

## Taxation in Support of Equality: The Swedish RUT Deduction and the Circular Economy

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## TAXATION IN SUPPORT OF EQUALITY: THE SWEDISH RUT DEDUCTION AND THE CIRCULAR ECONOMY

by

Cristina Trenta\*

### ABSTRACT

*This Article investigates the tax dimensions of sustainable development as it specifically relates to the Circular Economy in the experience of the Nordic countries and in particular of Sweden, in the context of EU and international law. The Article examines in detail the Swedish RUT tax deduction for certain costs of household services and its cascading effects in terms of female entrepreneurship, gender equality, and a more sustainable economic model, comparing it to similar initiatives in the other Nordic countries, and setting it against the fabric of current EU regulations and the novel approaches detailed in the New European Consensus on Development and the UN Sustainable Development Goals.*

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<b>I. INTRODUCTION</b> .....	350
<b>II. DEVELOPMENT AS AN INTERDISCIPLINARY AREA OF STUDIES</b> .....	353
<b>III. SUSTAINABLE DEVELOPMENT, EU LAW, AND INTERNATIONAL LAW</b> .....	356
<b>IV. SUSTAINABLE DEVELOPMENT AND THE CIRCULAR ECONOMY</b> .....	360
<b>V. SWEDEN AND THE NORDIC COUNTRIES</b> .....	362
<b>VI. RUT TAX DEDUCTION</b> .....	363
<i>A. Repair, Reuse, Recycle</i> .....	365
<i>B. Effects on Gender Equality</i> .....	367
<i>C. The Relationship Between Gender Equality and the CE</i> .....	370
<b>VII. CONCLUSIONS</b> .....	372

## I. INTRODUCTION

This Article investigates the taxation and legal profiles of sustainable development<sup>1</sup> and the circular economy (CE) in its European and international law dimensions<sup>2</sup> through a review of the ongoing evolution in the Nordic countries<sup>3</sup> and, specifically, in Sweden.

The CE is an approach to production and consumption that aims at increasing the value of the resources being used and, at the same time, at lowering their number.<sup>4</sup> The UN Agenda 2030 and the Sustainable Development Goals (SDGs) enshrine the current global consensus on the pressing needs to safeguard the planet and ensure the future prosperity of mankind.<sup>5</sup> The CE is an intrinsic part of the picture painted by

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1. See generally Judith C. Enders & Moritz Remig, *Theories of Sustainable Development: An Introduction*, in THEORIES OF SUSTAINABLE DEVELOPMENT, at ch. 1 (Judith C. Enders & Moritz Remig eds., 2015).

2. See generally NORDIC LAW IN EUROPEAN CONTEXT (Pia Letto-Vanamo et al. eds., 2019).

3. The expression “Nordic countries” is used for Denmark, Norway, Sweden, Finland, and Iceland, and the territories associated with these countries. See Ulf Bernitz, *What Is Scandinavian Law?: Concept, Characteristics, Future*, in WHAT IS SCANDINAVIAN LAW?: SOCIAL PRIVATE LAW 13 (Peter Wahlgren ed., 2007); *The Nordic Council*, NORDIC CO-OPERATION, <https://www.norden.org/en/information/nordic-council> [<https://perma.cc/2XYQ-FE9M>] (last visited Feb. 23, 2021).

4. See generally CHRIS BACKES, LAW FOR A CIRCULAR ECONOMY (2017).

5. G.A. Res. 70/1, Transforming our World: the 2030 Agenda for Sustainable Development (Oct. 21, 2015) [hereinafter 2030 Agenda].

the SDGs and offers a way to move towards more sustainable and resilient societies.<sup>6</sup> It has emerged as an alternative model of production and consumption based on repair and reuse and has the potential of creating positive environmental outcomes.<sup>7</sup>

In the wake of increasing social pressure to transition the global economy to more sustainable and less planet-damaging ways to produce goods and services, the concept of CE has recently risen to the attention of lawmakers and policymakers.<sup>8</sup> CE is “an approach to combat environmental challenges and promote sustainable development” as part of “the discussions on industrial development.”<sup>9</sup> It is also not a new concept; it was first introduced by British environmental economists Pearce and Turner in a seminal 1990 book.<sup>10</sup>

The move towards a more sustainable global economy postulates approaching environmental problems systemically, addressing them as parts of an integrated whole extending to fiscal and social issues<sup>11</sup> that include unemployment, poverty, and the growth of

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6. See *Global Circular Economy for Inclusive and Sustainable Future*, UN, <https://sustainabledevelopment.un.org/index.php?page=view&type=20000&nr=4532&menu=2993> [<https://perma.cc/NF2M-Z7GR>].

7. See Isabel Pla-Julián & Sandra Guevara, *Is Circular Economy the Key to Transitioning Towards Sustainable Development? Challenges from the Perspective of Care Ethics*, 105 *FUTURES* 67 (2019).

8. See Martin Geissdoerfer et al., *The Circular Economy—A New Sustainability Paradigm?*, 143 *J. CLEANER PROD.* 757 (2017).

9. Jouni Korhonen et al., *Circular Economy as an Essentially Contested Concept*, 175 *J. CLEANER PROD.* 544, 544 (2018).

10. See DAVID W. PEARCE & R. KERRY TURNER, *ECONOMICS OF NATURAL RESOURCES AND THE ENVIRONMENT* (1990). For a discussion of Pearce’s and Turner’s contribution, see Mikael Skou Andersen, *An Introductory Note on the Environmental Economics of the Circular Economy*, 2 *SUSTAINABILITY SCI.* 133 (2007).

11. See Åsa Gunnarsson, *Taxing for Equality—A Re-emerging Tax Policy Trend in Europe*, *FAIR TAX POL’Y BRIEF*, June 2017, <http://umu.diva-portal.org/smash/get/diva2:1114026/FULLTEXT01.pdf> [<https://perma.cc/LP2U-64KW>]; Nikki Reisch, *Taxation and Human Rights: Mapping the Landscape*, in *TAX, INEQUALITY, AND HUMAN RIGHTS* 33, 34 (Philip Alston & Nikki Reisch eds., 2019); Ignazio Musu, *Integrated Environmental Policy in the European Union*, in *SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL MANAGEMENT* 3 (Corrado Clini et al. eds., 2008).

inequality.<sup>12</sup> This need for an integrated approach seems to be also acknowledged by the EU Commission. In its 2001 Communication, “A Sustainable Europe for a Better World,”<sup>13</sup> the Commission maintains that sustainable development is not only threatened by environmental issues related to transport congestion, climate change, aging, loss of biodiversity, or global warming but also by socio-economic phenomena, because “[p]overty and social exclusion have enormous direct effects on individuals such as ill health, suicide, and persistent unemployment.”<sup>14</sup>

This was further reinforced with the release of the 2015 Communication detailing the EU action plan for the CE.<sup>15</sup> In the document, the CE is defined as an economy “where the value of products, materials and resources is maintained in the economy for as long as possible, and the generation of waste minimised”<sup>16</sup> and one that will have an increasing role in shaping society, as it is bound to play a role in every discussion that concerns “jobs and growth, the investment agenda, climate and energy, the social agenda and industrial innovation, and . . . global efforts on sustainable development.”<sup>17</sup> The document states that “[t]he transition to a circular economy is a systemic change” and that a relevant part of the problem is “to create the conditions under which a circular economy can flourish”: “new technologies, processes, services and business models which will shape the future of our economy and society” are needed to “transform waste into high value-added products.”<sup>18</sup>

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12. See Geissdoerfer et al., *supra* note 8, at 757.

13. *A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development*, COM (2001) 264 final (May 15, 2001).

14. *Id.* at 4.

15. See *Closing the Loop—An EU Action Plan for the Circular Economy*, COM (2015) 614 final (Dec. 2, 2015) [hereinafter 2015 EU CE].

16. *Id.* at 2. Additionally, we should note that the reference to “waste” can be considered problematic. See Ilona Cheyne, *The Definition of Waste in EC Law*, 14 J. ENV'T L. 61 (2002); Stephen Tromans, *EC Waste Law—A Complete Mess?*, 13 J. ENV'T L. 133 (2001). A general definition of “waste” is given in Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on Waste and Repealing Certain Directives, art. 3(1), 2008 O.J. (L 312) 3.

17. 2015 EU CE, *supra* note 15, at 2.

18. *Id.* at 18.

In March 2020, the European Commission released the new CE Action Plan, “For a Cleaner and More Competitive Europe,”<sup>19</sup> which outlined the necessity for the Union to move towards more sustainable CE processes. The document restated the EU’s willingness to use its influence, expertise, and financial resources to implement the 2030 Agenda for Sustainable Development<sup>20</sup> (2030 Agenda) and to accelerate a transition that remains slow in the making.<sup>21</sup> It was followed by the European Green Deal report, describing the road map for a sustainable economy in the EU and stating that taxation plays a vital role in the process since “[w]ell-designed tax reforms can boost economic growth . . . and help contribute to a fairer society.”<sup>22</sup> Finally, in the Staff Working Document, “Leading the Way to a Global CE,” the Commission addressed its support to this transition to the CE as a fundamental and decisive change in direction in support of a more sustainable model of economic development.<sup>23</sup>

## II. DEVELOPMENT AS AN INTERDISCIPLINARY AREA OF STUDIES

According to the UN’s own “Resolution on the Right of Development,” development is an interdisciplinary area of study and intervention and represents “a comprehensive economic, social, cultural and political process.”<sup>24</sup> Legal doctrine acknowledges that sustainable development demands not only new laws but also substantial amendments to existing ones, since old regulations are ill fit to new problems. Translating the complexity and intricacies of sustainable development into specific

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19. *A New Circular Economy Action Plan for a Cleaner and More Competitive Europe*, COM (2020) 98 final (Mar. 11, 2020) [hereinafter 2020 EU CE].

20. *Id.* at 3.

21. *The European Green Deal*, at 7, COM (2019) 640 final (Dec. 11, 2019).

22. *Id.* at 17.

23. *Leading the Way to a Global Circular Economy: State of Play and Outlook*, at 16, SWD (2020) 100 final (Mar. 11, 2020) [hereinafter 2020 SWD CE].

24. G.A. Res. 41/128, annex, Declaration on the Right to Development (Dec. 4, 1986).

legal principles that can be unequivocally and successfully implemented is part of the problem.<sup>25</sup>

To better understand this problem space, this Article adopts an interdisciplinary approach in which legal concepts, principles, and findings are anchored, complemented, and supported by conceptualizations and observations from ancillary non-legal disciplines. More specifically, this Article adopts Lamb's interdisciplinary method for taxation<sup>26</sup> to identify, analyze, and elaborate social data from a tax law perspective and evaluate the existing legal framework in detail without renouncing the possibility of a *lex ferenda* perspective of what the law should be or how it should regulate a particular situation. Such an approach is particularly useful when research questions in the legal domain are strictly intertwined with a necessary understanding of societal issues and factors.<sup>27</sup>

While the integrated or integrative approaches typical of interdisciplinary methodology<sup>28</sup> are considered necessary to address problems of sustainable development from the perspectives of economics or environmental management, albeit with "little consensus over how to do integration, even what integration means, or when and why it should be pursued,"<sup>29</sup> current law studies tend to focus more narrowly on the legislative angle alone or on approaching the subject from the specialistic point of view of sustainability law or environmental sustainability law.<sup>30</sup> Given how "[i]nternational and national policy and law state the

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25. See John C. Dernbach & Joel A. Mintz, *Environmental Laws and Sustainability: An Introduction*, 3 SUSTAINABILITY 531(2011).

26. Margaret Lamb, *Interdisciplinary Taxation Research—An Introduction*, in TAXATION: AN INTERDISCIPLINARY APPROACH TO RESEARCH 3 (Margaret Lamb et al. eds., 2005).

27. See Margaret McKerchar, *Philosophical Paradigms, Inquiry Strategies and Knowledge Claims: Applying the Principles of Research Design and Conduct to Taxation*, 6 E.J. TAX RSCH. 5 (2008), <http://www5.austlii.edu.au/au/journals/eJITaxR/2008/1.html> [<https://perma.cc/HK32-F9G2>].

28. See ALLEN F. REPKO ET AL., INTRODUCTION TO INTERDISCIPLINARY STUDIES 3–6 (2d ed. 2017).

29. Stephen Dovers, *Clarifying the Imperative of Integration Research for Sustainable Environmental Management*, 1 J. RSCH. PRAC., no. 2, 2005, at M1, 2.

30. See, e.g., *Law for Environmental Sustainability*, U.N. ENV'T MGMT. GRP. (Nov. 19, 2018), <https://unemg.org/law-for-environmental>

‘policy integration principle,’” implying that “environmental, social, and economic considerations must be integrated in decision making processes”<sup>31</sup> to substantially reduce both energy use and environmental harm and that already “[a] variety of legal tools are available to promote these changes,”<sup>32</sup> a more holistic approach can prove to be effective for critical reflections within the legal sciences and, in the case of this Article, for the specific area of tax law.

It is because of this systemic outlook that this Article investigates and tracks the early steps taken by CE efforts in the Nordic countries in their interactions with sustainable development: not only do these countries share common traits and fundamental values,<sup>33</sup> making them a rather homogeneous sample that can be easily compared, but they also have each in their own way started “‘virtuous circle[s]’ between equality, efficiency and social solidarity” that initiate at the state level, with policy and legislation.<sup>34</sup> Even though these countries express their own national laws and regulations, sometimes doctrine refers to these collectively as “Nordic law” in order to better highlight the peculiarities and similarities that enshrine what has been called “the Nordic legal mind.”<sup>35</sup>

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-sustainability/ [<https://perma.cc/VQU7-R9R2>]. Noteworthy openings come from practice, with law firms realizing that “lawyers have an opportunity to shake off their sometimes negative image as the ‘no-police’ and realise a more positive role as ‘strategic enablers’ of an organisation’s growth”—which seems to hint at a more systemic, and hence interdisciplinary, approach. Thomas Bourne, *Why Lawyers Have a Part to Play in Sustainable Development*, *GUARDIAN* (Feb. 16, 2012), <https://www.theguardian.com/sustainable-business/blog/sustainable-business-development-law> [<https://perma.cc/B24R-SF73>].

31. Dovers, *supra* note 29, at 3.

32. Daniel A. Farber, *Law, Sustainability, and the Pursuit of Happiness* 1 (Berkeley Program in L. & Econ., Working Paper Series 2011), <https://escholarship.org/uc/item/6289107q> [<https://perma.cc/WUG6-SJZ8>].

33. OLLE LUNDBERG ET AL., *THE NORDIC EXPERIENCE: WELFARE STATES AND PUBLIC HEALTH* (NEWS) (2008).

34. Jørn Henrik Petersen, *Nordic Model of Welfare States*, in *NORDIC LAW IN EUROPEAN CONTEXT*, *supra* note 2, at 21, 31; *see also* Pia Letto-Vanamo & Ditlev Tamm, *Cooperation in the Field of Law*, in *NORDIC COOPERATION: A EUROPEAN REGION IN TRANSITION* 93 (Johan Strang ed., 2016).

35. *See* Pia Letto-Vanamo & Ditlev Tamm, *Nordic Legal Mind*, in *NORDIC LAW IN EUROPEAN CONTEXT*, *supra* note 2, at 1, 1–2.



### III. SUSTAINABLE DEVELOPMENT, EU LAW, AND INTERNATIONAL LAW

Already in 1987, the Brundtland Commission, originally established by the UN in 1983 as the World Commission on Environment and Development, defined “sustainable development” as the human ability “to make development sustainable—to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs.”<sup>36</sup>

The foundational principles of intra-generational equity,<sup>37</sup> equity between people belonging to the same demographics, and inter-generational equity,<sup>38</sup> equity between different demographic cohorts, emerge clearly from this early definition: the necessity to both ensure a better quality of life for everyone and to ensure that this quality of life is there for future generations.<sup>39</sup> If equitable duties and rights persist across time, the implication is that the fulfilment of inter-generational obligations demands the scrutiny of intra-generational equity.<sup>40</sup>

In 2006, recalling that very same definition, the Council of the European Union emphasized that sustainable development is an overarching objective of the European Union set out in the Treaty governing all of the Union’s policies and activities<sup>41</sup> and that any activity directly supporting sustainable development efforts within the EU or part of the Union’s international outreach should respect the principles of democracy, gender equality, solidarity, the rule of law, and the fundamental

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36. *Report of the World Commission on Environment and Development*, ¶ 25, U.N. Doc. A/42/427 (Aug. 4, 1987).

37. See John C. Dernbach, *Sustainable Development as a Framework for National Governance*, 49 CASE W. RESV. L. REV. 1 (1998).

38. See DIRE TLADI, *SUSTAINABLE DEVELOPMENT IN INTERNATIONAL LAW: AN ANALYSIS OF KEY ENVIRO-ECONOMIC INSTRUMENTS* (2007).

39. See Ken Collins, *The Constitution: A Charter for Sustainable Development in Europe?*, in *THE EUROPEAN UNION AND SUSTAINABLE DEVELOPMENT: INTERNAL AND EXTERNAL DIMENSIONS* 93 (Marc Pallemarts & Albena Azmanova eds., 2006).

40. See Edith Brown Weiss, *Our Rights and Obligations to Future Generations for the Environment*, 84 AM. J. INT’L L. 198 (1990).

41. EU Council, No. 10117/06, *EU Sustainable Development Strategy* (June 9, 2006).

rights as set out in the EU Charter of Fundamental Rights,<sup>42</sup> including freedom and equal opportunities for all.

Furthermore, sustainable development finds explicit acknowledgement in EU Treaties along three different dimensions of development, which have to be addressed together systemically: economic, social, and environmental. A life of dignity for all, a peaceful society, and social inclusion are in the view of the EU at the core of sustainable development.<sup>43</sup>

The European approach is mirrored by the novel importance attributed to human rights and sustainability in the context of global development by the United Nations' Sustainable Development Goals (SDGs) framework, part of the 2030 Agenda and adopted by the UN in September 2015 to replace the Millennium Development Goals (MDGs).<sup>44</sup>

The MDGs were a set of international goals introduced in 2000 after the UN's Millennium Summit: UN members agreed on fighting poverty and hunger, improving health and education, and promoting gender equality.<sup>45</sup> The 2030 Agenda identifies, in the worldwide implementation of human rights, the way to avoid discrimination based on "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status," and explicitly singles out the important role their realization, gender equality, and the empowerment of all women and girls all play in the process of sustainable development.<sup>46</sup>

As such, the new 2030 Agenda is much more ambitious and broader in scope and now comprises 17 SDGs and 169 targets. The goals are universal goals applicable to all countries, not only to developing ones, aimed at creating an inclusive society for all. The 2030 Agenda pays specific attention to the democratic process and to the rule of law and is one of the most ambitious international agreement currently in force. The goals and targets are integrated and indivisible, and their

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42. Charter of Fundamental Rights of the European Union, Oct. 26, 2012, 2012 O.J. (C 326/2) 391 [hereinafter EUCFR].

43. See *Next Steps for a Sustainable European Future: European Action for Sustainability*, COM (2016) 739 final (Nov. 22, 2016).

44. 2030 Agenda, *supra* note 5.

45. See GAOR 55/2, U.N. Docs. A/Res/55/2 (Sept. 18, 2001).

46. 2030 Agenda, *supra* note 5, at ¶¶ 19–20.

systemic interplay is necessary to achieve the 2030 Agenda's overarching objectives.<sup>47</sup>

The EU embraced the UN 2030 Agenda and declared 2015 the year for development.<sup>48</sup> In June 2017, the European Parliament, the European Council, and the Commission adopted the "New European Consensus on Development."<sup>49</sup> This document recognizes that "the evolution from the Millennium Development Goals (MDGs) to the Sustainable Development Goals (SDGs) reflects the changing approach to global development" and that such an approach, based on sustainable development and human rights, is "fully consistent with EU values and principles."<sup>50</sup> The adoption of a new paradigm for sustainable development for the effective implementation of human rights is consistent with EU values: human rights and the people's well-being are a core value proclaimed in article 2 of the Treaty of the European Union (TEU),<sup>51</sup> as they are in the Lisbon Treaty.<sup>52</sup> The TEU specifically commits to the sustainable development of Europe and ties it to economic and social progress via the establishment of the internal market:

The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment.<sup>53</sup>

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47. *Id.* at ¶ 84.

48. *See* Decision No. 427/2014/EU of the European Parliament and of the Council of 16 April 2014 on the European Year for Development (2015), 2014 O.J. (L 136) 1.

49. The New European Consensus on Development: 'Our World, Our Dignity, Our Future,' 2017 O.J. (C 210) 1 [hereinafter New European Consensus].

50. *Id.* ¶ 2.

51. Consolidated Version of the Treaty on European Union art. 2, 2012 O.J. (C 326/1) 13 [hereinafter TEU].

52. Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, Dec. 13, 2007, 2007 O.J. (C 306) 1.

53. TEU, *supra* note 51, art. 3(3).

It also links sustainable development to the principles of solidarity, the protection of human rights, and the promotion of European values:

In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.<sup>54</sup>

The EU Charter of Fundamental Rights upholds this promotion of balanced growth and sustainable development<sup>55</sup> and adds in the principles of equality and non-discrimination.<sup>56</sup> The EU Charter also contains an express commitment to combat poverty and to ensure a dignified life for all those who lack sufficient resources.<sup>57</sup> Overall, what the combined dispositions of these documents do is bind the EU and its Member States to promote the universal values of democracy, good governance, rule of law, and the upholding of human rights for all as a necessary precondition for their ongoing sustainable development.<sup>58</sup> The European Court of Justice (CJEU) supports this approach: in the *European Parliament v. Commission* case, the Court stated that “there can be no sustainable development and eradication of poverty without peace and security and that the pursuit of the objectives of the Community’s

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54. *Id.* art. 3(5).

55. EUCFR, *supra* note 42, pmb1.

56. *Id.* art. 21. The European Court of Justice (CJEU) has defined discrimination as involving “the application of different rules to comparable situations or the application of the same rule to different situations.” Case C-342/93, *Gillespie v. N. Health & Soc. Servs. Bd.*, ECLI:EU:C:1996:46, ¶ 16 (Feb. 13, 1996).

57. EUCFR, *supra* note 42, art. 34.

58. New European Consensus, *supra* note 49, ¶ 61.

new development policy necessarily proceed via the promotion of democracy and respect for human rights.”<sup>59</sup>

#### IV. SUSTAINABLE DEVELOPMENT AND THE CIRCULAR ECONOMY

The CE concept is recalled in the UN’s 2030 Agenda as well as in the EU Consensus on Development.<sup>60</sup> SDG 12 seeks to “ensure sustainable consumption and production patterns”:<sup>61</sup> it posits that urgent action is needed to reduce the degradation of environmental resources and that policies are necessary to “improve resource efficiency, reduce waste and mainstream sustainability practices across all sectors of the economy.”<sup>62</sup> Such overuse not only “jeopardiz[es] the achievement of Sustainable Development Goal 12” but also those of “the Goals more broadly,”<sup>63</sup> once more reaffirming the systemic nature of the goals set in the 2030 Agenda.<sup>64</sup> On October 10, 2018, the General Assembly and the Economic and Social Council (ECOSOC) of the 73rd UN General Assembly and the UN Economic and Social Council held a joint meeting on the CE and clearly identified it as a strategic tool to accelerate the implementation of the 2030 Agenda and of the SDGs.<sup>65</sup>

Similarly, the New European Consensus on Development maintains that the EU and its Member States need to “promote resource

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59. Case C-403/05, *Eur. Parliament v. Comm’n of the Eur. Cmities.*, ECLI:EU:C:2007:624, ¶ 57 (Oct. 23, 2007); see also Marise Cremona, *Case C-403/05, European Parliament v. Commission (Philippines Border Management Project) Judgment of the Grand Chamber of 23 October 2007*, [2007] ECR I-9045, 45 COMMON MARKET L. REV. 1727 (2008).

60. New European Consensus, *supra* note 49, ¶ 43.

61. *Goal 12: Ensure Sustainable Consumption and Production Patterns*, UN, <https://sdg-education.net/en/sdg-videos/12-responsible-consumption-and-production.html> [<https://perma.cc/4CUG-DLV5>] (last visited Feb. 28, 2021).

62. *Id.*

63. *Id.*

64. See INT’L COUNCIL FOR SCI., *A GUIDE TO SDG INTERACTIONS: FROM SCIENCE TO IMPLEMENTATION* (David Griggs et al. eds., 2017).

65. *Joint Meeting of ECOSOC and the Second Committee—“Circular Economy for the SDGs: From Concept to Practice,”* UN (Oct. 10, 2018), <https://www.un.org/ecosoc/en/events/2018/joint-meeting-ecosoc-and-second-committee-%E2%80%9C9C-circular-economy-sdgs-concept-practice%E2%80%9D> [<https://perma.cc/EY7P-SSLE>].

efficiency and sustainable consumption and production” so that economic growth can be decoupled from environmental degradation and permit the “transition to a circular economy.”<sup>66</sup> The systemic nature of these goals is a recurring theme and particularly evident in the way the text keeps bringing together economic objectives and social ones and then returns to the CE: “[c]reating decent jobs, particularly for women and youth is essential for inclusive and sustainable growth. Shared prosperity and growth are key contributors to human welfare and dignity.”<sup>67</sup> And “[t]he EU and its Member States will promote an economic transformation that creates decent jobs, increases productive capacity, generates sufficient revenues for public services and social protection. . . . This includes promoting sustainable consumption and production patterns in a circular economy. . . .”<sup>68</sup>

The connection between the UN Sustainable Development Goals and efforts connected to the CE in the EU has also been strategically confirmed by the European Parliament. The 2015 European Parliament Resolution on “Moving Towards a Circular Economy” identified production and consumption processes as key targets for change in the achievement of the SDGs;<sup>69</sup> the 2016 Action plan on the CE has the aim to “close the loop,” also the title of the Commission’s original communication,<sup>70</sup> by complementing the measures contained in the legislative proposals and so contribute to meeting the UN SDGs.<sup>71</sup> A number of goals have been singled out by the EU as particularly relevant when it comes to the CE, including SDG 8.4 on resource efficiency and decoupling, SDG 12.2 on sustainable management and efficient use of natural resources, SDG 15.3 on land-degradation neutrality, and SDG 15.5 on halting biodiversity loss.<sup>72</sup>

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66. New European Consensus, *supra* note 49, ¶ 43.

67. *Id.* ¶ 47.

68. *Id.*

69. European Parliament Resolution of 9 July 2015 on Resource Efficiency: Moving Towards a Circular Economy (2014/2208(INI)), 2017 O.J. (C 265/08) 65.

70. 2015 EU CE, *supra* note 15.

71. *Closing the Loop: New Circular Economy Package*, EUR. PARLIAMENT: BRIEFING (Jan. 2016), [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573899/EPRS\\_BRI%282016%29573899\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573899/EPRS_BRI%282016%29573899_EN.pdf) [<https://perma.cc/Q57H-PXCG>].

72. 2020 SWD CE, *supra* note 23, at 3 n.3.

## V. SWEDEN AND THE NORDIC COUNTRIES

The Nordic countries have a long history of cooperation in the field of sustainable development. The first joint sustainable development action started in 2001, and its current fourth iteration, “A Good Life in a Sustainable Nordic Region: Nordic Strategy for Sustainable Development,” was started in 2013 and will run until 2025.<sup>73</sup> Cooperation in the area of sustainable development has led to cooperation in the specific area of the CE, with the Nordic Working Group for Circular Economy (NCE) being started in 2019 to replace two existing and separate working groups, the Nordic Working Group on Waste and the Nordic Working Group for Sustainable Consumption and Production. As part of its mandate, the NCE will also provide CE-related insights to the EU.<sup>74</sup>

Three of the five Nordic countries, Sweden, Denmark, and Finland, have achieved so far the top of the 2019 SDG Index, which classifies 156 countries taking into account all of the dimensions of the 17 SDGs.<sup>75</sup> Finland plays a particular role in this picture since, in the period July–December 2019, it presided over the Council of the EU and from that position officially submitted that the Union urgently needed to transition from the current linear economy<sup>76</sup> model to a CE model.<sup>77</sup> The Finnish Presidency strongly supported positive action and a more

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73. See MIKKO HALONEN ET AL., SUSTAINABLE DEVELOPMENT ACTION—THE NORDIC WAY: IMPLEMENTATION OF THE GLOBAL 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT IN NORDIC COOPERATION 11, 113 (2017).

74. See *The Nordic Working Group for Circular Economy (NCE)*, NORDIC CO-OP., <https://www.norden.org/en/information/nordic-working-group-circular-economy-nce> [<https://perma.cc/L9Z5-TPLV>] (last visited Feb. 28, 2021).

75. JEFFREY SACHS ET AL., SUSTAINABLE DEVELOPMENT REPORT 2019, at 20 (2019).

76. For a comparison, see Furkan Sariatli, *Linear Economy Versus Circular Economy: A Comparative and Analyzer Study for Optimization of Economy for Sustainability*, 6 VISEGRAD J. ON BIOECON. & SUSTAINABLE DEV. 31 (2017).

77. *The EEB's Memorandum to the Finnish Presidency of the European Union*, EUR. ENV'T BUREAU (June 28, 2019), <https://eeb.org/publications/183/eu-governance/98988/memorandum-to-the-finnish-presidency.pdf> [<https://perma.cc/V5TT-F2Y8>].

decisive role of the Union in response to climate change challenges<sup>78</sup> and argued that a major obstacle slowing down the transition into the CE is a regulatory system that in many instances favors and promotes a linear economy approach and often forbids circularity.<sup>79</sup>

## VI. RUT TAX DEDUCTION

In the Nordic model, personal services are usually supported either partially or in full by public resources and via a generally high level of taxation.<sup>80</sup> Consistent with this system, Sweden provides a form of tax deduction called RUT, for “Cleaning, Maintenance, and Laundry” (Rengöring Underhåll och Tvätt in Swedish),<sup>81</sup> that applies to income taxation for domestic services in private households. According to Skatteverket, the Swedish Tax Authority, “[a] person who hires a company to do RUT work . . . may get a[] tax reduction—a RUT deduction for the labour cost,” while “[m]aterial costs and travel expenses arising in connection with the work do not confer entitlement to RUT tax deductions.”<sup>82</sup>

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78. *Sustainable Europe—Sustainable Future: Finland’s Presidency Programme, Presidency of the Council of the European Union, 1 July–31 December 2019*, EU2019.FI, at 10 (2019), <https://eu2019.fi/documents/11707387/14346258/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf/3556b7f1-16df-148c-6f59-2b2816611b36/EU2019FI-EU-puheenjohtajakauden-ohjelma-en.pdf>.

79. Eero Yrjö-Koskinen et al., *Aligning Fiscal Policy with the Circular Economy Roadmap in Finland*, GREEN BUDGET EUR. (2018), [https://green-budget.eu/wp-content/uploads/Final\\_report\\_final-version-with-revised-charts\\_08-01-19.pdf](https://green-budget.eu/wp-content/uploads/Final_report_final-version-with-revised-charts_08-01-19.pdf) [<https://perma.cc/2FT4-VCB3>].

80. Sandro Scocco, *Skatternas tulipanaros, in HUR KAN SKATTESYSTEMET REFORMERAS? FACKLIGA OCH POLITISKA INSPEL* 30, 32–33 (2019).

81. *ROT and RUT Work*, SKATTEVERKET, <https://skatteverket.se/service/lankar/otherlanguages/inenglish/businessesandemployers/startingandrunningaswedishbusiness/declaringtaxesbusinesses/rotandrutwork.4.8dcbbe4142d38302d793f.html> [<https://perma.cc/J2HN-AT3P>] (last visited Feb. 28, 2021).

82. DOMINIQUE ANXO, EUROPEAN CENTRE OF EXPERTISE (ECE) IN THE FIELD OF LABOUR LAW, EMPLOYMENT AND LABOUR MARKET POLICY, LABOUR MARKET POLICY THEMATIC REVIEW 2018: AN ANALYSIS OF PERSONAL AND HOUSEHOLD SERVICES TO SUPPORT WORK LIFE BALANCE FOR WORKING PARENTS AND CARERS, SWEDEN 4 n.6 (2018).



The RUT tax deduction measure is included into the Swedish Income Tax Act and was introduced July 1, 2007.<sup>83</sup> Its origins are in anti-avoidance and employment support policies: domestic services such as home repairs, cleaning, and maintenance resulted in a consistent loss of revenue due to undeclared transactions. Chapter 67–13§ of the Income Tax Act details what is to be considered as “housework.” In order to be deductible, the work performed must be attributable to the person requesting the tax deduction or his or her parents’ household.<sup>84</sup>

A necessary condition to use the RUT tax deduction is that said labour is carried out at the customer’s home<sup>85</sup> as “housework” and might include services such as cleaning and washing, moving, child minding, care services, garden work, and minor installation and repair of computers and IT equipment. Nevertheless, the Swedish Government clarified that the expression “housing” also includes any external spaces of the house, such as garages, storage rooms, and laundries.<sup>86</sup>

A precondition for the application of the RUT deduction is that work is carried out in the home. Therefore, the RUT deduction cannot be applied if reparations or maintenance are carried out in a workshop, but it can be applied to work performed at someone’s secondary or leisure place of residence. The goal is to simplify control and to allow for claiming deduction for places where taxpayers might spend only a part of their time, for example, holiday homes. Cottages rented for a limited

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83. Elin Rodin & Felicia Schwartz, *ROT- & RUT-avdraget: Ur ett genusrättsvetenskapligt perspektiv* (Karlstad Univ., 2019), <http://kau.diva-portal.org/smash/get/diva2:1341710/FULLTEXT01.pdf> [<https://perma.cc/F8HG-R7JF>].

84. *Rot- och rutarbete*, SKATTEVERKET, <https://www.skatteverket.se/privat/fastigheterochbostad/rotochrutarbete.4.2e56d4ba1202f95012080002966.html?> [<https://perma.cc/QG38-MBHV>] (last visited Feb. 28, 2021); *see also* TAXES IN SWEDEN: AN ENGLISH SUMMARY OF TAX STATISTICAL YEARBOOK OF SWEDEN 21–22 (15th ed. 2012).

85. *Who Is Entitled to a RUT Deduction?*, SKATTEVERKET, <https://www.skatteverket.se/servicelankar/otherlanguages/inenglish/businessesandemployers/declaringtaxesbusinesses/rotandrutwork/whoisentitledtoarutdeduction.4.8dcbbe4142d38302d7bac.html> [<https://perma.cc/5QX9-MVBZ>] (last visited Feb. 28, 2021).

86. REGERINGENS PROPOSITION 2016/17:1, BUDGETPROPOSITIONEN FÖR 2017, FÖRSLAG TILL STATENS BUDGET FÖR 2017, FINANSPLAN OCH SKATTEFRÅGOR 201 (2016).

period of time and the like may be included in this definition of “housing” as well.<sup>87</sup>

### *A. Repair, Reuse, Recycle*

The EU Ecodesign Directive of 2009 promoted repair, upgrading, durability, and recycling by developing product requirements that are relevant to the CE.<sup>88</sup> Then in 2015, the European Commission’s Action plan for the CE emphasized how Member States play an essential role in encouraging reuse and repair.<sup>89</sup> In that same year, the Swedish Government made inquiries to companies and entrepreneurs concerning what tax measures could help Sweden transition to the CE.<sup>90</sup> A few suggestions supported the expansion of repair-friendly measures, a labour intensive and hence costly area of the economy, for example, by applying the already existing RUT tax deduction to the repair of leisure products, durable products, or work tools.

Sweden introduced an amendment to the Swedish Income Tax Act a year later, with Law 2016:1055, which entered into force on January 1, 2017.<sup>91</sup> The amendment adds repair and maintenance of home appliances carried out in the home to the list of services that can benefit

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87. Regeringens proposition 2006/07:94, Skattelättnader för hushållstjänster, m.m., Prop. 2006/07:94, Regeringen överlämnar denna proposition till riksdagen 40 (Mar. 29, 2007), <https://data.riksdagen.se/fil/86622E56-6141-4B1F-A1C3-C8B462AFD3CF> [<https://perma.cc/XF7C-BQPT>].

88. Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 Establishing a Framework for the Setting of Ecodesign Requirements for Energy-Related Products, 2009 O.J. (L 285) 10.

89. 2015 EU CE, *supra* note 15, at 7; *see also* 2020 EU CE, *supra* note 19, at 3.

90. *N 2015:01 Entreprenörskapsutredningen*, STATENS OFFENTLIGA UTREDNINGAR, <http://www.sou.gov.se/entreprenorskapsutredningen/> [<https://perma.cc/C7U9-5UTH>] (last visited Feb. 28, 2021); *Vägen mot den cirkulära ekonomin—analys och slutsatser*, STATENS OFFENTLIGA UTREDNINGAR 13 (2015), <http://www.sou.gov.se/wp-content/uploads/2016/10/Cirkulär-ekonomi-160125-Final.pdf> [<https://perma.cc/5GHY-8TSW>].

91. LAG OM ÄNDRING I INKOMSTSKATTELAGEN (1999:1229) (Svensk författningssamling [SFS] 2016:1055).

from the RUT tax deduction and has the specific aim to stimulate repair and maintenance of such products in connection to the CE.<sup>92</sup>

The list of home appliances for which the regulation applies includes washing machines, dryers and cupboards, fridges, freezers, dishwashers, stoves, stovetops, microwave, and built-in ovens, all of these both as integrated or stand-alone appliances. Multi-function appliances such as washing machines with dryer functions or fridge and freezer combinations are also included. On the other hand, air source heat pumps or heating elements are, for example, not recognized as home appliances.

Tax support for repair, maintenance, and reuse is meant to produce environmental benefits<sup>93</sup> by reducing the consumption of raw materials and energy, by lowering polluting emissions and by reducing waste. This is in line with the guidelines contained in Directive 2008/98/EC on waste,<sup>94</sup> which prioritizes the minimization of waste through “(a) prevention, (b) preparing for re-use; (c) recycling; (d) other recovery, e.g. energy recovery; and (e) disposal,”<sup>95</sup> and which have been confirmed as binding for Member States by the European Court of Justice in the *Inter-Environnement Wallonie ASBL v Région Wallonne* case:<sup>96</sup>

It should be recalled at the outset that the obligation of a Member State to take all the measures necessary to achieve the result prescribed by a directive is a binding

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92. Finansdepartementet Skatte- och tullavdelningen, *Skattereduktion för reparation och underhåll av vitvaror 6–7* (Mar. 2016), <https://www.regeringen.se/495ab5/contentassets/df919ac85c8b44ff902f00e54575f263/skattereduktion-for-reparation-och-underhall-av-vitvaror.pdf> [<https://perma.cc/5793-UUVR>] [hereinafter *Skattereduktion för reparation*]; LEA SKRÆP SVENNINGSEN ET AL., *THE USE OF ECONOMIC INSTRUMENTS IN NORDIC ENVIRONMENTAL POLICY 2014–2017*, at 102 (2019).

93. See *Skattereduktion för reparation*, *supra* note 92.

94. Directive 2008/98/EC, *supra* note 16, as amended by Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on Waste, 2018 O.J. (L 150) 109.

95. Directive 2008/98/EC, *supra* note 16, art. 4.

96. Case C-129/96, *Inter-Environnement Wallonie ASBL v Région wallonne*, ECLI:EU:C:1997:628 (Dec. 18, 1997); see also *Guidance on the Interpretation of Key Provisions of Directive 2008/98/EC on Waste*, EUR. COMM’N (June 2012), [https://ec.europa.eu/environment/waste/framework/pdf/guidance\\_doc.pdf](https://ec.europa.eu/environment/waste/framework/pdf/guidance_doc.pdf) [<https://perma.cc/L8D6-KCJ5>].

obligation. . . . That duty to take all appropriate measures, whether general or particular, is binding on all the authorities of Member States including, for matters within their jurisdiction, the courts.<sup>97</sup>

The hierarchical principle outlined in the EU Directive on waste<sup>98</sup> clearly indicates that the minimization of the amount of waste and the adoption of appropriate recycling processes is a priority. The recent amendments to Directive 2008/98/EC implemented by EU Directive 2018/851 have reinforced this approach: Member States have to “take measures to prevent waste generation. Those measures shall, at least: . . . encourage the re-use of products and the setting up of systems promoting repair and re-use activities, including in particular for electrical and electronic equipment, textiles and furniture, as well as packaging and construction materials and products. . . .”<sup>99</sup>

A similar tax deduction scheme is also present in Finland<sup>100</sup> in the form of tax credit for household expenses, for instance, for decoration, renovation, cleaning, nursing, and care, and in Denmark, as a tax deduction split in two parts: one for craft services and one for household services such as cleaning and childcare.<sup>101</sup>

### *B. Effects on Gender Equality*

The Swedish Government is strongly committed to constantly evaluate the impact of the national tax system from the point of view of social

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97. Case C-129/96, ¶ 40 (citations omitted); see also Geert Van Calster, *Inter-Environnement: Judgment of the Court of 18 December 1997 in Case C-129/96, Inter-Environnement Wallonie ASBL v. Région-Wallonne*, 6 COLUM. J. EUR. L. 124 (2000).

98. Mangesh Gharfalkar et al., *Analysis of Waste Hierarchy in the European Waste Directive 2008/98/EC*, 39 WASTE MGMT. 305 (2015).

99. Directive (EU) 2018/851, *supra* note 94, at 126 (text of amended art. 9(1)(d)).

100. Finnish Tax Authority, *Tax Credit for Household Expenses*, VERO SKATT, <https://www.vero.fi/en/individuals/tax-cards-and-tax-returns/income-and-deductions/Tax-credit-for-household-expenses/> [<https://perma.cc/F4WS-Y3CA>] (last updated Jan. 1, 2021).

101. Danish Tax Authority, *Håndværkerfradrag (servicefradrag)*, SKAT.DK, <https://skat.dk/skat.aspx?oid=2234759> [<https://perma.cc/R4SS-5QZQ>] (last visited Feb. 28, 2021).

and gender equality, and such an evaluation has been conducted for the RUT tax deduction for income taxation,<sup>102</sup> whose initial purpose was twofold: to shrink tax avoidance or tax evasion by providing economic incentives via consumer-side breaks and to promote gender equality by enabling a more active presence on the market in sectors traditionally occupied by women.<sup>103</sup> In their document on tax breaks for household services,<sup>104</sup> the Swedish government makes a point of highlighting some of the base differences that engender inequality—for example, how women and men on average spend their home time differently, combine work life and family life in different percentages, and how unpaid housework remains largely a woman's purview.

By lowering their immediate cost to the individual, the RUT tax deduction increases the possibility for households to purchase these services, giving women an opportunity to literally buy more free time and therefore become more independent. In turn, this could have beneficial effects on women's work life, professional position, and financial independence.<sup>105</sup>

Research has proven that the RUT tax deduction has had a demonstrable, if partial, effect on gender equality.<sup>106</sup> Studies on households with married women in the 25–55 demographics indicate that the RUT tax deduction has meant an increase in annual work income, especially for women and households in the medium and high-income categories, where the gender pay gap is also usually larger. The data suggests that new jobs have been created, but that the goal of reducing undeclared work has failed.<sup>107</sup>

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102. REGERINGENS PROPOSITION 2016/17:1, *supra* note 86, at 25.

103. SKATTELÄTTNADER FÖR HUSHÅLLSTJÄNSTER, SOU 2008:57, at 37 (2008).

104. Regeringens proposition 2006/07:94, *supra* note 87, at 55–56.

105. *Id.*

106. Emili Mårtensson, *RUT-avdraget som (nyliberalt) jämställdhetsprojekt, En studie om kön, klass och etnicitet i den politiska diskursen för hushållstjänster i hemmet* (Lunds Universitet 2013), <http://lup.lub.lu.se/luur/download?func=downloadFile&recordOid=3971485&fileOid=3971487> [<https://perma.cc/6QJC-9UR3>].

107. Karen Halldén & Anders Stenberg, *Ökar RUT-avdrag kvinnors arbetsmarknadsutbud?*, 43 EKONOMISK DEBATT, no. 2, 2015, at 52; *see also* FLER RUTTJÄNSTER OCH HÖJT TAK FÖR RUTAVDRAGET, SOU 2020:5, at 86 (2020) [hereinafter SOU 2020:5].

The Swedish Agency for Growth Policy Analysis (Tillväxtanalys) reports that the percentage of female entrepreneurs working in sectors affected by the RUT tax deduction is increasing, and that half of the companies providing RUT tax deductible services are run by women, even though most of these are in the form of sole proprietorships.<sup>108</sup>

This is still a considerable outcome for the tax measure in respect to female entrepreneurship and presence in the labour market, especially if compared to averages for all business sectors where female-run companies usually represent 30% of the total. It is also an especially important social aspect of taxation policies in the Nordic countries, where participation to the labour market is considered a prerequisite for the economic independence of women.<sup>109</sup>

Concerning the more specific effects on gender equality of the extension of the RUT tax deduction to repair and maintenance of household appliances carried out in the home, the Swedish Ministry of Finance was of the opinion that, at the time, it was not possible to study the gender distribution for employment and business in the industries covered by the tax measure, since data was lacking.<sup>110</sup> It must be noted that the workforce in the repair and maintenance of household appliances industry is still predominantly male. In 2016, and in terms of employment and entrepreneurship, the prognosis for the use of the extension of the RUT tax deduction was expected to benefit men more,<sup>111</sup> but women are primarily benefiting from the introduction of the RUT tax deduction indirectly: use of the deduction increases the available hours that can be worked outside the home and consequently any disposable income. Such a mechanism is expected to have an overall positive effect on economic equality.<sup>112</sup>

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108. TILLVAXTANALYS, RUT-REFORMEN—EN DESKRIPTIV ANALYS AV FÖRETAGEN OCH FÖRETAGARNA, PM 2018:12, at 7 (2018), [https://www.tillvaxtanalys.se/download/18.62dd45451715a00666f1ea29/1586366190600/pm\\_2018\\_12\\_RUT-reformen\\_en%20deskriptiv%20analys%20av%20f%C3%B6retagen%20och%20f%C3%B6retagarna.pdf](https://www.tillvaxtanalys.se/download/18.62dd45451715a00666f1ea29/1586366190600/pm_2018_12_RUT-reformen_en%20deskriptiv%20analys%20av%20f%C3%B6retagen%20och%20f%C3%B6retagarna.pdf) [<https://perma.cc/5HP2-UXW9>].

109. Kristine Nergaard, *Social Democratic Capitalism*, in THE OXFORD HANDBOOK OF EMPLOYMENT RELATIONS: COMPARATIVE EMPLOYMENT SYSTEMS 292 (Adrian Wilkinson et al. eds., 2014).

110. *Skattereduktion för reparation*, supra note 92.

111. *Id.*

112. SOU 2020:5, supra note 107, at 258–59.

### C. *The Relationship Between Gender Equality and the CE*

The Nordic countries all rank among the six European countries with the highest rates of female participation in the labour market,<sup>113</sup> a characteristic of the Nordic model connected to the national welfare regimes and one that contributes to the general high employment rate.

It is important to mention that the Agenda 2030 on one hand seeks to reduce inequality (Goal 10) but on the other hand wants (target 10.2) to “empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status.”<sup>114</sup>

Goal 5’s specific aim is gender equality and the empowerment of women and girls: its target 5.c accordingly addresses the need to adopt sound policies and legislation that support both the goal and the target.<sup>115</sup> In turn, this requires not only the achievement of formal equality<sup>116</sup> but that of substantial equality, the actual equal enjoyment of one’s human rights.

Although the RUT tax deduction was initially not formally connected to the concept of sustainable development and to the CE but rather to inclusion and gender equality issues, it is indeed entirely consistent with their goals. This consistency was recognized by the Swedish government and introduced with the subsequent amendments, which resulted in an even larger systemic role to play for such a “small” measure.

A systematic, constructive attention to the cascading effects generated by the interplay of gender equality measures with other sustainable development regulations is unfortunately missing from the European Commission’s action plan in support of the CE, in both the initial plan issued in 2015<sup>117</sup> and in the new plan for the CE released in 2020.<sup>118</sup> Gender equality is mentioned only once in a Commission Staff

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113. Nergaard, *supra* note 109, at 299.

114. 2030 Agenda, *supra* note 5, at 21.

115. *Id.* at 18.

116. UN WOMEN, TRANSFORMING ECONOMIES, REALIZING RIGHTS: PROGRESS OF THE WORLD’S WOMEN 2015–16 (2015); Åsa Gunnarsson & Ulrike Spangenberg, *Gender Equality and Taxation Policies in the EU*, 54 INTERECONOMICS 141 (2019).

117. 2015 EU CE, *supra* note 15.

118. 2020 EU CE, *supra* note 19.

Working Document, “Leading the way to a global CE,”<sup>119</sup> in relation to the issue of water-based governance for a more equitable, effective, and gender-inclusive water use.<sup>120</sup>

In relation to the CE, the European Commission only mentions SD Goal 8.4 on resource efficiency and decoupling; Goal 12.2 on sustainable management and efficient use of natural resources; Goal 15.3 on land-degradation neutrality; and Goal 15.5 on halting biodiversity loss.<sup>121</sup> The Commission does not mention Goal 5 on gender equality, even though doctrine maintains that “consumer attitudes and preferences, CE innovations, institutions . . . are not gender-neutral. The contributions of women to the CE are not explicitly acknowledged, challenges and hardships are not sufficiently understood and addressed.”<sup>122</sup>

As stated earlier on, sustainable development and the CE require both inter-generational and intra-generational equity.<sup>123</sup> The Swedish government considers gender inequality as the result of an unfair distribution of resources between genders<sup>124</sup> and indeed establishes its nature as a problem of intra-generational equity among different groups. Such disparities, if not resolved, will be passed on to the generations to come as inter-generational inequality. Because of this, gender equality is traversal and integral to a broad array of regulations, and especially to those related to sustainability and the CE. In this view, tax law is a primary instrument in the leveling of inequalities by means of gender budgeting, an “application of the principle of gender mainstreaming in budgetary procedures” which “concerns itself with evaluating the gender impact of budgetary policies . . . and with the redistribution of income and expenditure to promote gender equality.”<sup>125</sup> These

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119. 2020 SWD CE, *supra* note 23, at 16.

120. *Id.*

121. *Id.* at 3 n.3.

122. Patrick Schröder et al., *Making the Circular Economy Work for Human Development*, 156 RESOURCES, CONSERVATION & RECYCLING, May 2020, 104686, at 3 tbl.1.

123. Weiss, *supra* note 40.

124. PROP. 2015/16:1 UTGIFTSOMRÅDE 13: JÄMSTÄLLDHET OCH NYANLÄNDA INVANDRARES ETABLERING, FÖRSLAG TILL STATENS BUDGET FÖR 2016, at 65 (2015).

125. *Id.* at 41 (translation by author; original: “Jämställdhetsbudgetering är en tillämpning av principen om jämställdhetsintegrering i budgetförfarandet. Det innebär en utvärdering av budgetpolitikens jämställdhetseffekter



considerations are currently missing at the EU level and generally missing from the international debate on the CE.<sup>126</sup>

## VII. CONCLUSIONS

Taxation and the legal dimensions of sustainable development are emerging areas of study within the CE. The Article analyzed current policy developments and best practices in the Nordic countries, and specifically in Sweden, as attention to equality and social solidarity (a major systemic element pushing for the transition to more sustainable production and consumption models and one of the many global goals outlined in the UN's "Sustainable Development Goals" and in the EU's "New European Consensus on Development") is a primary characteristic of what has been often called the Nordic or Scandinavian model, characterized by "high work effort, small wage differentials, high productivity, and a generous welfare state."<sup>127</sup>

The Nordic countries have thoroughly embraced the goals of the UN Agenda 2030 and, in different guises, have adopted a proactive approach towards the CE and pushed for quicker, better adoption at both the national and the EU levels.<sup>128</sup>

Adoption may be pursued in different often complementary ways, one of them being through taxation and the introduction of tax deductions. This is what Sweden decided to do by extending its RUT tax deduction to the repair and maintenance of home appliances, with good results. Based on the political and legislative processes that led to these measures in the first place, the Swedish Government has

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(. . .) samt en omfördelning av inkomster och utgifter för att främja jämställdheten"); Rodin & Schwartz, *supra* note 83.

126. OECD, *Issues Note, Session 5 Gender-Specific Consumption Patterns, Behavioural Insights, and Circular Economy, 2020 Global Forum on Environment, Mainstreaming Gender and Empowering Women for Environmental Sustainability* (March 5–6, 2020), <http://www.oecd.org/env/GFE-Gender-Issues-Note-Session-5.pdf> [<https://perma.cc/R259-9YHT>].

127. Erling Barth et al., Reprint, *The Scandinavian Model—An Interpretation*, 127 J. PUB. ECON. 17, 17 (2015).

128. Nikola Kiørboe et al., *Moving Towards a Circular Economy—Successful Nordic Business Models* 4 (2015), <https://norden.diva-portal.org/smash/get/diva2:852029/FULLTEXT01.pdf> [<https://perma.cc/LHV4-V8XS>].

identified a need to now introduce changes to the RUT tax deduction so that it better supports and aligns with the goals of the CE.<sup>129</sup>

Denmark has also introduced similar measures, and so has Finland, with Finnish doctrine stressing the need to expand their scope, today significantly limited by their sole applicability to work done at the customer's home,<sup>130</sup> and arguing that since taxation does not limit the possibility of choice, but rather seeks to guide consumers in their choices, the financial incentives resulting from fiscal policies have to be significant enough to influence behaviour.<sup>131</sup> An important part is also played by education: consumers who are informed of the rationale behind tax benefits will react differently to environment-friendly products,<sup>132</sup> for example, to goods or services more respectful of the European values put forth by the Directive on waste,<sup>133</sup> such as the minimization of the amount of waste produced and the prioritization of recycling.

This would also require defining what sustainable and non-sustainable goods are, legally and fiscally, and to educate consumers on the differences and the consequences of these differences.<sup>134</sup> Tax policies have long been used to nudge consumption, and they should now be used to push both existing and upcoming investments towards a new, more sustainable equilibrium, following the example of Sweden and its introduction and then broadening of the RUT tax reduction.<sup>135</sup>

The UN SDGs paint a picture of intertwined challenges and opportunities that need to be considered as a whole and addressed systematically. This is reflected in the Nordic countries' experience of using taxation as leverage for social change: environmental concerns and gender equality issues are purposefully tied to economic growth issues and to the idea of a more inclusive society through simple fiscal

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129. FRÅN VÄRDEKEDJA TILL VÄRDECYKEL—SÅ FÅR SVERIGE EN MER CIRKULÄR EKONOMI, SOU 2017:22, at 243 (2017).

130. PÖYRY FINLAND OY, ELINKEINOELÄMÄN KESKUSLITTO EK, SELVITYS TALOUDELLISTEN OHJAUSSKEINOJEN MAHDOLLISUUKSISTA JA EDELLYTYKSISTÄ KIERTOTALOUDEN EDISTÄMISESSÄ, LOPPURAPPORTTI 101002644-B, at 20 (2016) [hereinafter LOPPURAPPORTTI].

131. *Id.* at 8.

132. *Id.* at 7–12.

133. Directive 2008/98/EC, *supra* note 16.

134. LOPPURAPPORTTI, *supra* note 130, at 7–12.

135. *Skattereduktion för reparation*, *supra* note 92.

measures that tackle everyday problems. Evidence of the results obtained is collected and analyzed, and changes are introduced if necessary.

The Swedish example shows that taxation can be positively used to shape CE-friendly policies that systemically create virtuous circles affecting other aspects of sustainable development as it is framed by the SDGs and the New European Consensus on Development, and especially those connected to gender equality as foundational to inter- and intra-generational equity. This is unfortunately not yet a widespread approach. The risk we may incur because of this oversight is the perpetuation of existing gender inequalities and, in turn, that we hamper the achievement of the SDGs,<sup>136</sup> of the CE, and of the Agenda 2030 as a whole.

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136. *Gender Equality and Green Jobs*, INT'L LAB. ORG. (ILO) (2015), [https://www.ilo.org/wcmsp5/groups/public/—ed\\_emp/—emp\\_ent/documents/publication/wcms\\_360572.pdf](https://www.ilo.org/wcmsp5/groups/public/—ed_emp/—emp_ent/documents/publication/wcms_360572.pdf) [<https://perma.cc/9PJX-68KV>].