

# THE “RULE OF LAW- PRINCIPLE” IN THE EU

EU COMMISSION'S ANNUAL REPORT ON THE RULE OF LAW - THE ECONOMIC DIMENSION SHOULD BE GIVEN MUCH GREATER IMPORTANCE

The existing examination concerns the areas of

Justice system	Anti-corruption framework	Media pluralism	Other institutional issues related to checks and balances
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**Rule of law as a location factor:** Rule of law and legal structures are key predictors of investment and growth. Companies seek reliable and consistency of legal and legal framework for stability and predictability. Countries with weak legal systems and lack of rule of law are less attractive for investment.

### Examples of protectionist and nationalist tendencies in some member states

with the Hungarian government at the beginning of 2022 through participation of HU company Corvinus Internationale InvestitionsAG (state holding) with 45% - immediately before the EC found a violation of the Merger Regulation through the original prohibition of the transaction (without HU participation) by HU.

- **Introduction of a special tax on profit surpluses for mining companies** or producers of cement, lime or gypsum with annual turnover > HUF 3 billion and extension of the affected products (brick and building ceramic products) since February 2023. HU has set a threshold price below cost price for these product groups and imposed a special tax of 90 % on the turnover generated by the prices above cost price. Due to the design of the tax, practically all HU mining companies are exempt from the tax, while foreign companies are subject to the tax. In addition to violating internal market rules, there is also a violation of Article 16 of the CFR (freedom to conduct a business) with regard to the official setting of prices below cost price (HU 2021/2023).
- AT company has a **pellet plant in Croatia** and relies on **wood allocations from the Croatian State Forests**, which are made through tenders. AT company has again received only about 30% of the volume of wood pellets it is entitled to, while HR competitor companies have received the full allocation. HR-State Forests is generally considered a non-transparent organization. (HR 2021-2023)
- **Croatian courts**, in particular the HR Supreme Court, have issued several **rulings that raise doubts about rule of law standards** and put banks in particular at risk (CHF loan disputes; HR supreme courts issue legal opinions that are binding on all second instance courts but do not need to be reasoned and are not subject to review by the HR Constitutional Court). (HR 2020 and 2021)
- **Export bans** in logs (which had existed for years before) and firewood (which was then quickly withdrawn) (RO 2022/23).
- **Price caps** on pellets and firewood, with Romanian companies then selling the firewood or pellets at the capped price but charging at least the same amount extra for transportation, administration, and other items. (RO 2022/23).

These abuses cannot be directly assigned to the existing four pillars, they are not a problem of "corruption", often they are not directly contrary to the internal market.

**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.**

#### Introduction of an investment protection system within the EU:

The ECJ's "Achmea" ruling on investment protection left a legal protection vacuum, especially in Central and Eastern Europe. The European Commission plans to present a non-binding investment facilitation mechanism in the coming months. However a **binding instrument** would be of pivotal importance.

#### Rule of law and enlargement:

- The prospects of EU accession are drivers for economic reforms and strengthening the rule of law in candidate (and potential candidate) countries.
- **Austria has close economic ties with all candidate countries** in the Western Balkans and is one of the **largest investors** in the region.
- Of utmost importance is a **credible enlargement strategy**, therefore it is important that the official accession negotiations with Albania and Northern Macedonia continue rapidly.

## CONTACT

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