Björn Forssén, Doctor of Laws, Member of the Swedish Bar Association, Former Senior Administrative Officer, Stockholm

The VAT research in Sweden – the position of the Swedish language

[Translation of the article *Momsforskningen i Sverige – svenska språkets ställning*, by Björn Forssén, published in original in Swedish in Tidskrift utgiven av Juridiska Föreningen i Finland – Eng., The journal published by the Law Society of Finland (abbreviated JFT), JFT 6/2021 pp. 412–447.]

1 Introduction

Previously, I have written in the JFT about the value-added tax (VAT) research in Sweden and then concerning method questions.[1] In this article, I follow up my viewpoints on different choices of method in the theses in Sweden on the subjekt VAT law by presenting the conception I thereby also formed regarding the over-emphasizing of English, which exists partly concerning that the theses tend to be written in English rather than in Swedish, partly concerning that other official languages within the European Union (EU) also are repressed by English in the research. In this article, I call these aspects the language issue concerning the VAT research in Sweden.

VAT is a tax where the content of the national legislations in the EU Member States is governed by the EU law in the field. Since 1995, that is the case for example in the Member States Finland and Sweden, that together with Austria then accessed to the EU. Those three together with another EFTA country,[2] Norway, applied for EU membership, but the Norwegian people voted in 1994 to the EU-accession. They had done so also in 1972, while Denmark, the United Kingdom (Great Britain and Northern Ireland) and Ireland accessed the EEC in 1973.[3]

French, Italian, Netherlands (Dutch) and German became EU languages – EEC-languages – when the EEC was formed in 1958. The number of official languages has been expanded each time new Member States have accessed to the EU. Nowadays the EU has 24 official language. Every resident or citizen of the EU has the right to choose the EU language in which he or she wants to communicate with the institutions of the EU, that must answer in the same language.[4] Also Danish, English, Finnish and Swedish forms part of the 24 official EU languages. Danish and English became official languages within the EEC in 1973, when

[1] See my article *Momsforskningen i Sverige – metodfrågor* (Eng., The VAT research in Sweden – method questions), JFT 6/2020, pp. 716–757. (Forssén 2020a). Forssén 2020a is available in full text on www.forssen.com.

[2] EFTA: European Free Trade Association.

[3] European Economical Communities (EEC) formed by the Rome Treaty in 1958 and replaced by the Maastricht Treaty by the European Community (EC) in 1993, when the EU also was formed. By the Lisbon Treaty, which came into force on 1 December, 2009, the EC was replaced by the EU (or ”the union”).

[4] Compare from the EU’s website: EU-languages, https://europa.eu/european-union/about-eu/eu-languages_sv; and the European Ombudsman’s language policy, https://www.ombudsman.europa.eu (visited 2021-09-06). See also article 41(4) of The Charter of Fundamental Rights of the European Union, article 55(1) of the Treaty of European Union (TEU) and articles 20(2 d) and 24 fourth paragraph of the Treaty on the Functioning of the European Union (the Functional Treaty).

Denmark, the United Kingdom and Ireland accessed to the EEC. Finnish and Swedish became official EU languages in 1995, when Finland and Sweden made their accessions to the EU. By the United Kingdom's exit from the EU on 31 January, 2020, with a transitional period that ended by the turn of the year 2020/2021, the EU Member States have decreased from 28 to today's 27 (EU27). However, English is also thereafter an official language of the EU, since English is an official language in the Member States Ireland and Malta.

The EU's legislations comprise in certain cases the whole of the EEA (European Economic Area), that is not only the EU Member States, but also the other countries forming the EEA, namely three of the EFTA countries: Norway, Iceland and Liechtenstein. It is even so that, concerning Regulation (EC) No 883/2004 on the coordination of social security systems, it is a legislation from the EU ruling not only within the EEA, but it also comprises Switzerland since 1 June 2002,[5] which is the fourth EFTA country and that is neither an EU Member State nor participating in the EEA. Thus, the EU law affects not only Member States, but it can affect the whole of the EEA and also even all of the EFTA countries. Therefore should in my opinion the EU as a legal system be looked upon in a broader European law perspective, that includes the EU Member States and the four EFTA countries, so that it is not limited to concern only the Member States. In this respect, it is for law source purposes also of interest that the EFTA has its own court (the EFTA Court) – like the EU and the Council of Europe respectively (which have the Court of Justice of the European Union and the European Court of Human Rights respectively).

Sweden, Finland and Denmark together with Norway and Iceland should in the broader European law perspective be interested in Swedish and Danish being promoted as official languages within the EU, since Swedish and Danish are included in the group of Scandinavian languages, whereto also Norwegian, Icelandic and Faeroese belong. The Nordic Council should in that perspective take an interest also in strengthening Finnish as an official languge within the EU. During the work with my doctor's thesis, *Skatt- och betalningsskyldighet för moms i enkla bolag och partrederier* [Eng., Tax and payment liability to VAT in (approximately) joint ventures and shipping partnerships], I was helped by Kenneth Hellsten at the University of Helsinki with finding material in Finnish and with translation into Swedish of the Finnish in inter alia Petri Saukko's thesis.[6] I used the Finnish VAT Act, *mervärdesskattelagen 30.12.1993/1501*, FML, comparatively at the analysis of the Swedish VAT Act, *mervärdesskattelagen (1994:200)*, ML.[7] I read the FML in its official language version in Swedish.[8]

---

[5] On 1 June, 2002 Switzerland accessed to the regulation on social security (EEC) No 1408/71, which is the predecessor to the Regulation (EC) No 883/2004.

[6] Petri Saukko, *Arvonlisäveroryhmät*. Edita publishing Oy 2005 (Saukko 2005). See p. 35 in Björn Forssén, *Skatt- och betalningsskyldighet för moms i enkla bolag och partrederier*. Örebro Studies in Law 4/2013 (doctor's thesis) (Forssén 2013). Forssén 2013 is available in full text in the database DiVA (www.diva-portal.org) and on www.forssen.com. The fifth edition of the doctor's thesis (2019) and my translation of it into English (2019), Tax and payment liability to VAT in joint ventures and shipping partnerships, Fifth edition (self-published), are available in full text on www.forssen.com and in printed versions at Kungliga biblioteket i Stockholm (the National Library of Sweden) and at the Lund University Library. *Arvonlisäveroryhmät*, in Swedish *Mervärdesskattegrupper* (Eng., registered VAT groups) – see Forssén 2013, p. 54.

[7] I account for inter alia the comparison in the thesis between the ML and the FML in my article *Om rättsliga figurer som inte utgör rättssubjekt – den finska och svenska mervärdesskattelagen i förhållande till EU-rätten* (Eng., On legal figures not constituting legal entities – the Finnish and Swedish VAT acts in relation to the EÙ law), JFT 1/2019, pp. 61–70. (Forssén 2019). Forssén 2019 is available in full text on my website, www.forssen.com.

2 Theses on VAT in Sweden commented regarding the language issue concerning the VAT research in Sweden

2.1 The division of the VAT research in Sweden into two methodological main tracks

In Forssén 2020a I wrote, as mentioned above, about the VAT research in Sweden concerning the method questions, where I went through eleven theses from 1994 to 2020.[9] Ten of those are doctoral theses and one is a licentiate's dissertation, where my theses are included: my licentiate's dissertation (from 2011)[10] and my doctor's thesis, Forssén 2013.

For my methodological review of those eleven theses, I made a division of them into two main tracks, namely:

- application of a comparative method or a law dogmatic method completed with a comparative method (Main track 1) and

- application of only a law dogmatic method (Main track 2).[11]

In Forssén 2020a, I missed one doctor's thesis in Sweden regarding VAT, namely Mariya Senyk, Territorial Allocation of VAT in the European Union: Alternative approaches towards VAT allocation and their application in the internal market, Department of Business Law, School of Economics and Management, Lund University 2018 (Senyk 2018). Thus, the number of theses in 2020 on the subject VAT law in Sweden was twelve.

2.2 Tendencies for a positive or a negative research result depending on the choice of method

Regarding the importance of the choice of method for a research result that will be useful for the legislators and the appliers of law within the EU, concerning a successful implementation of the EU law in the field of VAT and in the first place of the EU's VAT Directive (2006/112/EC), I concluded in Forssén 2020a the following tendencies for the implementation question:

- Concerning Main track 1 the tendency is positive for the implementation question regarding expected research result, when a comparative method with a internal perspective on the EU law in the field of VAT is applied, i.e. when the comparison concerns VAT legislations in various EU Member States. That tendency is also positive, when a law dogmatic method completed with a comparative method is used. However, the tendency is negative, when the EU's legislation in the field of VAT is

---

[8] See Forssén 2013, p. 35.

[9] See Forssén 2020a, pp. 732 and 733, where I list those eleven theses.

[10] *Skattskyldighet för mervärdesskatt – en analys av 4 kap. 1 § mervärdesskattelagen* (Eng., Tax liability for VAT – an analysis of Ch. 4 sec. 1 of the ML), Jure Förlag AB 2011 (licentiate's dissertation). (Forssén 2011). Forssén 2011 is available in full text in the database DiVA (www.diva-portal.org) and on www.forssen.com.

[11] See Forssén 2020a, pp. 739–747.

viewed in an external perspective, by only being compared with third countries that have VAT-systems or GST-systems.[12]

– Concerning Main track 2 the tendency is negative for the implementation question regarding expected research result, when only a law dogmatic method that is or is not what I call a purely law dogmatic method is used.[13]

That Senyk 2018 was not regarded in Forssén 2020a does not change anything concerning the divison of applied methods into the two main tracks, and I assign that thesis to Main track.

2.3 Positive or negative tendencies for the research result regarding the implementation question at different choices of method and information on choice of language in the theses

The theses yet written on the subject of VAT law in Sweden have been written in Swedish or in English, and in my opinion the attitude by the universities (Sw., universitet and högskolor) seem to be that what is lacking regarding method shall be considered compensated by the thesis being written in English. In this section I state my view on whether the choice of method in the present theses can be expected to lead to positive or negative tendencies for the research result regarding the implementation question, i.e. for the probability that a certain choice of method leads to the research result being useful for the legislators and the appliers of law within the EU regarding the implementation question. I mark that with ”Positive tendency” and ”Negative tendency” respectively in the division below of the theses into the two main tracks concerning the choice of method.

For each thesis, I also mention if it has been written in Swedish or English. In sections 2.5.1–2.5.4.2, I state in overview my opinion about the tendencies in the theses for the research result regarding the implementation question at different choices of method according to the two main tracks and thereafter puts the language issue in relation thereto. Then I bring up what I in section 1 call the language issue in the VAT research in Sweden, that is I describe based on the tendencies of the over-emphasizing of English that I consider exists in the research partly concerning that the theses tend to be written in English rather than in Swedish, partly concerning that other official languages within the EU also are repressed by English.

Main track 1

- Björn Westberg, *Nordisk mervärdesskatterätt – behandlingen av utländska företag, varor eller tjänster inom ramen för nationella lagar* (Eng., Nordic VAT law – the treatment of foreign entrepreneurs, goods or services within the frame of national laws), Juristförlaget JF AB, Stockholm 1994. (Westberg 1994).

– Applied method: a *comparative method* is used. ”Positive tendency”.[14] The thesis is written in Swedish and was submitted at the Stockholm University, Faculty of Law.

[12] See Forssén 2020a, pp. 748–750. VAT, value-added tax. GST, abbreviation of: Goods and Services Tax.

[13] See Forssén 2020a, pp. 750–752.

[14] Although Westberg 1994 is from April 1994 and thus from the time before Sweden’s EU-accession in 1995, was not only the Nordic perspective on the VAT law regarded therein, but also EC-law rules, which I mention in Forssén 2020a (on p. 736). Therefore, I do not treat Westberg 1994 separately in this article, and instead I assign it to Main track 1 in connection to the judgment of the language issue.

- Eleonor Alhager (nowadays Kristoffersson), *Mervärdesskatt vid omstruktureringar* (Eng., Value-added tax at reconstructions), Iustus förlag, Uppsala 2001. (Alhager 2001).

– Applied method: a *law dogmatic method completed with a comparative method* is used. ”Positive tendency”. The thesis is written in Swedish and submitted at Jönköping International Business School, Department of Law.

- Pernilla Rendahl, Cross-Border Consumption Taxation of Digital Supplies, IBFD, Amsterdam 2009. (Rendahl 2009).[15]

– Applied method: a *comparative method* is used, but the EU’s legislation in the field of VAT is given an external perspective, by only being compared with third countries. ”Negative tendency”. The thesis is written in English and was submitted at Jönköping International Business School, Department of Law.

- Mikaela Sonnerby, *Neutral uttagsbeskattning på mervärdesskatteområdet* (Eng., Neutral withdrawal taxation in the field of VAT), Norstedts Juridik AB, Stockholm 2010. (Sonnerby 2010).

– Applied method: a *law dogmatic method completed with a comparative method* is used. ”Positive tendency”. The thesis is written in Swedish and was submitted at Uppsala University, Department of Law.

- Forssén 2011 och Forssén 2013.[16]

– Applied method: a *law dogmatic method completed with a comparative method* is used. ”Positive tendency”. The theses are written in Swedish and were submitted at Örebro University, School of Law, Psychology and Social work (abbreviated in Sw., JPS).

- Marta Papis-Almansa, Insurance in European VAT On the Current and Preferred Treatment in the Light of the New Zealand and Australian GST Systems, Lund University, Lund 2016. (Papis-Almansa 2016).

– Applied method: a *law dogmatic method completed with a comparative method* is used. Since the researcher has Polish and not Swedish as native language,[17] it is in itself appropiate that the thesis is written in English, which is, considering the status of English in the Swedish school system, well received here. However, the EU’s legislation in the field of VAT is given an external perspective, by only being compared with the legislation in two third countries. ”Negative tendency”. The thesis was

[15] The thesis is from 2008. In this article I refer to the published book: Rendahl 2009.

[16] In Forssén 2020a I treat Forssén 2011 and Forssén 2013 partly separately in section 4.3, partly, in connection with some of the other theses mentioned. In this article I refer, with respect of the choice of method, Forssén 2011 and Forssén 2013 to Main track 1 in connection with the judgment of the language issue.

[17] According to a check-up I made via e-mail 2021-08-27 with assistant professor Marta Papis-Almansa.

submitted at Lund University, Department of Business Law, School of Economics and Management.

Main track 2

- Jesper Öberg, *Mervärdesbeskattning vid obestånd ANDRA UPPLAGAN* (Eng., Value-added taxation at insolvency Second edition), Norstedts Juridik AB, Stockholm 2001. (Öberg 2001).[18]

– Applied method: a *law dogmatic method* is used. ”Negative tendency”.[19] The thesis is written in Swedish and was submitted at Stockholm University, Department of Law.

- Oskar Henkow, Financial Activities in European VAT A Theoretical and Legal Research of the European VAT System and the Actual and Preferred Treatment of Financial Activities. Kluwer Law International. Alphen aan den Rijn 2008. (Henkow 2008).[20]

– Applied method: I call it a *purely law dogmatic method*. ”Negative tendency”. The thesis is written in English and was submitted at Lund University, Department of Business Law.

- Senyk 2018.

– Applied method: a *law dogmatic method* is used. ”Negative tendency”. The thesis is written in English and was submitted at Lund University, Department of Business Law.

- Mikael Ek, *Leveranser och unionsinterna förvärv i mervärdesskatterätten* (Eng., Deliveries and intra-Union acquisitions in the VAT law), Iustus Förlag AB, Uppsala 2019. (Ek 2019).

– Applied method: a *law dogmatic method* is used. ”Negative tendency”. The thesis is written in Swedish and was submitted at Uppsala University, Department of Law.

- Giacomo Lindgren Zucchini, Composite Supplies in the Common System of VAT. Örebro Studies in Law 14/2020. (Lindgren Zucchini 2020).[21]

– Applied method: I call it a *purely law dogmatic method*. ”Negative tendency”. The thesis is written in English and was submitted at Örebro University, School of Law, Psychology and Social work (abbreviated in Sw., JPS).

[18] The thesis is from 2000. In this article I refer to the published book: Öberg 2001.

[19] In Forssén 2020a I mention (on p. 738) that Öberg 2001 has not been to any meaningful lead for my research projects, since the EU-law was little treated therein. However, I do not treat Öberg 2001 in itself in this article, and instead I assign it to Main track 2 in connection to the judgment of the language issue.

[20] The thesis s from 2007. In this article I refer to the published book: Henkow 2008.

[21] Lindgren Zucchini 2020 is available in full text in the database DiVA (www.diva-portal.org).

2.4 The implementation question is about identifying and resolving a rule competition between the national VAT legislation and the VAT Directive

I began Forssén 2020a by stating that I in that article treated how the research in Sweden is done regarding the problemizing of the rule competition that emerges if one or more rules in the VAT Directive can be given another interpretation and application than what follows of the corresponding rule or rules in the national ML. In this respect, I treated the use of methods for analysing in the VAT research the implementation into the ML of the directive rules.[22] I made a methodological division of the review into the two main tracks that I follow also in this article, and now continue to review concerning what I in section 1 call the language issue. Thus, I treat in the following the over-emphasizing of English that I consider exists in the VAT research in Sweden partly concerning that the theses tend to be written in English rather than in Swedish, partly concerning that other official languages within the EU also are repressed by English.

Thus, the question in the following is how the choice of English instead of Swedish for the writing of the theses so far in Sweden on the subject VAT law has been made – aware or unaware of – compensating lacks regarding the choice of method. In this respect, I also come back to why I have marked in section 2.3 different choices of method with ”Positive tendency” and ”Negative tendency” respectively to signify in what direction the probability, in my opinion, points for the research result becoming useful for the legislators and the appliers of law within the EU concerning the implementation question, i.e. for them being able to identify and resolve a rule competition in the present respect.

2.5 Comments of the theses according to the two main tracks regarding applied method and the language issue

2.5.1 Main track 1 – Forssén 2011, Forssén 2013, Westberg 1994, Alhager 2001 and Sonnerby 2010

2.5.1.1 An overview of the review of my conception of the tendencies in the present theses for the research result regarding the implementation question

In Forssén 2020a I mention that I in Forssén 2011 and Forssén 2013 treated in the first place the question on whether the determination of the tax subject in the ML was complying (conform) with the main rule on who is a taxable person according to article 9(1) first paragraph of the VAT Directive, and that I used a law dogmatic method completed with a comparative method.[23]

In Forssén 2011, consisting of the first step in my research project in the field of VAT, I made an international outlook, by an inquiry to tax authorities and finance departments abroad, to judge whether a comparative analysis as a support to the law dogmatic analysis was of interest and if so which third countries that could serve as a material for comparison beside comparisons of the ML with VAT legislations in other EU Member States.[24] The comparison

[22] See Forssén 2020a, p. 716.

[23] See Forssén 2020a, p. 735.

[24] See Forssén 2020a, p. 735 with reference to Forssén 2011 pp. 71, 72, 279–297 (*Bilaga 2 – Internationell utblick*) and, regarding my foreign inquiry for the main issue, 349.

by that inquiry showed that the connection in Ch. 4 sec. 1 no. 1 of the ML to the non-harmonised income tax law for the determination of the tax subject for VAT purposes was unique and did not have any similarity in the VAT legislations outside Sweden that concerned VAT comparable to what is meant by VAT according to the EU law.[25]

After that I on 2011-12-15 submitted my licentiate's dissertation, Forssén 2011, the Treasury in Sweden presnted a memo on 23 November, 2012, *Begreppet beskattningsbar person – en teknisk anpassning av mervärdesskattelagen* (Eng., The concept taxable person – a technical adaptation of the VAT Act), with a suggestion that the connection from Ch. 4 sec. 1 no. 1 of the ML to the non-harmonised income tax law should be abolished for the determination of the tax subject.[26] That led to legislation of such a meaning on 1 July, 2013, by SFS 2013:368 (SFS: abbreviation of *svensk författningssamling* – Eng., Swedish Code of Statutes), whereby instead the main rule on who is a taxable person in article 9(1) first paragraph of the VAT Directive was implemented literally into Ch. 4 sec. 1 first paragraph first sentence of the ML. I mention this in Forssén 2019 and at the same time that the directve's denomination of the tax subject has not been entered into the FML.[27] Thus, my suggestion regarding the main question in Forssén 2011 was well received by the legislator.

In Forssén 2020a I mention that in the second step of the project, consisting of my work with Forssén 2013, the main question concerned the enterprise form *enkelt bolag (och partrederi)* – Eng., joint venture (and shipping partnership) – and that I propose that Sweden should bring up on the EU-level that the principle of a neutral VAT demands that it is clarified whether that such legal figures, i.e. non-legal entities, are comprised by the determination of taxable person according to the main rule of article 9(1) first paragraph of the VAT Directive. There, I also mention that I in Forssén 2013, to support the law dogmatic method completed with a comparative analysis, by comparing the ML with the FML, and found that *sammanslutningar och partrederier* (Eng., joint ventures and shipping partnerships) – that neither are legal entities – are deemed as tax subjects according to the FML, which is in contrast to the ML and *skatteförfarandelagen (2011:1244)*, SFL – Eng., the Swedish Taxation Procedure Act – where *enkla bolag och partrederier* (Eng., joint ventures and shipping partnerships) are not deemed as tax subjects.

In Forssén 2013 I have developed the complex of problems with Ch. 6 sec. 2 of the ML, and that *enkla bolag och partrederier* and *sammanslutningar och partrederier* respectively are not legal entities but are treated differently in the ML and the FML respectively, so that *enkla bolag och partrederier* are not deemed as tax subjects according to the ML, while *sammanslutningar och partrederier* are deemed tax liable according to the FML. That comparison is not mentioned in a proposal for a new ML in Sweden, SOU 2020:31 (SOU, *statens offentliga utredningar* – Eng., the Government's official reports), which I have commented in the JFT.[28] In Forssén 2020b I iterated from Forssén 2013 and Forssén 2019 that

---

[25] See Forssén 2011, p. 72.

[26] See Forssén 2013, p. 49.

[27] See Forssén 2019, p. 63.

[28] See Björn Forssén, *Synpunkter på vissa regler i förslaget till en ny mervärdesskattelag i Sverige – SOU 2020:31* (Eng., Viewpoints on certain rules in the proposal to a new VAT Act in Sweden – SOU 2020:31), JFT 3/2020, pp. 388–399. (Forssén 2020b). Forssén 2020b is available in full text on www.forssen.com.

Sweden and Finland should jointly bring up on the EU-level the question on changing article 9(1) first paragraph of the VAT Directive so that economic activities carried out in the enterprise forms in question can be considered taxable persons, despite they are not legal entities,[29] which I also iterated in Forssén 2020a,[30] and do here as well.

In Forssén 2020b I write that it is a step in the right direction that in SOU 2020:31 is suggested that the concept skattskyldig (Eng., tax liable) will be abolished from a new ML and replaced by the directive's liability for payment of VAT (to the tax authorities), where the directive's concept *beskattningsbar person* (Eng., taxable person) otherwise applies in a new ML like in the present ML.[31] In SOU 2020:31 a new rule is also suggested in a new VAT Act, which means that a partner in an *enkelt bolag* or a *partrederi* shall be deemed a *beskattningsbar person* (Eng., a taxable person). That the abolishment of the concept skattskyldig (Eng., tax liable) is a step in the right direction means that one of the side issues in Forssén 2011, namely question D concerning the emergence of the right of deduction, gets its solution, while on the other hand concerning side issue E in Forssén 2011 the problem with Ch. 7 sec. 2 second paragraph of the SFL opening for several activities being possible to register for the same subject, despite that liability for payment of VAT shall be used in the rule according to the proposal in SOU 2020:31.[32] Concerning the new Ch. 4 sec. 16 suggested in SOU 2020:31, I furthermore state in Forssén 2020b that it does not work systematically to keep the concept *verksamhet* (Eng., activity) in Ch. 5 sec. 2 of the SFL along with the suggestion of introducing the concept *ekonomisk verksamhet* (Eng., economic activity) in the proposed Ch. 4 sec. 16, since *verksamhet* according to Ch. 1 sec. 3 of *lagen (1980:1102) om handelsbolag och enkla bolag* (Eng., the Partnership and Non-registered Partnership Act) is a broader concept than *ekonomisk verksamhet* and for instance also activities like tipping and lottery companies that do not have an *ekonomisk verksamhet* can constitute an *enkelt bolag*.[33]

Although certain questions remain to be dealt with for the legislator and on the EU-level, may mainly what I have brought up in Forssén 2011 and Forssén 2013 regarding the implementation question be considered to have been well received by the legislator, by the reform on 1 July, 2013 and the suggestions in SOU 2020:31.

Concerning Westberg 1994, I mentioned in Forssén 2020a that the Nordic perspective was taken on the VAT law but also that EU law rules were regarded therein. I also mentioned that professor Westberg thereafter went on in 1997 with Mervärdesskatt – en kommentar (Eng., VAT – a commentary), where an EU law perspective was joined with a (national)Swedish one concerning the VAT law.[34] At the work with my theses, I had use of studying inter alia those books by professor Björn Westberg, which I mention in Forssén 2020a.[35] However, it may also

[29] See Forssén 2020b, p. 394, Forssén 2013 pp, 225 and 226 and Forssén 2019, p. 70.

[30] See Forssén 2020a, p. 736.

[31] See Forssén 2020b, pp. 394 and 395.

[32] See Forssén 2020b, p. 392.

[33] See Forssén 2020b, p. 395 with reference to Forssén 2013, section 5.3.

[34] See Forssén 2020a, p. 737 with a reference to p. 17 in Björn Westberg, *Mervärdesskatt – en kommentar*, Nerenius & Santérus förlag, Stockholm 1997. (Westberg 1997).

[35] See Forssén 2020a, p. 738.

be mentioned that it in Westberg 1997, despite the ambition to join the EU law perspective in the field of VAT with with a perspective of the VAT law in Sweden, is stated that the VAT liability only can be laid upon *such associations that as well are legal entities* (Sw., ”sådana associationer som tillika är rättssubjekt”). Moreover, it is stated there that that principle is not expressed in law text or preparatory works *but can be read out by inter alia the rule in question on enkla bolag or partrederier* (Sw., ”men kan utläsas av bl.a. regleringen i fråga om enkla bolag eller partrederier”) and thus that *the natural or legal person doing the transaction* (Sw., ”den fysiska eller juridiska personen som svarar för transaktionen”) is intended *when it is stated*, *that the tax liability applies to 'who is supplying the piece of merchandise or the service' etc*. (Sw., ”när det sägs, att skattskyldigheten åvilar 'den som omsätter varan eller tjänsten' etc.”).[36] Thereby, I iterate also from Forssén 2020a , that it in Westberg 1994 is also stated that the VAT at the time had been treated extraordinarily sparsely in the jurisprudential literature.[37] From a VAT law perspective *enkla bolag och partrederier* had almost not been treated at all. At the work with my theses, I also used inter alia professor Nils Mattsson's thesis of 1974.[38] Therein *enkla bolag och partrederier* are only mentioned in a footnote as comprised by a rule on accounting of VAT, namely in the instructions to sec. 6 of *mervärdesskatteförordningen* SFS 1968:430 (Eng., the VAT regulation), that is in the predecessor to the ML.[39] The help I got from Helsinki University with translations from Finnish in inter alia Saukko 2005, where *sammanslutningar och partrederier* are mentioned, was a great support for my comparison of the ML and the FML (see section 1). I concluded that the EU law should be investigated, so that the conception in Westberg 1997 about the current law concerning *enkla bolag och partrederier* will not be accepted uncritically with respect of the EU law in the field.

In Alhager 2001 a *law dogmatic method completed with a comparative method* was also used. The comparison was made with an internal perspective on the implementation question, by the VAT law in Sweden and Germany being compared.[40] In Forssén 2020a, I state that that perspective increases the probability for the research result becoming useful for the legislator and the appliers of law concerning the implementation question.[41] In Alhager 2001, it is inter alia mentioned that the rule on exemption from VAT at transfer of going concerns in article 5(8) of the Sixth VAT Directive (77/388/EEC) had been implemented in different ways in *Umsatzsteuergesetz* 1980, UStG (the German VAT Act of 1980), sec. 1 paragraph 1a, and in Ch. 3 sec. 25 of the ML respectively. The rule in the UStG means like the directive rule that a supply does not occur at all, whereas the directive rule had been implemented as an exemption from VAT in Ch. 3 sec. 25 of the ML. It was stated in Alhager 2001 that the deviation from the directive rule in the rule in the ML although seemed to lead to the same result at national transfers of going concerns.[42] Regardless how it is with this, the legislator has later on made a

---

[36] See Westberg 1997, p. 35.

[37] See Forssén 2020a, p. 737 with a reference to Westberg 1994, p. 27.

[38] Nils Mattsson, *Bolagskonstruktioner och beskattningseffekter. En inkomstskatterättslig studie av handelsbolag och enkla bolag* (Eng., Company constructions and taxation effects. An income tax law study of Partnerships and Non-registered Partnerships), P.A. Norstedt & Söners Förlag 1974 (Mattsson 1974). See Forssén 2013, p. 148.

[39] See Mattsson 1974, p. 137, where the footnote in question is to be found.

[40] See Alhager 2001, pp. 26 and 27 whereto I refer on p. 741 in Forssén 2020a.

[41] See Forssén 2020a, pp. 741 and 742.

[42] See Alhager 2001, p. 411.

change in the ML, so that the adjustment of the exemption from taxation of VAT in the present situation corresponds law technically with articles 19 and 29 of the VAT Directive, that has replaced the Sixth VAT Directive. That took place on 1 January, 2016, by SFS 2015:888, and meant in the present respect that Ch. 3 sec. 25 was replaced by Ch. 2 sec. 1 b of the ML. Although it took a long time for that reform to be introduced, the legislator may be considered being influenced by Alhager 2001, why the research result has been proved useful for the legislator regarding the implementation question and the thesis thereby being an example for others of expedient research on the subject VAT law in Sweden. I had great use of Alhager 2001 at the work with Forssén 2011 and Forssén 2013.

Alhager 2001, Forssén 2011 and Forssén 2013 show that the application of a *law dogmatic method completed with a comparative method* gives a ”positive tendency” for the implementation question, so that the research result can be expected to be useful for the legislators and the appliers of law within the EU. In Westberg 1994 was only a comparative method used, and despite that that thesis was written before Sweden became an EU Member State in 1995 it may be deemed of great importance for the VAT research in Sweden. Professor Björn Westberg, at the time docent, was – together with professor Sture Bergström (deceased) – supervising professor Eleonor Kristoffersson (previously Alhager) at the work with Alhager 2001. I note as a support for my opinion about the meaning of Westberg 1994 for the method question that it in section 1.4 (”Metod”) in Alhager 2001 is referred to the way of which Westberg 1994 was structured.[43] Thus, a comparative method also gives a ”positive tendency” for the implementation question, provided that the choice of foreign law for the comparison is relevant for it.

In Sonnerby 2010 is also a *law dogmatic method completed with a comparative method* used, and in Forssén 2020a I have pointed out as something very important from Sonnerby 2010 that it is stated therein that a comparative method is used together with law dogmatics for a broader perspective on the ML and the implementation therein of the VAT Directive.[44] It is stated that *a comparative method is conducive to a better understanding of the own law system and to see new opportunities* (Sw., ”en komparativ metod bidrar till att förstå det egna rättssystemet bättre och se nya möjligheter”).[45] The choice of subject in Sonnerby 2010 is broad and often occuring in practice – withdrawal taxation – and the question of a neutral such taxation in the field of VAT can be expected to occur not only in connection with the determination of the scope of the VAT, but also concerning problems about the accounting of VAT. Thus, the choice of subject means that the research result can be expected to be useful for the legislators and the appliers of law within the EU regarding various implementation questions. Although Sonnerby 2010 thus shows that the application of a *law dogmatic method completed with a comparative method* gives a ”positive tendency” regarding the implementation question, so that the research result can be expected to be useful for the legislators and the appliers of law within the EU.

By the way, it may be mentioned that professor Westberg was supervising at the work with Alhager 2001 and that professor Kristoffersson was supervising at the work with as well Forssén 2011 and Forssén 2013 as with Sonnerby 2010 2010. In connection with my research

---

[43] See Alhager 2001, p. 26.

[44] See Forssén 2020a, p. 740.

[45] See Sonnerby 2010, p. 30 whereto I refer on p. 741 in Forssén 2020a.

project in the subject VAT law being carried out at Lund University, Department of Law, those who attended a seminar on 17 September 2008 were presented with a manuscript, where I in the introduction stated that less than a fourth of the world's countries have VAT in the meaning of VAT according to the EU law. In that manuscript, I stated the same as I later on did in my international outlook in Appendix 2 of Forssén 2011 (Sw., Bilaga 2 – Internationell utblick, Forssén 2011), namely that the statistics accounted for by the OECD[46] would instead mean that almost three quarters of the world's about 200 countries have VAT, why a comparative method with an external perspective on the EU law must be weighed, so that comparisons are made with third countries that have VAT or GST corresponding to the basic principles determining what is meant by VAT according to the EU law.[47] Other third countries are not of interest for comparison, why data for comparison comprising other than EU Member States – that is a comparison not being made from an internal perspective on the EU law – should be made with caution. Professor Westberg was special reviewer at the seminar 2008-09-17 and stated on his behalf the OECD's conception about the number of countries in the world claiming to have VAT. I mention this witout reducing the value of Westberg 1994 for the VAT reseach in Sweden, but may in this context also mention that professor Westberg was supervising professor Pernilla Rendal at her work with Rendahl 2009, where two third countries – Australia and Canada – were used for the application of a comparative method, and that I criticized this in Forssén 2020a with reference to Forssén 2011,[48] whereto I get back in section 2.5.2.1.

2.5.1.2 The language issue in relation to my conception about the tendencies in the present theses for the research result regarding the implementation question

Without any explanation was on 1 January, 2001, by SFS 1999:1283, a reference introduced into Ch. 4 sec. 1 no. 1 of the ML to the concept business activity (Sw., *näringsverksamhet*) in the whole of Ch. 13 *inkomstskattelagen (1999:1229)*, IL (the Swedish Income Tax Act), that is for the determination of who would be deemed having an *yrkesmässig verksamhet* (Eng., professional activity) and thus constituting a tax subject for VAT purposes. Instead of connecting the determination to the rule on who has a business activity in a real sense, that is to Ch. 13 sec. 1 first paragraph of the IL, previously sec. 21 of kommunalskattelagen (1928:370), Eng., the Municipal Income Tax Act, the reference came to comprise also for example sec. 2 in Ch. 13 of the IL, whereof follows that a legal person, in opposition to a natural person, is considered having a business activity regardless whether the prerequisites for a business activity in a real sense are fulfilled. Compared to what would have ruled previously in the ML the scope of the tax subjects was expanded in 2001 without any motivation. That was not in compliance with the main rule for the determination of the tax subject in article 4(1) of the Sixth VAT Directive, which is to be found in article 9(1) first paragraph of the VAT Directive (which in 2007 replaced inter alia the Sixth VAT Directive). The main question in Forssén 2011 concerned this rule competition between Ch. 4 sec. 1 no. 1 of the ML and the directive rule that had arisen by the expansion in 2001 of the connection from the ML to the non-harmonised income tax law. In Forssén 2013 I folloed up with the law theoretically interesting question for the determination of the tax subject on how non-legal entities such as *enkla bolag*

[46] OECD: Sw., *Organisationen för ekonomiskt samarbete och utveckling*; Eng., *Organisation for Economic Co-operation and Development* (OECD); Fr., *Organisation de coopération et de développement économiques* (OCDE).

[47] See Forssén 2011, p. 279.

[48] See Forssén 2020a, p. 740, where I in the present respect refer to Forssén 2011, pp. 279–287.

och partrederier shall be treated in relation to taxable person in article 9(1) first paragraph of the VAT Directive.

I held the opening seminar on my research project 2002-11-26 at Lund University, Department of Law, regarding the question about the connection between Ch. 4 sec. 1 no. 1 of the ML and Ch. 13 of the IL. The reform in that respect on 1 July, 2013 (see section 2.5.1.1) shows that the thesis was useful for the legislator concerning the implementation question. By the expansion of who can be deemed to be a tax subject and the law theoretical question whether non-legal entities should be deemed tax subjects being closely connected, my two theses may be considered fulfilling inter alia the criterion expediency for academical theses in Sweden. About the language issue, I may especially mention the following concerning its importance for the research result of my theses being of continued use for the legislators and the appliers of law within the EU regarding the implementation question.

The help I got from Helsinki University with translations from Finnish in inter alia Saukko 2005, and of what is written there about the non-legal entities *sammanslutningar och partrederier*, was, as mentioned, of great support for my comparison between the ML and the FML, where I, as also mentioned, established that the EU law should be examinde, so that the conception in Westberg 1997 about the current law concerning *enkla bolag och partrederier* in Sweden will not be accepted uncritically in relation to the EU law in the field of VAT (see sections 1 and 2.5.1.1). In this respect it may be mentioned that implementation of rules into the VAT Directive cannot be made only by translation of directive text into national act rules, since concepts in the directives do not have equivalents in all official EU languages and the various language versions of the rules of the EU law are equally valid, which the Court of Justice of the EU warned of in the case 283/81 (CILFIT).[49] However, the Court of Justice of the EU must have a common language for its deliberations, which traditionally are in French.[50] At the work with my theses I also noted that professor Ulf Bernitz and Leo Mulders recommended the language version in French of an EU-verdict for precision in the interpretation.[51] In a follow-up to Forssén 2020a, I state that I used Leo Mulder's recommendation concerning the use of language for the interpretation in Forssén 2011 (pp. 92-94) of item 20 in the EU-verdict C-216/97 (Gregg).[52] With this approach for the interpretation, when an EU-verdict seems unclear to construe, I judge it in Swedish (if the language of the case is Swedish or the language of the case is another one and the verdict is translated into Swedish), but also in French and in the language of the case, if it is Danish, English, German

[49] The EU-case 283/81 (CILFIT), ECLI:EU:C:1982:335. See Forssén 2011, p. 68 and Forssén 2013, p. 46.

[50] See Language arrangements for proceedings before the Court of Justice of the EU, https://curia.europa.eu (hämtat 2021-09-06).

[51] See Forssén 2011, p. 69 with reference to the Chapter *EUROPARÄTTEN* (Eng., European Law) pp. 59–89, 78 and 84, by Ulf Bernitz, i Ulf Bernitz – Lars Heuman – Madeleine Leijonhufvud – Peter Seipel – Wiweka Warnling-Nerep – Hans-Heinrich Vogel, *Finna rätt Juridikens källmaterial och arbetsmetoder* (Finding law The lawyer's source material and work methods), eleventh edition, Norstedts Juridik AB 2010 (Bernitz 2010); and to the Chapter Kapitlet Translation at the Court of Justice of the European Communities pp. 45–59, 47 and 58, by Leo Mulders, in Sacha Prechal and Bert van Roermund, The Coherence of EU Law (editors, Oxford University Press, Oxford 2008 (omtryck 2010) – Mulders 2010.

[52] See Björn Forssén, *Tidningen Balans fördjupningsbilaga* (Eng., The Periodical Balans Annex with advanced articles) 2/2021, pp. 29–36, 32 and 33, the article *Momsforskningen i Sverige – vart är den på väg? Del 2* (the VAT research in Sweden – where is it going? Part 2). (Forssén 2021a). Forssén 2021a is available in full text on www.tidningenbalans.se and on www.forssen.com. The EU-case C-216/97 (Gregg), ECLI:EU:C:1999:390.

or Netherlands.[53] Thus, I intended to avoid an unjustified emphasizing of English, and read the verdict in Swedish, English and French. Thereby, I interpreted item 20 of the ”Gregg”-case so that an effective collection can be identified in the the Court of Justice of the EU’s case law as a law political aim with the common VAT-system in the EU. The language of the case was in itself English, but it was the French that showed that the Court of Justice of the EU emphasizes the collection of the VAT. This by the specific question on the levying of VAT being brought up in the language version in English by the expression ”the levying of VAT” on the price of the production in question, whereas it in the translation into Swedish is stated that it is treated differently for ”mervärdesskattehänseende” (Eng., VAT purposes) and in French it is all the more clear that the question is about the more general question on the collection of the VAT, by the expression ”perception de la TVA” being used therein. In English it would have been expressed *collection of the VAT*. Thus, the interpretation result had not been achieved only by the reading of the verdict in the language of the case, that is in English.[54]

In the first step of my research project (Forssén 2011) I used a number of dictionaries in English, French, Netherlands, Spanish and German and a grammar book in French and law technical dictionaries in Swedish and English.[55] In connection with the work on Forssén 2013, I acquired *NORSTEDTS FINSKA ORDBOK* (from 2008), Eng., Norstedts Finnish Dictionary, to check and judge as independently as possible the material in Finnish that I was helped by Helsinki University to translate. At the work with my theses, I also benefitted from acquiring *NORSTEDTS NEDERLÄNDSK-SVENSKA ORDBOK*, Eng., Norstedts Netherlands-Swedish Dictionary, and *NORSTEDTS SVENSK-NEDERLÄNDSKA ORDBOK*, Eng., Norstedts Swedish-Netherlands Dictionary (both from från 2008), since I wanted to read above all A.J. van Doesum’s thesis, *Contractuele samenwerkingsverbanden in de btw* (Eng., approx., Joint ventures in the VAT), in Netherlands (as far as possible).[56] Thus, there are quotations in Netherlands with my translation into Swedish in both my theses. As a precaution, I also acquired *NORSTEDTS DANSK-SVENSKA ORDBOK* (from 2008), Eng., Norstedts Danish-Swedish Dictionary.

Considering the status of English in the Swedish school system, it is not a sign in itself of originality to write a thesis on the subject of VAT law in English. Instead an over-emphasizing thereby is in my opinion evidence of a lack of independence. By setting the language issue in relation to the method question’s importance for a ”positive tendency” of an expected research result regarding the implementation question according to the above-mentioned, I consider that those who write theses on the subject VAT law in Sweden should make an effort and use Swedish as well as other official EU languages but English, instead of over-emphasizing English. Thereby avoiding that the author – aware or unaware of it – imagines that the use of English in itself shall guarantee a positive research result regarding the implementation question. My review of above shows in my opinion that the nuances at the interpretation of the EU law in the field of VAT are lost, if the author does not make the effort of using as many of

[53] See Mulders 2010, p. 58, Forssén 2011, p. 69 and Forssén 2021a, p. 33. See also Forssén 2013, p. 47.

[54] See Forssén 2020a, pp. 729 and 730 and Forssén 2011, pp. 69, 92 and 93, Forssén 2021a, pp. 32 and 33 and Forssén 2013, p. 72. TVA, taxe sur la valeur ajoutée, abbreviation in Fr. of value-added tax.

[55] See Forssén 2011, p. 357.

[56] See Adrianus Johannes van Doesum, *Contractuele samenwerkingsverbanden in de btw*. Universiteit van Tilburg (University of Tilburg) 2009, p. 243 (Doctoral thesis of 23 June, 2009).

the EU's official languages that is possible for him or her.[57] Such an effort by the author is instead proof of both independence and originality, and should typically increase the possibilities for the research results on the subject VAT law not becoming rather insignificant. I mention some theses on the subject VAT law in Sweden in that respect. If an inquiry is made, can for example, as was the case for me when carrying out the above-mentioned inquiry in connection with my international outlook in the work with Forssén 2011, English be insufficient already in that respect. The tax authority in Austria, which was included in my inquiry, wanted to have the question in German and then I just had to write them in German. When in the same respect the Greek tax authority was concerned, it was acceptable to write the question of the inquiry, but the answer was written in Greek, and I received help with the translation from Greek to Swedish by the Embassy of Greece in Stockholm.[58]

Thus, it is in my opinion a matter of struggling on in the work with a thesis with the official EU languages, but it must of course not go so far that the research project fails on the language issue. What I want to emphasize with this article is that English should not be over-emphasized at the expense of the methodological and the interpretation of EU-verdicts etcetera. Concerning Swedish in itself, I may also emphasize that expressions like ”Swedish” theses should be avoided, when the perspective is an EU-law one. The word ”svenska” (Eng., Swedish) should be used in consideration of that Swedish is one the two official languages in Finland, why ”svenska” with reference only to Sweden, and thus to a national Swedish perspective on the research influenced by the EU law like with the VAT law, is to narrow and is instead conducive to Swedish being reduced on the EU-level. Anyone planning to write a thesis on the subject VAT law in Sweden should in my opinion already due to the language issue also be cautious about leaving out the first thesis in Sweden on the subject, that is Westberg 1994. I state regarding the language issue that that work with a Nordic perspective on the subject may be considered especially important by the whole of the North being more or less comprised by the EU law from an expanded European perspective on the legal system, according to what I state in section 1.

Westberg 1994, Alhager 2001 and Sonnerby 2010 are, like my theses, written in Swedish. Concerning the usefulness of the research result a ”positive tendency” exist in those cases. It shows that the choice of a *law dogmatic method completed with a comparative method* and of a *comparative method* respectively, where the choice of foreign law for the comparison is relevant to the subject, gives a ”positive tendency” for the implementation question without any need to write the thesis in another language than Swedish. My review of above shows that there is nothing special with English that would supersede Swedish, regarding the question whether the research result can be expected to be ”positive”. The review shows in my opinion also that English should neither be superseding any other of the EU's official languages, why a researcher in the subject VAT law in Sweden should write in Swedish, but also be open to use English and other official languages within the EU.

In early April 2011 professor Kristoffersson took over as head supervisor of my research project concerning the determination of the tax subject in the ML on the theme of EU conformity. Then a plan was made, where I had the privilege to attend courses at the

[57] See Mulders 2010, p. 58, where he also states for his suggestion concerning the interpretation that the interpreter, besides the own language version and the one in French, only needs to use the authentic language version of av verdict, that is the language of the case, “if possible”.

[58] See Forssén 2011, p. 289.

universities of Örebro and Linköping. The project was divided into what led to a licentiate's examination 2011-12-15 and a doctor's examination 2013-04-26 respectively, where Forssén 2011 and Forssén 2013 respectively were defended. A reason for the division was to avoid that a change of law would come beween and above all that the project meant that a vast work was demanded, where we found it appropriate with the division of the project into the question on rule competition that had emerged in 2001 between Ch. 4 sec. 1 no. 1 of the ML and the main rule on taxable person in article 9(1) first paragraph of the VAT Directive and into the law theoretically interesting question on tax and payment liability to VAT in *enkla bolag och partrederier* in Ch. 6 sec. 2 of the ML and Ch. 5 sec. 2 of the SFL in relation to the directive rule. In that respect it may be mentioned that the Government's official reports Mervärdesskatt i ett EG-rättsligt perspektiv (Eng., VAT in an EU-law perspective), SOU 2002:74, considered that a complete technical and material overview of the ML could not be fitted within the investigation's assignment.[59] In Forssén 2021a I mention that the investigation was about the terminology in the ML compared to the Sixth VAT Directive.[60] To resolve problems with uncertainties in the translation into Swedish of the directive text or when the terms deviate from what have been used in other language versions the investigation makes adjustments, where the directive's term in Swedish, English and French is used.[61] I mention also that it on the pages 51–53 in SOU 2002:74 Part 1 is a table of the fundamental terms in those languages in the directive. Thus, I state in Forssén 2021a that I had use of SOU 2002:74 at the work with my theses, and pointed out especially that the investigation includes the French, to resolve the mentioned terminology problems.[62] The supervision by professor Kristoffersson and professor Jan Kellgren (at the time docent) was together with the doctoral education decisive for the carrying out of the project. In one of the courses during the education held by docent Bo H. Lindberg, I noted that he called science *a cohesive system of linguistic sentences* (Sw., ”ett sammanhållet system av språkliga satser”) or *a recorded knowledge* (Sw., ”ett nedtecknat kunnande”). That was an incentive for me not to take lightly the language issue in itself at the work with my theses, where the investigation SOU 2002:74 became part of the source material and confirms, by the approach therein for resolving terminology problems, my conception that English shall not be set before Swedish in the VAT research in Sweden.[63]

2.5.2 Main track 1 – Rendahl 2009 and Papis-Almansa 2016

2.5.2.1 An overview of the review of my conception of the tendencies in the present theses for the research result regarding the implementation question

In Forssén 2020a, I state that neutrality is a law political aim with the VAT according to the EU law, and that the principle of a neutral VAT follows by primary law of article 113 of the Functional Treaty and by secondary law of the recitals 4, 5 and 7 of the preamble to the VAT

[59] See SOU 2002:74 Del 1 pp. 17 and 186.

[60] See Forssén 2021a, p. 36.

[61] See SOU 2002:74 Part 1, p. 49. See also Forssén 2021a, p. 36.

[62] See Forssén 2021a, p. 36.

[63] By the way, Bo H. Lindberg was an inspiration at Södertörn University, Department of Social Science, where I recurrently lecture since 2015 and during the recent years co-operate in the field of public law with docent Patricia Jonason. Then it is foremost about the EU law and VAT law, but I have also been trusted to educate in other subjects within public law than tax law.

Directive and article 1(2) of the VAT Directive, but that the tax rates and the exemptions from VAT are not harmonised, which follows by recital 7 of the preamble to the directive. However, it follows by recital 7 that the principle of a neutral VAT still rules so that similar goods and services are burdened with an equally large taxation within the territory of each Member State.[64]

I Forssén 2020a, I note that border crossing digital supplies from entreprises to consumers are treated in Rendahl 2009 by applying a comparative method, and that the motive is that it shall give an external perspective on the EU law in the field of VAT, by the EU's legislation being compared with GST in Australia and Canada.[65] I state there that since Rendahl 2009 thus does not have an internal perspective on the EU law in the field of VAT the probability decrease for the research result being useful for the legislator to judge the need of adjustment of the rules in the ML in relation to the rules in the VAT Directivet,[66] that is a "negative tendency" exists for the implementation question. It appears by the subject description that the author has the same conception about third countries as material for comparison at the application of a comparative method as I according to above is warning for in my international outlook in Forssén 2011. The author refers uncritically to the OECD's statistics concerning that it among the OECD's members is only the USA that does not have any form of VAT, but has a sales tax.[67]

Forssén 2011 is written after Rendahl 2009, and it would have been an advantage for the author having access to my thesis. In my opinion the supervisor professor Westberg has influenced the author, who maybe could have been affected by my warning of uncritically using VAT-systems or GST-systems in third countries as material for comparison without first examining if such legislation corresponds to what is understood by VAT accordning to the EU law. There is nothing wrong in itself to compare the EU's legislation in the field of VAT with corresponding systems in third countries, but such comparisons should be made in a way so that they will not be the only material for comparison. To apply a comparative method without any EU Member State being included in the survey gives in my opinion typically a "negative tendency" for the research result becoming useful for the legislators and the appliers of law within the EU concerning the implementation question.

In Papis-Almansa 2016 a law dogmatic method completed with a comparative method is used, and what I am criticizing is that the comparison only gives an external perspective on the EU law in the field of VAT, by the comparison being made in relation to the GST-systems on the third countries New Zealand and Australia. What still means that Papis-Almansa 2016 should be held before Rendahl 2009 is in my opinion that New Zealand is an interesting material for comparison among the third countries in relation to the EU's VAT system. That since there is a simple, principle true VAT without any differentiation of the tax rates in New Zealand.[68] In

[64] See Forssén 2020a, p. 726.

[65] See Forssén 2020a, p. 739 with reference to Rendahl 2009, p. 13.

[66] See Forssén 2020a, p. 739.

[67] See Rendahl 2009, p. 3.

[68] See Forssén 2020a, p. 742 with reference to Forssén 2011, p. 282.

that respect, I referred in Forssén 2011 to an article by professor Leif Mutén,[69] where he states precisely this about New Zealand, which I also mention in Forssén 2020a.[70] It should have been regarded in Rendahl 2009, even if that thesis was written before Forssén 2011, and it should have been mentioned in Papis-Almansa 2016 in connection with the choice of third countries for the comparison.[71] Where the probability for the research result becoming useful for the legislator and the appliers of law concerning the implementation question is concerned, I mark above a ”negative tendency”. I base this on that EU’s legislation in the field of VAT being given an externa perspective in Papis-Almansa 2016 concerning the comparative part of applied method.

2.5.2.2 The language issue in relation to my conception about the tendencies in the present theses for the research result regarding the implementation question

Rendahl 2009 and Papis-Almansa 2016 are written in English, and I may mention the following concerning the language issue regarding those theses:

- In their list of references Rendahl 2009 and Papis-Almansa 2016 contain almost no references to public printing in Sweden.

- In both theses English dominates regarding referred literature. Rendahl 2009 contains a number of works in Swedish, whereas no such work is to be found in Papis-Almansa 2016. In Rendahl 2009 it is referred inter alia to Westberg 1994, which is not the case in Papis-Almansa 2016. The openness to other languages than English is otherwise weak in both theses, with a certain advantage in that respect for Papis-Almansa 2016.

- The approach that I describe above as clarifying at interpretation of unclear EU-verdicts are not used in neither Rendahl 2009 nor Papis-Almansa 2016, and any similar use of more than one official EU language when interpreting unclear EU-verdicts are not used either by the two authors. I Rendahl 2009 it is mentioned concerning the EC-regulation 1777/2005 that the denition for VAT purposes of services supplied in an electronical way does not vary between the regulation’s versions in German, French, Swedish or English.[72] This implies an awareness of the importance of making comparisons in various official languages within the EU at the reading of sources in the field of VAT, but this is not used in any developed way in Rendahl 2009, which in my opinion should be done for example at the interpretation of EU-verdicts.

The choice of solely third countries where English is spoken is, as mentioned, not succesful for methodological reasons, and concerning the language issue it seems as if the authors and their supervisors – aware or unaware of it – consider that the use of English is supposed to compensate what is lacking regarding choice of method. Concerning Rendahl 2009 the author

---

[69] See Leif Mutén, *Export av skattesystem. Skattepolitiska transformations processer i tredje världen* (Eng., Export of tax systems. Tax political transformation processes in the Third World). Skattenytt 2006 pp. 487–497, 494. (Mutén 2006). See also my references to Mutén 2006 in Forssén 2011, pp. 271 and 282.

[70] See Forssén 2020a, p. 742.

[71] I have on my part had use of professor Mutén’s viewpoints at the work with Forssén 2011 and Forssén 2013 and also when I in 2005 began writing articles in *Svensk skattetidning* and he proof-read these.

[72] See Rendahl 2009, pp. 190 and 191.

may be considered influenced, in the choice of the English speaking third countries Australia and Canada for the comparative analysis, by professor Westberg's uncritical conception of which countries that the OECD consider's having VAT systems. This is confirmed, as mentioned above, by the author uncritically referring to the OECD's statistics concerning that it among the OECD's members is only the USA that does not have any form of VAT. Marta Papis-Almansa does not, as mentioned (see section 2.3), have Swedish as native language, but it should not have limited the references in Papis-Almansa to theses on the subject VAT law in Sweden solely written in English, that is to only include Henkow 2008 and Rendahl 2009. Thus, the author, who wrote about VAT law at a university in Sweden, should not have refrained from also referring to theses in Swedish. Professor Ben J.M. Terra, who was guest professor at the author's department, that is at the Department of Business Law at Lund University, was, together with docent Oskar Henkow at the same department, supervisor of the work with Papis-Almansa 2016. Professor Terra (from University of Amsterdam) became guest professor at the Department of Business Law, School of Economics and Management, Lund University long before the work with Papis-Almansa 2016 began in 2011. Thus, both supervisors could assist regarding difficulties with Swedish at the work with Papis-Almansa 2016.[73]

2.5.3 Main track 2 – Öberg 2001, Senyk 2018 and Ek 2019

2.5.3.1 An overview of the review of my conception of the tendencies in the present theses for the research result regarding the implementation question

The EU law was treated sparsely in Öberg 2001, which I also mentioned in Forssén 2020a.[74] In Öberg 2001 the method used was a *customary law dogmatic method* (Sw., ”sedvanligt rättsdogmatisk”), and the motivation of the sparse treatment of the EU law as law source compared to *the Swedish law sources* (Sw., ”de svenska rättskällorna”) was that the EC's legislation was only deemed to give *the frames and must be filled out with national rules* ”ramarna och måste fyllas ut med nationella regler”.[75] For that standpoint it was referred in Öberg 2001 to Westberg 1997.[76] However, I state in Forssén 2020a that Westberg 1997 as well as Westberg 1994 instead should have inspired to more EU law in Öberg 2001.[77] I mention in Forssén 2020a that Öberg 2001 is the only thesis in Sweden besides my own that concerns the tax subject question, and that Öberg 2001 thereby concerns a question on how a delimitation shall be made between a bankrupt's and a bankrupt's estate's tax liability for different transactions.[78] That is mentioned in the ML as one of the special cases on tax liability in Ch. 6,

[73] As a matter of form, it may be mentioned that professor Mutén, whom I am mentioning in the nearest previous section, professor Ben J.M. Terra and docent Oskar Henkow are all deceased. I have, as mentioned, had use of professor Mutén's work, and this is of course also the case at the work with Forssén 2011 and Forssén 2013 concerning inter alia A Guide to the European VAT Directives, by Ben J.M. Terra and Julie Kajus (IBFD Amsterdam), and Henkow 2008, regardless of the criticism I present concerning the VAT research in Sweden in this article and in Forssén 2020a.

[74] See Forssén 2020a, p. 738.

[75] See Öberg 2001, p. 19. See also Forssén 2020a, p. 738.

[76] See Öberg 2001, p. 19 with reference to Westberg 1997, p. 26. See also Forssén 2020a, p. 738.

[77] See Forssén 2020a, p. 738.

[78] See Forssén 2020a, p. 738.

which is regulated by sec. 3 therein. There is no corresponding rule in the VAT Directive. Like with the question on tax liability to VAT in *enkla bolag och partrederier*, which also is one of the special cases of tax liability in Ch. 6 of the ML, namely according to sec. 2 therein, should the EU law neither have been treated sparsely in Öberg 2001, but the lack of a corresponding expressly rule in the VAT Directive of the tax subject question in Ch. 6 sec. 3 of the ML should have inspired to consideration of more EU law.

The choice of a law dogmatic method in Öberg 2001 without any completing comparative analysis seems to have been based on a misdirected conception about the EU law's importance for the subject. The author has made a mental note of Westberg 1997 without testing what is stated therein. I could also have done so, if I had not, as I decsribe above, gone further with the comparison with the FML. In Öberg 2001 it is not stated that the law dogmatics is particularly suitable for jurisprudential studies of the subject VAT law, which would constitute what I in Forssén 2020a and in this article call a purely law dogmatic method. Instead a law dogmatic method has been used in Öberg 2001, which of course can be called customary. That does not in itself need to lead to a ”negative tendency” for the choice of method giving a research result that will be useful for the legislators and the appliers of law within the EU regarding the implementation question. A vast material for interpretation and systematization of current law according to the EU law in the field of VAT can give a ”positive tendency”, although the law dogmatics is not completed with a comparative analysis. However, it is in my opinion precisely that the EU law is treated sparsely, and that this is done with an unfounded motivation, that cause a ”negative tendency” to emerge concerning the usefulness of Öberg 2001 regarding the implementation question.

In Ek 2019 the law dogmatic method is used but with an awareness of that it is not to be signified as especially suitable for jurisprudential studies in the subject VAT law, why I do not denote the method in Ek 2019 as a purely law dogmatic method. I Forssén 2020a I have gathered the method in Ek 2019 as a customary law dogmatic method, by the method therein being described as *traditional* (Sw., ”traditionell”) only *in the meaning that a law dogmatic method or basis is not unusual in VAT law theses* (Sw., ”i den bemärkelsen att en rättsdogmatisk metod eller utgångspunkt inte är ovanlig i mervärdesskatterättsliga avhandlingar”).[79] In line of what I mention regarding Öberg 2001, I may also concerning Ek 2019 state that a vast material for interpretation and systematization of current law according to the EU law in the field of VAT can give a ”positive tendency” regarding the usefulness of the research result for the implementation question, although the law dogmatics is not completed with a comparative analysis. I denote the extent as little in Ek 2019 were sources like preparatory works to the ML, the tax authority's (Sw., *Skatteverkets*) writs and standpoints, material from IFRS (International Financial Reporting Standards) and verdicts from the Member States are concerne. In Ek 2019 the awareness is in my opinion weak about not only verdicts from the Court of Justice of the EU, but also precedential verdicts from the Member States being of importance for the interpretation and application of the EU law in the field of VAT. In Ek 2019 it is namely only referred to five verdicts from the Supreme Administrative Court of Sweden (Sw., *Högsta förvaltningsdomstolen*).[80] Thus, that limited material in the thesis makes me state that a ”negative tendency” emerge concerning the usefulness of Ek 2019 regarding the implementation question.

[79] See Forssén 2020a, p. 745 with reference to Ek 2019, p. 33.

[80] See also Forssén 2020a, pp. 746 and 747.

In Senyk 2018 it is not stated that a law dogmatic method is especially suitable for jurisprudential studies in the subject VAT law, and a comparative method has only had the function of an inspiration.[81] Thus, I denote the applied law dogmatic method in Senyk 2018 as a customary law dogmatic method, like what is stated about applied method in Öberg 2001 and what I have gathered about applied method in Ek 2019. However, I consider that the approach in Öberg 2001 by treating the EU law sparsely makes Senyk 2018 more similar to Ek 2019 concerning the approach to carry out the study, where I regard the similarity between them with respect of the extent of material for interpretation and systematization of current law in the field of VAT.

In Ek 2019 it is stated that Senyk 2018 concerns the distribution of the right of taxation within the EU, and that the analysis is made on an overview level with the purpose of giving a total impression of that distribution.[82] Although Senyk 2018 brings up questions on the placement of supply where deliveries and intra-Union acquisitions are concerned, which is mentioned in Ek 2019,[83] it is so that it is in Ek 2019 that deliveries and intra-Union acquisitions in the VAT law, in accordance with the title of that work, are given a study *in* (Sw., ”i”) VAT law. I consider that Senyk 2018 is more of a study *about* (Sw., ”om”) the VAT law concerning which Member State that has the right of taxation of deliveries and intra-Union acquisitions. In my opinion Senyk 2018, in opposition to Ek 2019, does not concern the implementation question, but the VAT is more mentioned in a perspective of economics in Senyk 2018. Thereby, I have nothing against two theses with so similar subjects being submitted so closely in time that is the case. Senyk 2018 is in my opinion a test without value where the subject in question and the question of the expected usefulness of the research result for the legislators and the appliers of law within the EU are concerned, if the implementation question is regarded. In my opinion it is a thesis *in* the subject VAT law, and not a thesis *about* VAT, that should be made, when it is a matter to achieve a research result where a rule competition between the VAT Directive and the national VAT legislation in a Member State like Sweden can be identified and suggestions of a solution presented. Therefore, I consider that the choice of method in Senyk 2018 gives neither a ”positive tendency” nor a ”negative tendency” regarding whether the research result can be expected to become useful for the legislators and the appliers of law within the EU regarding the implementation question, if the VAT question in the thesis is regarded in a perspective of economics. However, I mark a ”negative tendency” for Senyk 2018 in the present context due to it not being mentioned therein that the purpose was to make an economics study of VAT regarding deliveries and intra-Union acquisitions, and Senyk 2018, according to what I mention above, being similar to Ek 2019 when it is a matter of the law dogmatic method yet being stated as the approach to make the study in Senyk 2018.

2.5.3.2 The language issue in relation to my conception about the tendencies in the present theses for the research result regarding the implementation question

Öberg 2001 and Ek 2019 are written in Swedish, whereas Senyk 2018 is written in English. I may mention the following concerning the language issue regarding Senyk 2018.

---

[81] See Senyk 2018, pp. 27 and 30, whereof follows that a *legal dogmatic method* is applied in the thesis and a *comparative legal study* only has served as an inspiration for the thesis, by what is mentioned there as a *micro-comparison*. Professor Ben J.M. Terra and docent Oskar Henkow were supervisors on Senyk 2018, and professor Cécile Brokelind took over after docent Oskar Henkow.

[82] See Ek 2019, pp. 22 and 23.

[83] See Ek 2019, p. 22.

Westberg 1994 is referred to in all three theses recently mentioned.[84] It is the only thesis in Swedish that is referred to in Senyk 2018. If Westberg 1994 would have been omitted in Senyk 2018, would Senyk 2018, as a thesis in Sweden on VAT, have showed a ”negative tendency” also in a perspective of economics on the question of distribution of the right of taxation in the Member States, since Westberg 1994, with its Nordic and EC-perspective, may be considered important for that question also in the perspective of economics. The extent in the list of references of international sourcs like the OECD,[85] in addition to the EU-sources, shows in my opinion that Senyk 2018 could have had an expressed perspective of economics on the distribution question, that is the thesis could thereby have been written as a thesis *about* VAT. In that perspective can in my opinion a thesis *about* VAT in Sweden written in English work rather well, since the importance of thereby using the own language at the interpretation of verdicts from the Court of Justice of the EU will not be as decisive for exactness as regarding a thesis in Sweden *in* the subject VAT.

However, a Swedish speaking researcher in Sweden should be cautious with leaving Swedish for English also when writing a thesis *about* VAT. That is my standpoint, although I write in the first place in English on a subject *about* tax where aspects based on sociology and economics can be invoked, namely fiscal sociology (the sociology of taxation).[86] I started this research project in 2015 at Örebro University (JPS), where I was an external resource of Research Team Tax Law from 2015 through 2017. The project concerned and still concerns, if I would be given opportunity to continue with it, the use of tax revenues, and I have as a preliminary study written the books The Entrepreneur and the Making of Tax Laws – A Swedish Experience of the EU law and Law and Language on The Making of Tax Laws and Words and context – with Legal Semiotics, which both were updated in November 2019 in the fourth editions.[87]

2.5.4 Main track 2 – Henkow 2008 and Lindgren Zucchini 2020

2.5.4.1 An overview of the review of my conception of the tendencies in the present theses for the research result regarding the implementation question

Concerning the application of a law dogmatic method for jurisprudential studies in VAT law, I compare Henkow 2008 and Lindgren Zucchini 2020 with Ek 2019, and denote the method used in Henkow 2008 and Lindgren Zucchini 2020 as a purely law dogmatic method compared to a customary law dogmatic method like what is used in Ek 2019. In pursuance of what I state above on differences between on the one hand Ek 2019 and on the other hand Öberg 2001 and Senyk 2018 lies Ek 2019 closer to Henkow 2008 and Lindgren Zucchini 2020 than what the other two theses do in a methodological respect. I note for the context that professor Ben J.M. Terra, who was supervisor at Papis-Almansa 2016 and Senyk 2018, was head supervisor at Henkow 2008, where professor Claes Norberg was assisting supervisor, and that professor Eleonor Kristoffersson was head supervisor at Lindgren Zucchini 2020.

---

[84] See the lists of literature in those: Öberg 2001, p. 293; Senyk 2018, p. 379; and Ek 2019, p. 315.

[85] See Senyk 2018, pp. 359–362.

[86] See my *paper* on the subject, The Entrepreneur and the Making of Tax Laws: An introduction of a new branch of Fiscal Sociology, which is available in full text on www.forssen.com.

[87] Both books are available in full text on www.forssen.com.

Concerning the method question in Ek 2019, Henkow 2008 and Lindgren Zucchini 2020, I have stated that the awareness therein is weak about national precedential verdicts from the Member States, and not only verdicts from the Court of Justice of the EU, being of importance for the interpretation and application of the EU law. However, I state that Ek 2019 is different from Henkow 2008 and Lindgren Zucchini 2020 partly by not stating that a law dogmatic method would be especially suitable for the analysis of the VAT law, partly by referring to a brader material for interpretation and systematization of current law in the field of VAT. Thus, I have not denoted the law dogmatic method used in Ek 2019 as purely law dogmatic.[88]

In Forssén 2020a I concluded in section 5.2 that the risk of applying what I call a purely law dogmatic method, that is the risk of assuming at the choice of method in the VAT research that law dogmatics would be especially suitable like what is stated in Henkow 2008 or something that can be chosen uncritically like what is done in Lindgren Zucchini 2020,[89] is that the research in the end means that the VAT law no more is treated as a jurisprudential subject in Sweden.[90] I stated that the law dogmatic method should be developed, regardless whether it is combined with a comparative method or empirical investigations.[91] I have stated this also in Forssén 2021a, where I show that the choice of method in Lindgren Zucchini 2020 has led to delimitations that make a problemizing of the subject, composite supplies for VAT purposes, impossible, by the right of deduction not being mentioned. Thereby the author is delimiting away one of the criteria included in what constitutes the VAT principle according to article 1(2) of the VAT Directove, namely that an in principle general right of deduction shall be contained therein. Otherwise it is not a matter of an examination of what shall be understood with VAT acccording to the EU law, but of a gross tax (an excise duty), which thus should be regarded by somebody making a comparative analysis and thereby using third countries as material for comparison.[92]

I do not dismiss law dogmatics as a method for the research in VAT law, but state that if it is not completed with a comparative method, where at least one EU Member State is included in the material for comparison, it should be developed more to increase the probability that the research results will be useful for the implementation question. Thereby I refer in Forssén 2020a to one of my previous articles in JFT, where I concerning precisely composite supplies in the field of VAT state that a law dogmatic study in that respect should be completed with an

---

[88] See Forssén 2020a, p. 747.

[89] See Henkow 2008, p. 13 and Lindgren Zucchini 2020, section 2.2 with the headline *Legal dogmatics*. See also Forssén 2020a, p. 743 with these references, and where I state that it in Henkow 2008 (p. 13) is stated, to support of the application of "a traditional method of juris prudence", that VAT systems all over the world are similar, why a purely technical comparison would be especially suitable for VAT. This is not true. Instead, concerning a third country with a VAT- or GST-system it should be thoroughly examined if it corresponds with VAT according to the EU law, when such a country is mentioned in the VAT research in Sweden. See section 2.5.2.1, Forssén 2020a, pp. 739 and 740 and Forssén 2011, pp. 279–287 and Forssén 2021a, pp. 30 and 31 and Björn Forssén, *Tidningen Balans fördjupningsbilaga* 2/2021, pp. 22–28, 26 and 27, the article *Momsforskningen i Sverige – vart är den på väg? Del 1* (the VAT research in Sweden – where is it going? Part 1). (Forssén 2021b). Forssén 2021b is available in full text on www.tidningenbalans.se and on www.forssen.com.

[90] See Forssén 2020a, p. 750.

[91] See Forssén 2020a, p. 751.

[92] See Forssén 2021a, p. 30 and also Forssén 2020a, pp. 720, 740, 744 and 745 and Forssén 2021b, pp. 26–28.

analysis based on legal semiotics.[93] Furthermore, I have written a book where I describe how a tool (model) can be developed as support of a method applied at the analysis of composite supplies for VAT purposes in the research or for example in tax proceedings.[94]

2.5.4.2 The language issue in relation to my conception about the tendencies in the present theses for the research result regarding the implementation question

Henkow 2008 and Lindgren Zucchini 2020 are written in English, and I may mention the following concerning the language issue regarding those theses.

The review above of the EU-case C-216/97 (Gregg) shows that although if the language of the case was English it was necessary to also regard the own language Swedish and French. It was the language version in French of the verdict that was recommended by professor Ulf Bernitz and Leo Mulders to achieve exactness at interpretation of unclear EU-verdicts, which made it possible for me to conclude that the question of collection of VAT should be set before the question of the levying of VAT, where the upholding of the principle of a neutral VAT according to the EU law is concerned. This proves in my opinion there is a danger to over-emphasize the importance of English in a thesis on the subject of VAT, like what is the case in Henkow 2008 and Lindgren Zucchini 2020. Lindgren Zucchini 2020 is a thesis on VAT law carried out in the VAT research in Sweden, and it is in my opinion a considerable lack that it does not contain any writing ar all in Swedish. The sole VAT thesis in Swedish mentioned in the list of literature is Ek 2019 – not also for example the head supervisor's Alhager 2001.[95] Lindgren Zucchini 2020 is dominated by English, and neither French nor the own Swedish are used to interpret unclear EU-verdicts. Leo Mulders is warning for the risk of only using one language at ”close reading” of EU-verdicts,[96] which I also mean to have proven by my linguistic analysis of the ”Gregg”-case. The researcher shall independently interpret EU-verdicts etcetera, why it in itself does not benefit the quality of the analysis in Lindgren Zucchini 2020 that the author has got help to enhance the language in the thesis.[97]

However, what is all the more important is that the application of what I call a purely law dogmatic method, like what is the case with Henkow 2008 and Lindgren Zucchini 2020, risks entailing that the research in the end means that the VAT law no more is treated as a

---

[93] See Forssén 2020a, p. 752 and the reference there to p. 320 in Björn Forssén, *Juridisk semiotik och tecken på skattebrott i den artistiska miljön* (Eng., Legal semiotics and signs of tax fraud in the artistic environment). JFT 5/2018, pp. 307–328. (Forssén 2018). Forssén 2018 is available in full text on www.forssen.com. See the same reference to Forssén 2018 in Forssén 2021a, p. 32. If a third country shall be included in a comparative analysis, I suggest that an EFTA country is chosen, inter alia since they are examples of third countries with VAT systems in the meaning of the EU law (see Forssén 2011, p. 283 and also above section 1).

[94] See Björn Forssén, *Vara och tjänst vid sammansatta transaktioner – tolkning och tillämpning enligt mervärdesskattelagen och EU:s mervärdesskattedirektiv* (Eng., Goods and services at composite supplies – interpretation and application according to the VAT Act and the EU's VAT Directive). Self-published 2020 (Forssén 2020c). In Forssén 2020c I create in Chapter 3 a tool for the case studies of composite supplies that I make in Chapter 4. Forssén 2020c is (since 23 August, 2020) available in full text on www.forssen.com.

[95] See Lindgren Zucchini 2020, pp. 269–277.

[96] See Mulders 2010, p. 58. See also Forssén 2021a, p. 33.

[97] See *Acknowledgements*, where the author direct a special thanks to a Louise Ratford “for her work in enhancing the language of this thesis”, that is a thanks for the help to enhance English in Lindgren Zucchini 2020.

jurisprudential subject in Sweden. That cannot be compensated by the theses being written in English. A development where English without any founded reason is set before Swedish within the VAT research in Sweden should be counteracted by the universities (Sw., universitet and högskolor).[98]

2.6 Conclusions

The review in sections 2.5.1–2.5.4.2 of the choice between Swedish and English for the writing of the theses mentioned in relation to a ”positive tendency” or a ”negative tendency” for the research result at various choice of method supports my conception that English is used – consciously or not consciously – in the VAT research in Sweden to compensate a research result that could be negative for the implementation question due to the choice of method. This is having an injurious effect on the realization of the EU-project in Sweden, since the approach in the VAT research in Sweden entails that the research result will not be useful for the legislators and the appliers of law within the EU, where the question of a successful implementation of the EU law in the field of VAT and in the first place of the EU’s VAT Directive is concerned. The relationship also gives negative repercussions in relation to other Member States.

In the tables below, I account for the two methodological main tracks according to Forssén 2020a and this article regarding the theses mentioned, and if a ”positive tendency” or a ”negative tendency” can be deemed to exist for the expected research result reagrding the implementation question and whether the thesis is written in Swedish or English.

Table – Main track 1

Thesis	**Method**	**Tendency**	**Language**
Westberg 1994	Comparative	Positive	Swedish
Alhager 2001	Law dogmatic completed with comparative	Positive	Swedish
Rendahl 2009	Comparative	Negative	English
Sonnerby 2010	Law dogmatic completed with comparative	Positive	Swedish
Forssén 2011	Law dogmatic completed with comparative	Positive	Swedish
Forssén 2013	Law dogmatic completed with comparative	Positive	Swedish
Papis-Almansa 2016	Law dogmatic completed with comparative	Negative	English

[98] By the way, I note that in the list of literature in Lindgren Zucchini 2020 it is like in Papis-Almansa 2016 referred to Henkow 2008 and Rendahl 2009 (see section 2.5.2.2), and to Papis-Almansa 2016, whereas Senyk 2018 – which is also a VAT thesis in Sweden written in English – is omitted, like what is the case in Lindgren Zucchini 2020 concerning other VAT theses in Sweden written in Swedish than Ek 2019. That Ek 2019, as law source, is set before Senyk 2018 in Lindgren Zucchini 2020 is precarious especially since the subject is similar in those theses and the approach is broader in Senyk 2018 than in Ek 2019 (see section 2.5.3.1).

Table – Main track 2

Thesis	Method	Tendency	Language
Öberg 2001	Customary law dogmatic*	Negative	Swedish
Henkow 2008	Purely law dogmatic**	Negative	English
Senyk 2018	Customary law dogmatic*	Negative	English
Ek 2019	Customary law dogmatic*	Negative	Swedish
Lindgren Zucchini 2020	Purely law dogmatic**	Negative	English

*[In Öberg 2001 it is stated that a customary law dogmatic method is used, and in Senyk 2018 and Ek 2019 I read out that applied law dogmatic method also is to be understood as a – in the tax law research in Sweden – customary one (see section 2.5.3.1).]

**[I used the term purely law dogmatic method for the first time in Forssén 2020a.]

In *Main track 1* all theses written in Swedish show a ”positive tendency”, and the method in thise cases is comparative or law dogmatic completed with a comparative method. Rendahl 2009 is written in English and the method is comparative. What is giving a ”negative tendency” is that the thesis shows a ”negative tendency” due to it lacking an internal perspective on the EU law in the field of VAT regarding the comparative analysis,[99] unlike the theses written in Swedish. In Papis-Almansa 2016 that is written in English the method is law dogmatic completed with a comparative method. However, I consider that that thesis also shows a ”negative tendency” where the probability of the research result becoming useful for the legislators and the appliers of law within the EU regarding the implementation question is concerned, which I base on the EU’s legislation in the filed of VAT being given an external – and not an internal – perspective also in Papis-Almansa 2016 regarding the comparative component of the method used.[100] Marta Papis-Almansa does not have Swedish as native language, but it should not have limited the references in Papis-Almansa 2016 to solely the theses in Sweden written in English at the time, that is Henkow 2008 and Rendahl 2009.[101] Any similar approach that I describe as clarifying at the interpretation of unclear EU-verdicts, by using more than one official language within the EU,[102] is neither used in Rendahl 2009 or Papis-Almansa 2016, but the openness to other languages than English I denote as weak in those theses.[103] Thus, my judgment of the language issue in connection with the theses of Main track 1 is that English is used in the VAT research in Sweden – consciously or not consciously – to compensate a research result that can be expected to become negative for the implementation due to lacks at the choice of method.

[99] See section 2.5.2.1.

[100] See section 2.5.2.1.

[101] See section 2.5.2.2.

[102] See sections 2.5.1.2 and 2.5.4.2.

[103] See section 2.5.2.2.

In *Main track 2* it is also rather obvious regarding the language issue that English is used – consciously or not consciously – to compensate a probable negative research result for the implementation question due lacks at the choice of method. Concerning the customary law dogmatic theses are Öberg 2001 and Ek 2019 written in Swedish, whereas Senyk 2018 is written in English. I have marked ”negative tendency” for the usefulness of the research result of those, but Öberg 2001 in Swedish and Senyk 2018 in English cancel each other out regarding the language issue. The choice of a law dogmatic method without any completing comparative analysis in Öberg 2001 seems to be based on a misdirected conception therein of the EU law's importance for the subject, and the implementation question is not mentioned in Senyk 2018, but the VAT is mentioned more in a perspective of economics therein.[104] Although Senyk 2018 brings up questions on the placement of supply where deliveries and intra-Union acquisitions are concerned, it is in Ek 2019 that deliveries and intra-Union acquisitions in the VAT law are given a study *in* VAT law. It is the limited material therein that makes me consider that a ”negative tendency” arise for the usefulness of Ek 2019 regarding the implementation question. Senyk 2018 is more of a study *about* the VAT law concerning which Member State that has the right of taxation regarding deliveries and intra-Union acquisitions, and has more the character of a handbook than a thesis where the implementation question is treated concerning such transactions or should Senyk 2018 be seen as a thesis about VAT in a perspective of economics. In the latter perspective it could have been more justified to write Senyk 2018 in English than if the thesis shall be perceived as a study *in* VAT law regarding the distribution of the right of taxation.[105]

However, it is concerning the application of what I denote as a purely law dogmatic method in Henkow 2008 and Lindgren Zucchini 2020 that it becomes the most clear in Main track 2 that English is used – consciously or not consciously – to compensate a research result for the implementation question that can be expected to become negative due to lacks at the choice of method. In sections 2.5.1–2.5.4.2, I show that a purely law dogmatic method risks entailing that the research in the VAT law no more is treated as a jurisprudential subject. That cannot be compensated by the theses being written in English, why I consider that a development where English is set before Swedish within the VAT research in Sweden should be counteracted by the universities (Sw., universitet and högskolor). This above all at a continuous acceptance of law dogmatics as something that is supposed to be especially suitable for jurisprudential studies in the subject VAT law, that is if what I denote a purely law dogmatic method would become something recurrent within the research in VAT law in Sweden.

3 The position of the Swedish language within the EU – the preparatory work to the Act concerning Sweden's accession to the EU in 1995 and the Language Act and the Language Act of Sweden in 2009

I finish by commenting below what is stated regarding the position of the Swedish language within the EU according to the preparatory work to *lagen (1994:1500) med anledning av Sveriges anslutning till Europeiska unionen* (Eng., the Act concerning Sweden's accession to the European Union in 1995) and according to *språklagen (2009:600)* – Eng., the Language Act.

[104] See section 2.5.3.1.

[105] See sections 2.5.3.1 and 2.5.3.2.

In the preparatory work to the Act concerning Sweden's accession to the European Union (also called the Accession Act or the EU-Act) it is stated in section 19.4 ("Svenska språkets ställning i EU" – Eng., the position of the Swedish language within the EU) that *the Swedish language will in the EU have a stronger position than in any other organization outside the North. It becomes one the Union's official languages, which does not only mean that all legislation and official documents must exist in a Swedish version, but also that official communication in writing and orally may be done in Swedish* (Sw., "det svenska språket får i EU en starkare ställning än i någon annan utomnordisk organisation. Det blir ett av unionens officiella språk, vilket inte bara betyder att alla rättsakter och officiella dokument måste finnas i en svensk version, utan också att skriftväxling och muntliga kommunikationer i officiella sammanhang får ske på svenska"). With respect of Swedish as one of the smaller languages being naturally weaker in practice than the languages spoken by a greater number of people, the legislator considered it *anxious that Swedish is actively used in relation to the EU's institutions so that the right to use the own language will be kept alive* (Sw., "angeläget att det svenska språket aktivt utnyttjas i umgänget med EU:s institutioner så att rätten att använda det egna språket hålls levande").[106] In Forssén 2011 I also mention that it in sec. 4 of the Language Act, which came into force on 1 July, 2009, is stated that Swedish is the main language in Sweden, where I also noted that it by sec. 13 second paragraph of the Language Act follows that Swedish shall be defended as an official language within the EU.[107]

Thus, it is in my opinion not in compliance with the work on the EU-project to reduce Swedish in the VAT research in Sweden, by continuing to hold English before Swedish like what I consider is the case with reference to my revies of the language issue in that research. By sec. 5 of the Language Act Swedish is as main language the common language in society, to which all living in Sweden shall have access and that shall be possible to use within all sectors in society. According to sec. 6 of the Language Act the State and local authorities have a special responsibility for Swedish to be used and developed. This means in my opinion that the State and local authorities shall not assign means to research where Swedish is set after English, why all such tendencies within the VAT research in Sweden should be counteracted by the universities (Sw., universitet and högskolor).

I argue in this article for the Nordic to be emphasized in the VAT research in Sweden, and that it does not apply only to Scandinavian languages, but also to Finnish. This is supported not only by my review above of the language issue, but also of the Language Act stating in sec. 8 that *the State and local authorities have a special responsibility to defend and promote the national minority langages* (Sw., "det allmänna har ett särskilt ansvar för att skydda och främja de nationella minoritetsspråken"). Finnish is not only one the EU's official languages, but Finnish has moreover according to sec. 7 of the Language Act a position as minority language in Sweden, together with the languages Yiddish, Meänkieli, Romani Chib and Lappish, which although are not official languages within the EU.

[106] See prop. 1994/95:19 (Sveriges medlemskap i Europeiska unionen – Eng., Sweden's membership of the European Union) Part 1 pp. 233 and 234 (prop., abbreviation of *regeringens proposition* – Eng., government bill).

[107] See Forssén 2011, p. 69.