develop the corresponding environmental taxation (GONZALEZ, 1980, p. 378; MAGALHÃES, 2003, p. 148). The material delimitation of the power of environmental taxation does not represent great difficulties since it would be linked to the territorial scope of the environmental interests to be protected (FERNÁNDEZ, 2011, p. 22).

3. 5 The "polluter pays" principle

This principle appears for the first time, on the legal scene, in a Recommendation of the Organization for Economic Co-operation and

19 *STC n. 19/1987 (fj 4th)* It asserts: This guarantee of self-disposition of the community in itself, which in the State Law is codified (article 133. 1), is also, in our democratic constitutional state, as we pointed out above, a consequence of equality and for that reason preservation of basic parity position of all citizens.

Development (OECD) on the guiding principles concerning the economic aspects of international environmental policies, of May 26, 1972: the polluter must bear the costs of measures taken by public authorities to achieve an acceptable state of the environment. In other words, the cost of such measures should be reflected in the cost of goods and services that cause pollution through their production and/or consumption. Each measure will not be accompanied by subsidies that create significant distortions in international trade and investment, the European Union has adopted it as the core of its environmental policy[20].

It should be noted that this principle does not grant a license to pollute, that is, it does not allow anyone who is willing to pay the right to contaminate. What goes on is that the costs involved in preventing and combating pollution are assumed and solved by who produces it, and not by the social collectivity as a whole. The fact is that "polluter pays" translates, in short, the duty to internalize negative environmental externalities (MOLINA, 2008, p. 188).

An environmental tax established according to the strict guidelines of the principle in question can lead, due to its complexity, to significant implementation difficulties, especially the definition of its subjective structure.

Therefore, the subjects of the environmental tax must be that person, natural or legal, which performs the degrading activity of the natural environment[21]. The polluting subject, therefore, would identify with any of the following agents: producer of polluting activities, consumer of polluting products or owner of patrimonial goods with which the polluting activity is carried out (GUZMÁN, 2005, p. 537).

However, this ideal configuration of the subject taxed as a polluter is not always technically possible, since it is not always feasible to articulate as an objective element of the tax an activity degrading the environment. In this sense, we will analyze three situations that seem relevant to us: first,

20 The Treaty on the Functioning of the European Union, in its Title XX "Environment", Article 191. 2: Union policy on the environment must seek a level of protection, taking into account the diversity of situations in the different regions of the Union. It will be based on the principles of caution and preventive action, on the principle of correcting attacks on the environment, preferably on the source itself and on the polluter pays principle. In Brazil, the principle is affirmed in Article 4, VII, of the Law of National Environmental Policy, Law no. 6. 938 / 1981: Art 4 - The National Environmental Policy shall: [...]; VII - impose an obligation on the polluter and the predator to recover and.

21 However, the taxpayer must fulfill the dual condition of producer of the polluting activity and holder of the economic force involved in such activity. Thus, if both qualities do not match the mandatory tax can not peak of taxpayer. If a subject performs a pollutant activity, but does not do so in the context of an economic activity, or as a consequence of possession of a patrimony, there is no place to consider him a contributor of an environmental tax.

the taxation of pollutant production that results in non-polluting products; secondly, the tax on the consumption of pollutants whose origin is in a non-polluting production process; thirdly, the assessment of cases where there is a polluting production process that results in pollutants (MORO, 1998, p. 256-266).

In the first case, the taxpayer is responsible for the polluting economic activity. However, the question that arises in these cases concerns the economic shift of the quota from the right taxpayer to the consumers of those products known as actual taxpayers. Therefore, it must be the market's own response that sees to the economic displacement of the tax by the producer. This response should be achieved through lower demand for these products. The "actual taxpayer" will have the opportunity to face its indirect responsibility for the existence of such pollutant production, even if economically (AGUILAR, 1995, p. 17).

Secondly, the tax on the consumption of a product (expenditure) makes a pollutant whose origin is in a non-polluting production process. Consequently, the taxpayer should be, in the logical sense, the final consumer, since the latter is the one who performs the environmental degradation operation, besides manifesting, albeit indirectly, the economic force taxed (GARCÍA, 1999, p. 174). However, there is generally a technical impossibility of creating a tribute that directly imposes over consumption since it is very difficult to identify and control tax situations as well as their directors. The key to overcoming the dysfunction produced is the technique of legal translation of the tax quota (AYALA, 1995, p. 95).

The third of the problems raised is that relating to the taxation of situations involving a polluting production that gives rise to products whose consumption is degrading to the environment. Ideally, the tax burden should be on both the producer and the consumer, since both are responsible for environmental degradation. The key is once again in the technique of legal translation of the tax quota. However, this articulation incurs the problem: it gives the producer the right to repercussion of quota. This would be free of the tax burden. And this situation not only produces a breach of the "polluter-pays" principle but also of the incentive expectation of the tax, in relation to the producer's behavior.

Therefore, the solution is, in our opinion, fulfilled in the recognition of the producer as a taxpayer of a right of legal transfer of quota, but only partial. In this way, the tax quota would be shared between the two polluters (MORO, 1998, p. 273). Faced with so many technical

and tax difficulties in determining the taxable taxpayer, it is necessary to take into account Molina's warning (2008, p. 206): the true ecological tax reform must be carried out by introducing the polluter-pays principle into the tax system and not converting the tax system into an indirect tax forest.

3. 6 Principles of the prohibition of the confiscatory effect of taxes

Through the principle of non-confiscation, it is possible to assess whether the taxation of the economic assets of the taxpayer is legitimate or not, that is, if it draws the limit for the redistributive action of the State. A tax, *per se*, will never be identified with the institution of confiscation in the strict sense, but it may happen that the tax burden, if the competition of taxes on the same subject produce a burden in such a way that it diminishes in a certain proportion its patrimony, causes confiscatory effects, which is precisely what the Constitution seeks to avoid[22].

However, it is easy to determine the upper limit of the confiscation, since it will be the entire patrimony affected (ESPADAFOR, 2008, p. 33)[23]. Difficulties arise when establishing the lower limit, that is, the point at which confiscatory effects begin to emerge (GALCERÀ, 2010, p. 15)[24].

The establishment of new environmental taxes may affect the taxable maximum of the taxpayer by assuming an increase in the tax burden. Thus, we are faced with two conflicting constitutional values: the principle of environmental protection versus the confiscatory reach of tax burdens.

Professor Chico de la Cámara (2008, p. 180) proposes that the solution to this conflict can be solved based on the control of proportionality[25], the tax must be adequate, necessary and proportional

22 The Federal Supreme Court of Brazil finds that: The characterization of the confiscatory effect presupposes the analysis of concrete data and peculiarities of each operation or situation, taking into account costs, global tax burden, profit margins and specific conditions of the market and of social and economic conjuncture (...). The isolated increase in the tax rate is insufficient to prove the total or excessive absorption of the economic product of the private activity, in order to make it unviable or excessively onerous. *RE 448. 432-AgR, Rel. Min. Joaquim Barbosa, judgment on 4/20/2010, Second Class, DJE of 28-5-2010.*

23 A first approximation to the determination of the confiscatory effects allows us to state that for a tax (or an accumulation of taxes on the same income) to be considered constitutional, there is a limit of at least 100%.

24 Thus, in the Judgment of the German Constitutional Court of June 22, 1995, an approximation was made as to where the frontier or the limit that the tax burden should not pass. The German High Court has emphasized that taxation can not affect the substance of the assets or exceed a limit of approximately half of the income.

25 The Federal Supreme Court recognizes the utility of proportionality control as a parameter of

to the objective pursued (environmental protection). Thus, this taxation, whose material aspect of the taxable event (environmental pollution) is not directly related to the taxable base, is adjusted to external factors of wealth. The implementation of environmental taxes is necessary to correct environmental pollution so that they can be applied in a complementary way to obtain the most ideal and efficient result in environmental protection. And proportionality in its *strict sense* requires compliance with the minimum and maximum taxable limits that constitute a guarantee of the right to private property.

3. 7 The Conservative-Receiver principle

To guide the economic and legal instruments for environmentally sustainable behavior, we discuss the reception of a new principle: the principle of the preserver-recipient. The principle is built upon the idea of granting a reward for those who strive to improve environmental quality[26].

This principle prioritizes environmental protection through positive sanctions[27], constituting an important measure of environmental awareness through economic stimulus (BOBBIO, 1990, p. 372).

In environmental fiscal policy, the incorporation of the conservative-recipient principle is imperative for encouraging society, as well as public entities, in the adoption of sustainable behaviors through direct rewards (tax benefits) or indirect tax benefits[28].

evaluation of legislative activity in the configuration of tax rules: Taxation and offense to the principle of proportionality. The public power, especially in taxation, can not act immoderately, because the state activity is essentially conditioned by the principle of reasonableness, which translates material limitation to the normative action of the Legislature. The State can not legislate abusively. Legislative activity is necessarily subject to rigid observance of a fundamental guideline, which, finding theoretical support in the principle of proportionality, prohibits the normative excesses and the unreasonable prescriptions of the Public Power. The principle of proportionality, in this context, is intended to inhibit and neutralize the abuses of the Public Power in the exercise of its functions, qualifying itself as a benchmark of the material constitutionality of state acts. *(ADI 2551-MC-QO, Rel. Min. Celso de Mello, judgment on 2-4-2003, Plenary, DJ, 20-4-2006).*

26 In fact,12,727 of October 17, 2012 (Brazilian Forest Code), included this principle in article 1-A, single paragraph, VI, article 1-A. Single paragraph. With the objective of sustainable development, this Law will comply with the following principles: [...] VI - creation and mobilization of economic incentives to promote the preservation and recovery of native vegetation and to promote the development of sustainable productive activities.

27 On the sanctions Prizes No Bobbio stated: The demands of the welfare state, contemporary law is not limited to protect acts in accordance with its rules, but tends to stimulate innovative acts and therefore its role is not only negative, which are the specific technique of repression, there is a use, no matter what is still limited, of positive sanctions that gives life to a technique of stimulation and population of acts considered socially useful, instead of repression of acts considered socially harmful.

28 The Brazilian Forest Code provides: Art. 41. It is the federal Executive Branch authorized to institute, without prejudice to compliance with environmental legislation, a program of support and

Among the indirect incentive modality, in the Brazilian experience, we have the implementation of the so-called Ecological ICMS (Tax on the Circulation of Ecological Goods and Services)[29].

The ICMS is a tax levied by the States (article 155, II, of the Federal Constitution-CF), which redistributes 25% of this tax to municipalities, according to the criteria established in the art. 158, IV and sole paragraph, I and II, of the CF. It is section II of the sole paragraph of art. 158 which is the basis for the creation of the ecological ICMS, since the mechanism allows the States to redistribute up to a quarter of the percentage of 25% of the amounts destined to the municipalities according to the criteria defined by the grantor. The institution of the Ecological ICMS has two purposes as indicated Cumaru (2008, p. 134):

> 1. Stimulate the adoption by municipalities of initiatives for environmental conservation and sustainable development, creating conservation units or maintaining federal or state areas, or incorporating proposals that promote ecological balance, social equity and economic development;
> 2. Reward the municipalities that have protected areas in their territories and that, in this way, prevent the allocation of the area of traditional productive activities that can generate a greater collection and consequent participation in the distribution of ICMS.

Finally, a systemic view is needed to a more precise observation of the issue, aiming at the proper adaptation of the fiscal redistributive instrument to the environmental reality. The creation of norms by fiscal entities, as well as the behavior of economic agents and society are the

encouragement for the conservation of the environment, always observing the progressivity criteria, covering the following categories and lines of action: [...]; II - compensation for environmental conservation measures required to achieve the objectives of this Law, using the following instruments, among others: [...] c) deduction of Permanent Preservation Areas, Legal Reserve and restricted use of basis of calculation of the Tax on Rural Territorial Property - ITR, generating tax credits; [...]; f) tax exemption for the main inputs and equipment, such as: wire wires, treated wood poles, water pumps, soil drilling equipment, among others used for recovery and maintenance of the Areas of Permanent Preservation, Legal Reserve and restricted use; § 1 º To finance the activities necessary for the environmental regularization of rural properties, the program may provide for: […], II - deduction of the tax basis of income tax of the owner or owner of rural property, individual or legal, part of the expenses incurred with the restoration of Permanent Preservation Areas, Legal Reserve and restricted use whose deforestation is previous to July 22, 2008; § 2. The program provided for in the caput may also establish tax differentiation for companies that industrialize or commercialize products originating from rural properties or possessions that comply with the standards and limits established in arts. 4, 6, 11 and 12 of this Law, or are in the process of fulfilling them.

29 Several states have already established this incentive, such as the case of the States of Paraná (Law 59/91), São Paulo (Law No. 8,510 / 93), Minas Gerais (Law 13803/00), Rondônia / 96), Rio Grande do Sul (Law No. 11,038 / 97), among others.

central elements to promote sustainable environmental processes.

CONCLUSIONS

The preservation of the environment is a fundamental right that must be materialized in a policy of prevention and correction of environmental degradation based on collective solidarity. In this perspective, the duty to contribute, whose foundation is the principle of solidarity, is presented as an appropriate instrument for the preservation of the environment.

In setting up extra-fiscal taxes, the taxpayer's ability should be consulted, understood in its generic sense of fiscal justice, in addition, the extra-fiscal tax should be reasonable, proportional and necessary, regarding the prohibition of the confiscatory effect that imposition can cause.

It is important to add that the polluter pays principle is based on grounds of equity. It is fair that those who deviate the society from the proposed constitutional objectives contribute to offset the costs incurred in it.

Thus, the creation of legal fiscal institutions that promote the objectives of the rule of law is a priority task, since tax systems must be consistent with common objectives and with the general interest. In this sense, environmental taxation is one of the most relevant expressions of the contemporary rule of law.

REFERENCES

AGUILAR, Ángel Baena. Protección impositiva del medio natural. *Noticias de la Unión Europea*. La Rioja, n. 122, p. 11-24, 1995.

AGUILAR, Ángel Baena. La protección tributaria del medio ambiente en España. In *La protección fiscal del medio ambiente*: aspectos económicos y jurídicos. Madrid: Marcial Pons, 2002.

ALEXY, Robert. *Teoría de los derechos fundamentales*. Madrid: Centro de Estudios Constitucionales, 2007.

ALONSO, Manuel García Pelayo. *Derecho constitucional comparado.* Madrid: Alianza Editorial, 1999.

ÁLVAREZ, Luis Ortega. Concepto de medio ambiente. In *AAVV Tratado de derecho ambiental.* Valencia: Tirant lo Blanch, 2013.

AVILES, Ángel Aguaito; GALLARDO, Esther Bueno. Observaciones sobre el alcance de los principios constitucionales del art. 31.1. CE. In AAVV. *Estudios en homenaje al Profesor Pérez de Ayala*. Madrid: Dykinson, 2007.

ARAGÃO, Alexandra. A natureza não tem preço… mas devia. O dever de valorar e pagar os serviços dos ecossistemas. In AAVV. *Estudos em Homenagem ao Professor Doutor Jorge Miranda*. Coimbra: Coimbra Editora, 2012.

ARIÑO, Omar Bouazza. Respeto a la vida privada y protección del medio ambiente en la jurisprudencia del tribunal europeo de derechos humanos. *Revista de Administración Pública.* Madrid, n. 160, p. 167-202, 2003.

AYALA, José Luis Pérez de. La traslación jurídica de la cuota en los impuestos ambientales. *Noticias de la Unión Europea*. La Rioja, n. 122, Año XI, p. 93-100, 1995.

BOBBIO, Norberto. *Contribución a la teoría del derecho*. Madrid: Debate, 1990.

BUJANDA, Fernando Saniz de. *Hacienda y derecho*: estudios de derecho financiero. V. 3. Madrid: Instituto de Estudios Políticos, 1963.

CALVACANTE, Denise Lucena. Avanços de tributação ambiental

no Brasil. In *Políticas de protección ambiental en el siglo XXI:* medidas tributarias, contaminación ambiental y empresa. Madrid: J. M. Bosch Editor, 2013.

CÁMARA, Pablo Chico de la. La regla de no confiscatoriedad como límite a la tributación medio ambiental. In AAVV. *Tratado de tributación medioambiental.* Vol. I. Navarra: Aranzadi, 2008.

COÊLHO, Sacha Calmon Navarro. *Curso de direito tributário brasileiro.* 10. ed. Rio de Janeiro: Forense, 2009.

COLLADO, P. Escribano; GONZALEZ, J. I. Lopez. El medio ambiente como función administrativa. *Revista Española de Derecho Administrativo*. La Rioja, n. 26, p. 367-386, 1980.

COMANDUCCI, Paolo. *Positivismo jurídico y neoconstitucionalismo*. Madrid: Fundación Coloquio Jurídico Europeo, 2009.

CUENCA, Encarnación Carmona. El principio de igualdad material en la jurisprudencia el tribunal constitucional. *Revista de Estudios Políticos.* La Rioja, n. 84, p. 265-286, 1994.

CUMARU, W. F. T. ICMS Sócio-Ambiental: Um instrumento econômico de incentivo a preservação do meio ambiente urbano. In *AAVV Mudanças climáticas, biodiversidade e uso sustentável de energia*. São Paulo: Imprensa Oficial do Estado de São Paulo, 2008.

PIQUERAS, Francisco Delgado. Régimen jurídico del derecho constitucional al medio ambiente. *Revista Española de Derecho Constitucional*. La Rioja, n. 38, p. 49-80, 1993.

ESEVERRI, Ernesto. *Derecho tributario.* Parte general. 4. ed.

Valencia: Tirant lo Blanch, 2011.

ESPADAFOR, C. M Lopez. *La no confiscatoriedad en la imposición sobre el consumo*. Bolonia: Publicaciones del Real Colegio de España, 2008.

FERNÁNDEZ, María Jesús García Torres. *Análisis de la protección tributaria del medio ambiente.* Navarra: Aranzadi, 2011.

GALCERÀ, Irene Araguàs. El principio de no confiscatoriedad en la constitución española, *Revista da Academia Brasileira de Direito Constitucional.* Curitiba, n. 3, p. 9-31, 2010.

GARCÍA, Antonio Vaquera. *Fiscalidad y medio ambiente.* Valladolid: Lex Nova, 1999.

GIARDINA, Emilio: *Le basi teoriche del principio della capacità contributiva*. Milano: A. Giuffrè, 1961.

GONZALEZ, Clemente. Checa: El impuesto sobre tierras infrautilizadas de la comunidad autónoma andaluza. *Revista Impuestos*. Madrid, n. 96671, p. 661-683, 1987.

GONZÁLEZ, Miguel Buñuel. La fiscalidad como instrumento económico de la política medioambiental. In *AAVV Tratado de tributación medioambiental.* Vol. II. Navarra: Aranzadi, 2008.

GUZMÁN, Tomás J. López; LARA DE VICENTE, Fernando. Efectos distributivos de los tributos ecológicos. *Economía, Sociedad y Territorio*> Córdoba, v. V. n. 19, p. 535-553, 2005.

LAPATZA, José Juan Ferreiro. *Curso de derecho financiero español*. V.1, 24. ed. Madrid: Marcial Pons, 2000.

LÓPEZ, Francisco Escribano. El principio de reserva de ley en la tributación medioambiental. AAVV. *Tratado de tributación medioambiental.* Vol. I. Navarra: Aranzadi, 2008.

MADRIGAL, Francisco Javier Alonso. *Legalidad de la infracción tributaria:* reserva de ley y tipicidad en el derecho tributario sancionador. Madrid: Dykinson, 1998.

MAGALHÃES, Vladimir Garcia. Competência concorrente em matéria ambiental: proteção ao meio ambiente e justiça. *Revista Brasileira de Direito Constitucional*. São Paulo, v. 2, p. 139-163, 2003.

MARTÍNEZ, Gregorio Peces Barba. *Derechos Fundamentales.* Madrid: Guadiana de Publicaciones, 1973.

MIRRLEES, James A. *Diseño de un sistema tributario óptimo*. Madrid: Editorial Universitaria Ramón Areces, 2013.

MOLINA, Pedro M. Herrera. El principio quien contamina paga. In *AAVV Tratado de tributación medioambiental.* Vol. I. Navarra: Aranzadi, 2008.

MORALES, Ricardo Martín. Constitución y medio ambiente. In AAVV *Derecho, globalización, riesgo y medio ambiente.* Valencia: Tirant lo Blanch, 2012.

MORO, Cristóbal J. Borrero. *La tributación ambiental en España.* Madrid: Tecnos, 1998.

NABAIS, José Casalta: *O dever fundamental de pagar impostos*. Coimbra: Almedina, 1997.

ORTEGA, Rafael Calvo. *Curso de Derecho Financiero*. 17. ed. Madrid: Aranzadi, 2013.

ORTEGA, Rafael Calvo. Tributación medioambiental y principio de justicia tributaria. In *AAVV Tratado de tributación medioambiental.* Vol. I. Navarra: Aranzadi, 2008.

PERALES, Carlos de Miguel. *Derecho español del medio ambiente.* Navarra: Civitas, 2009.

PICHOT, Françoise. *La fiscalidad y el medio ambiente:* políticas complementarias. Organización de Cooperación y Desarrollo Económico. Madrid: Mundi-Prensa, 1994.

PRIETO, Luis María Carzola. Los principios constitucional-financieros en la tributación ambiental. In *AAVV Tratado de tributación medioambiental*. Vol. I. Navarro: Aranzadi, 2008.

RODRÍGUEZ, Andrés Betancor. *Derecho ambiental.* Madrid: La Ley, 2014.

ROJO, Margarita Beladiez. *Los principios jurídicos.*Navarra: Civitas, 2010.

ROJO, Fernando Pérez. *Derecho financiero y tributario.* 22. ed. Navarra: Civitas, 2012.

ROSEMBUJ, Tulio. *Los tributos y la protección del medio ambiente.* Madrid: Marcial Pons, 1995.

SCAFF, Fernando Facury; TUPIASSU, Lise Vieira da Costa. Tributação e políticas públicas: o ICMS ecológico. In *Direito*

Tributário Ambiental. São Paulo: Malheiros, 2005.

SIERRA, María Teresa Mata. *La reforma fiscal verde.* Madrid: Lex Nova, 2015.

STERLING, Ana Yabar. Justificación teórico-económica de la aplicación de impuestos para luchar contra la contaminación. In *La protección fiscal del medio ambiente:* aspectos económicos y jurídicos. Madrid: Marcial Pons Ediciones Jurídicas y Sociales, 2002.

TIPKE, Klaus; YAMASHITA, Douglas. *Justiça fiscal e princípio da capacidade contributiva.*São Paulo: Malheiros, 2002.

TRIBUNAL CONSTITUCIONAL ESPAÑOL. *Sentencia número 37/1987, de 26 de marzo*. Disponível em: <https://www.boe.es/diario_boe/txt.php?id=BOE-T-1987-9279> Acesso em: 16 dez. 2016.

VALCÁRCEL, Ernesto Lejeune. Principio constitucional de igualdad tributaria. AAVV *Seis estudios sobre derecho constitucional e internacional tributario.* Madrid: Editorial de derecho financiero, 1980.

VIDA, Maria Angeles Martín. *Evolución histórica del principio de igualdad y paradojas de la exclusión.* Granada: Universidad de Granada, 2004.

VILLAREAL, Alberto Muñoz. Principios rectores de los tributos medioambientales. In *Tributación ambiental y haciendas locales.* Navarra: Aranzadi-Civitas, 2013.

YARZA, Fernando Simón. *Medio ambiente y derechos fundamentales.* Madrid: Centro de Estudios Políticos y Constitucionales, 2012.

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