

## Taxation limits by the property protection in the Charter of Fundamental Rights of the European Union: the Portuguese study case.

Carlos RODRIGUES<sup>1</sup>, Ana CAMPINA<sup>2</sup>

<sup>1</sup>*Universidade Portucalense Infante D. Henrique*

<sup>2</sup>*Instituto Jurídico Portucalense*

Email: <sup>1</sup>*crodrigues@upt.pt*, <sup>2</sup>*acampina@upt.pt*

### Abstract

The political and social States action with the gradual inclusion in their function of answer to the citizens needs by the improvement of their living conditions through the social state, especially with the universal and free health protection; education including the university free, or almost free of charge; the unemployment protection; the diseases and the retirement; lay down the States the growing need to earn the financial resources to execute these multiple functions (political and social). The impact of each citizen supported growing tax burden as counterpart of their benefits gain by their Social State, results in the right to the public entity to tax that would conflict with the private property protection right of each citizen when he assists to be delivered, in higher or less quantity, to the public purse to satisfy those collective needs. That potential violation of the individual property right, although the multiple types of assets that would be included, although being in benefit the general public interest, is connected in multiple Human Rights concerns, as the protection of the property right. The present research and this communication are based on the analysis through the Human Rights, by the dialectic tension between the duty to contribute to the expenses of the community and the individual property right. This means, that is important to study which would be the maximum limit that can be collected by the State to each citizen, as taxes, in order to avoid the public entity an authentic confiscation. This dialectic will have, between others, underlying the protection given to the property of the 1st article of the Convention to the “Protection of the Human Rights and Fundamental Freedoms”, as the “Protocol 11”, and the art. 17th of the European Union Chart of the Fundamental Rights. Portugal is a paradigmatic study case as this dialectic tension is a social and political reality that need to be understood, diagnosed and worked by the political structured in order to generate effective benefits by the Social State, including the fundamental protection of the private property right.

**Keywords:** Fundamental Rights, Social State, Taxes; Property Protection