

From: [REDACTED]
To: [RULE OF LAW NETWORK](#)
Subject: Economic dimension of the rule of law - additional feedback on Croatia
Date: 23 January 2023 11:51:28
Attachments: [image001.png](#)
[image002.png](#)
[Rechtsstaatlichkeit_EN_twopager_final.pdf](#)

Dear Sir or Madam,

in addition to our feedback last week on the consultation on the rule of law, we would like to provide slightly belated feedback on rule of law cases in Croatia which we have received from our Croatian foreign trade office.

1) Excess profit tax for large companies (without restriction to specific industries) based on EU Windfall Tax for excess profits of energy companies:

In Croatia, at the end of 2022, an excess profits tax was introduced retroactively for the year 2022 for all companies with a turnover of more than EUR 300 million and a taxable profit of more than 20% than the average of the previous 4 years. Up to about 40 Austrian branches are potentially affected by the excess profits tax based on their turnover.

In general, Austrian subsidiaries in Croatia strongly criticize the special tax for the following reasons, among others:

- Losses from previous years are not taken into account.
- Companies that have continued to invest in Croatia in a trustworthy manner in recent years and have increased sales and thus profits due to capacity expansions, which also create new jobs or maintain existing ones, will be affected by the special tax.
- Companies that, due to the nature of project business, in 2022 will earn revenues from previous years, which they have pre-financed for years at their own expense, will be affected by the special tax.

2) Pressure on food retailers with threats of far-reaching price regulations due to suspected but unproven unjustified price increases after the introduction of the EURO.

Since the beginning of January, the Croatian government has repeatedly accused food retailers of unjustified price increases following the introduction of the euro. There are repeated threats to impose far-reaching price regulations, to impose special taxes or even to cancel energy subsidies for food retailers. The government's rhetoric is causing enormous damage to the image of food retailers. To date, however, inspections have revealed hardly any violations by the major food retail chains.

We would like to apologize for the slight delay and hope that the input will still find its way into the consultation.

Thank you for including these cases in your review.

Best regards,

[REDACTED]

[REDACTED]



Gesendet: Mittwoch, 18. Jänner 2023 18:58
An: 'rule-of-law-network@ec.europa.eu' <rule-of-law-network@ec.europa.eu>
Betreff: economic dimension of the rule of law

Ladies and gentlemen,

since the European Commission has become increasingly concerned with the rule of law, we have been calling for greater attention to be paid to the economic dimension of the rule of law.

Reliable rule of law structures in economic life and rule of law behaviour by public authorities are key prerequisites for investment and trade. Companies operating across borders emphasise the central importance of reliability and credibility of the political and legal framework for their investment behaviour and, in addition to a lack of political stability of certain government systems, complain about the unpredictability or short-term nature of legal regulations and the lack of reliability in the enforcement of the law.

There is an increasing tendency towards protectionism and the implementation of discriminatory measures against foreign investors in some member states. Non-compliance and circumvention of European regulations lead to enormous distortions of competition for companies operating in the internal market. There must therefore be a stronger focus on the uniform and rapid application, implementation and enforcement of existing legislation.

We have participated in the Commission's ongoing consultation. However, as it is not possible to include individual examples from economic life in the existing chapters, we would like to focus specifically on the situation in Hungary in economic terms in this email.

Some of the cases refer to Single Market problems, but all of them show a lack of rule-of-law framework conditions, especially towards foreign business operators in Hungary.

We would like to draw your attention to the following cases which we have received from our Hungarian foreign trade office:

- **Special tax for retail trade**, which practically only affects foreign chains depending on turnover (since 1.1.2023 increase of the special retail trade tax at the highest tax rate to 4.1%).
Current status: 11.11.2022 : Submission of a Single Market complaint by EUROCOMMERCE.

- **Price freezes**: The HU government has intervened in the market prices of various products to counteract the steadily rising inflation and to protect the population from further burdens. Currently, there is an interest rate freeze for mortgages, fixed prices for energy and, since 1.2.2022 and 15.10.2022 respectively, maximum price regulations for nine basic foodstuffs (granulated sugar, wheat flour, sunflower oil, pork legs, chicken breast, milk with 2.8 % fat content, chicken backs, eggs and potatoes). The price regulation for fuel was lifted as of 6.12.2022 due to supply problems in HU, for food products it was extended until 30.4.2022. The EC initiated an infringement procedure against the price regulation for fuel on 15.7. as it only applies to HU permits. A complaint against the food price regulation was already filed in August by EUROCOMMERCE (supported by the HU trade association OKSZ) - this is currently being examined by DG Agri.

- The HU government has imposed **special taxes** on companies in certain sectors (credit institutions and financial companies, insurance companies, energy companies, retail trade, telecommunications, airlines, pharmaceutical trade). The HU government expects this to generate revenue of HUF 800 billion (approx. EUR 2.1 billion). This revenue is to be used to finance the newly created two funds, one to protect the operating cost cap in force since 2013 and the other for national defence in 2022 and 2023.

- Introduction of **export registration obligations** with state right of first refusal for various products:

- Since 9 July 2021, an **export registration obligation** for **strategically important raw materials and products of the construction industry** (including gravel, sand, crushed stone) has been introduced, whereby the HU government has a right of first refusal or purchase for the duration of the registration check. Current status: The European Commission has taken up the Single Market complaint submitted by the European Policy Department of the Austrian Federal Economic Chamber in September 2021 and initiated infringement proceedings against HU. The reasoned opinion was sent to the Hungarian government on 6 April (= 2nd stage of an infringement procedure: HU has a maximum of 2 months to bring itself into conformity with the law, otherwise an action will be brought before the Court of Justice). The export restriction is currently valid for an unlimited period.

- Since 6. March 2022, **products of strategic importance for feed or food supply** (wheat, durum wheat, rye, barley, oats, maize, soybeans and sunflower seeds) must be declared in advance to the competent authority when delivered abroad. When exporting these products abroad, the HU state has a right of first refusal and, in the case of delivery without a change of ownership (within a group of companies), a right of purchase. The export restrictions are currently valid for an unlimited period.

- Since 10. August 2022, the **export of firewood** is subject to registration with the competent authority. The Hungarian Ministry of Agriculture has 30 days to approve the export or to exercise a right of first refusal. This export restriction applies indefinitely. Current status: 11.8.2022: Complaint to DG Grow due to unlawfulness of the internal market and violation of the standstill period.

- Since 10. September 2022, the **export of coal, lignite, charcoal, coke, briquettes** is subject to registration, whereby the HU government has a right of first refusal or purchase for the duration of the registration review.

- Current status: 15.9.2022: Complaint to DG Grow due to unlawfulness of the internal market and violation of the standstill period.

Furthermore, we would like to draw your attention to our **twopager** on the subject raised (see attachment).

The Austrian Federal Economic Chamber therefore demands that monitoring be intensified in this direction and that the economic dimension of the rule of law be brought more into focus. It should be given much greater consideration in the rule of law mechanism or a separate economic chapter should be included in the Rule of law report of the Commission.

Best regards

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[Datenschutzerklärung](#)