

The rise of generative artificial intelligence and the Role and Future of Digital Tax Governance

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Digitalisation

Need for digital connectivity through trust and confidence in the information and communications technology (ICT) environment.

Digitalisation/new technologies: Opportunities for tax administrations to “better manage compliance, tackle non-compliance and protect their tax base.

Objective: Tax Administrations to benefit from new information and communication technologies (e.g. artificial intelligence and data analytics methods).

Exchange of views and experiences between tax administrations.

***PROTECTION OF AUTOMATIC
PROCESSING OF PERSONAL
DATA INCLUDING BIG DATA***

Governance and Legitimacy Issues

- Are the instruments in the era of digitalization sufficient to guarantee the privacy and data protection of individuals and business?
- How can **tax administrations** benefit from the amount of data that is being exchanged/collected? Differences between developed vs. less developed countries.
- How can **taxpayers** trust the tax administration/data collectors that the information will be safeguarded?
- Taxpayers need answers to question such as (i) who has my data? (ii) is my data properly collected, stored and monitored? (iii) is the processing of my data allowed? And (iv) who owns my data?

See Processing of personal and business data and the rule of law in the era of digital trade, Central European Political Science Review CEPSR Journal – 76. Available [here](#)

Regional? Global? Unilateral?

- Domestic level: Involvement of all stakeholders (Government, Legislative, Judiciary). Oversight and data protection authorities
- Regional: Data protection (e.g. GDPR), but how to ensure that there are also regional models of data protection. Mostly using 1995 Data Protection Directive (out of date). SGATAR, ATAF/AU, CIAT/Pacific Alliance.
- Global: Awareness of the EU Council of Europe Convention for the Automatic Processing of Data including Big Data.

Binding Instrument

Protects the individual against abuses which may accompany the collection and processing of personal data and which seeks to regulate at the same time the transfrontier flow of personal data including big data (since 2018 Protocol Update).

- 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.
- 2001 Protocol: Access to third countries. Ratified by CoE members and also non-members (In force: Argentina, Cabo Verde, Mauritius, Mexico, Morocco, Russian Federation, Senegal, Tunisia and Uruguay). Invited not yet signed (Burkina Faso).

Binding Instrument (2018 Update)

- *2018 (October) Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 223)*
 - Reinforced powers and independence of the data protection authorities and enhancing legal basis for international cooperation;
 - Greater transparency of data processing;
 - Obligation to declare data breaches;
 - New rights for the persons in an algorithmic decision making context, which are particularly relevant in connection with the development of artificial intelligence;
 - Stronger accountability of data controllers;
 - Requirement that the “privacy by design” and privacy by default principles are applied.

Binding Instrument (2018 Update)

- 2018 Protocol In process of ratification by CoE members and also non-members (Signed and ratified by: Argentina, Mauritius, and Uruguay. Signed Cabo Verde, Russian Federation, Tunisia Pending signature: Mexico, Morocco, Senegal). Link [here](#)

***THE ETHICS OF ARTIFICIAL
INTELLIGENCE (AI) AND
TAXPAYER RIGHTS***

AI, Ethics and Taxpayer Rights

The effects of AI and its development and impact on human rights, democracy, and the rule of law. For taxation:

- What type of taxpayers' rights in decision based algorithm?
- What is the role of the judiciary when reviewing the tax administration decisions based on algorithms? Any deviations? Considerations of fairness, accountability?
- What principles should be used in AI? High-level principles or any other specifically for taxation?

Stakeholders

- Governments including tax administrations
- Taxpayer
- Internet/AI/ Digital platforms
- Civil society
- Judiciary (administrative and judicial review-decision making based on algorithm)
- Research/Academic Tax Institutions
- International organizations
- Regional organizations
- Other non-tax:
 - Organizations/academic/research institutions working on data governance/AI, etc. E.g. Committee on Artificial Intelligence set up by the Council of Europe in order to develop a [Framework] Convention on the development, design, and application of artificial intelligence

AI, Ethics and Taxpayer Rights

The use of Artificial Intelligence by tax administrations, a matter of principles by C. Garcia-Herrera Blanco CIAT.

- Principle of Prudence
- Principle of non-discrimination
- Principle of proportionality
- Principle of transparency
- Data Governance to ensure data security

However, principles alone cannot guarantee ethical AI.

See Mittelstadt, B. Principles alone cannot guarantee ethical AI. Nature Machine Intelligence 1, 501–507 (2019).

Pillars of a Digital Governance Framework also applicable to AI

a) Legitimacy: Sound Institutional Framework and attention to the process including decision making by tax administration based on AI and judicial review and political will to introduce these changes.

- Accountability
- Responsiveness
- Openness
- Transparency

b) Digitalization: Challenges taxpayer/tax administration/external

- Security (more than ICT, also monitoring, safeguards)
- Modernization
- Improvement Service
- Implementation Tools
- Digital Transformation to adapt to new changes

Digital Taxpayers' Rights Charter

- See EU [DIGITAX](#) Project that also provides for the introduction of a Digital Government for Citizens Charter related with tax collection, including what can Citizens reasonably expect from these services, from new technologies and from the Tax Administrations using or offering them.
- See Forthcoming (June 2024) conference [Towards a Digital Taxpayer Bill of Rights](#) University of Antwerp, Belgium

Role of DET network

- To discuss/present how this Council of Europe Convention can be applicable to tax.
- To address the implementation of GDPR regulation in non-EU countries, to replace the data protection rules based on the 1995 EU Data Protection Directive. Non-EU countries far behind adoption of updated data protection rules. See F. Debelva and I. Mosquera (2017), Privacy and Confidentiality in Exchange of Information Procedures: Some Uncertainties, Many Issues, but Few Solutions, Intertax 45(5): 362-381. Link [here](#)
- To discuss with stakeholders what is needed to help developing countries in dealing with processing/use of big data, data analytics, while guaranteeing the trust by the taxpayer that there will be safeguards (e.g. in case of algorithmic decision making among others).

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