Compliance with EU law in Hungary: A matter of political preferences?

Kállai, Andrea Szilvia

Compliance with EU law in Hungary: A matter of political preferences?

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Author: Andrea Szilvia Kállai
Student number: 1424092

Supervisor: Dr. D.D. Toshkov
Second reader: Nadine Raaphorst

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Abstract

This research investigates the compliance with European Union law in the policy area of internal market in Hungary. The study focuses on economic and political motivations for non-compliance. It gives an overview of the Hungarian EU membership by exploring the political situation and the implementation performance of the country. Two case studies are presented that aim to analyse the advantages, benefits and disadvantages, possible consequences of non-compliance. The thesis argues that national political preferences and governments of the EU member states play an important role in compliance.

TABLE OF CONTENTS

I. INTRODUCTION 3
II. LITERATURE REVIEW 6
II.1. Compliance with European Union Law 6
II. 2. The importance of the internal market 7
II. 3. Hungary' in the European Union 8
II. 4. Hungary's economy and the internal market 10
III. THEORITICAL FRAMEWORK 12
III. 1. Transposition, implementation and compliance 12
III. 2. Infringement procedures 13
III.3. Political interests 14
III.4. Economic interests 15
III.5. Hypotheses 16
IV. RESEARCH DESIGN 17
IV. 1.Method of analysis 17
IV. 2. Case selection 18
V. EMPIRICAL ANALYSIS 20
V.1. Implementation of the Service directive 20
V. 2. Cafeteria scheme 21
V.2.1. Erzsébet meal-voucher 22
V.2.2. Széchenyi card system 23
V. 2. 3 The impact of Széchenyi card and the Erzsébet meal voucher on the economic 24
V.3. PLAZA STOP ACT 28
V.3.1. Plaza Stop Act between 2012-2015 28
V.3.2. The current legislation 30
VI. CONCLUSION 31
II. REFERENCES 33

I. INTRODUCTION

‘The success of the European Union (EU) integration project depends on the compliance of member states with EU legislation’(Zhelyazkova 2013, p. 703.).

The European Union currently consists of 27 member states that needed to harmonize their legal systems and comply with EU law, which is the very ‘basis of the functioning of the Union’ (Horváth 2011. p. 209). Brexit highlighted that not only compliance matter, but so does public opinion on the European Union membership. As of January 31, 2020, after being a leading member state of the European integration for almost half a century, the United Kingdom is no longer part of the European Union respecting the outcome of the referendum held on the June 23, 2016 (European Commission, Brexit).

Compliance with EU legislation is one of the most important factors for the efficient and successful European integration (Zhelyazkova 2013). The EU legislation has a huge impact on the national legal systems of the member states, therefore it directly affects almost every aspect of the lives of the nearly 450 million European citizens. For example, the internal market of the European Union, regarding the free movement of goods, services, capitals and people, provides many opportunities to EU citizens: it attracts foreign investments, diversifies the economy, raises competitiveness, simplifies doing business cross border.

The European Union law, the so-called *acquis communautaire* is based on numerous sources, namely primary, secondary and tertiary law. The *primary legal sources*, the Treaties can only enter into force if they are ratified by all member states and are binding for all parties (Horváth 2011). The *secondary legal sources* consist of regulations, directives, decisions, recommendations and opinions while the *tertiary law* consists of other legal sources, such as international treaties in which the European Union as an international legal personality is involved (Horváth 2011.) Without further analysing the different types of legal sources of the European Union law, I will focus on the directives.

The most interesting field to study is the implementation of EU directives, because the European Union allows the member states to devise their own laws, it only sets the goals that must be achieved, but it is up to the countries how they achieve them (Horváth 2011). Implementation is relatively understudied compared to formal transposition. (Dimitrova and Steunenberg in Toshkov et al 2010). No doubt that successful transposition into national law is

more “measurable” in the form of changes of legislative rules than how the member states practice and execute the legislations in reality.

Why are the directives not transposed into national law? What factors can contribute to transposition delay? What can cause implementation problems? What role do the national parliaments and the governments play when implementing an EU directive? What means does the EU have for law enforcement? Why do member states not comply with EU law? Do member states choose not to transpose directives into national law as a way to show their disapproval of directives (Falkner, G. & Hartlapp, M. & Leiber, S. & Treib, O. 2004)?

According to Falkner, G. & Hartlapp, M. & Leiber, S. & Treib, O. (2004) directives are the outcomes of long discussions and bargains between member states and often the member states do not entirely support the directives which can lead to implementation problems. In many cases, the national interests of a member state are not in line with the interests of the European Union, because the national governments can be adversely affected by complying with an EU directive, either economically or politically.

However, the competitiveness of the European Union is very much of the interests of all member states. In fact, increasing competitiveness of the European Union (at the time European Communities) was the main reason for establishing the internal market in the first place, in the 1990’s. It does not mean that member states agreed to all necessary acts to create the internal market, nor to the application of many deregulatory measures. Creating the internal market has been a very long and a still ongoing process. While the member states enjoy the benefits of the EU market without borders, they also try to protect their own national markets (Kaeding 2008) even increasingly so, since the outbreak of the global pandemic, COVID-19.

I will examine the services in the internal market. I have chosen this sector for my research because it is very important to the European Union’s economy, and services add over 70 % of the EU’s GDP (Europan Commission, Single Market for Services).

This study focuses on compliance problems with EU law, analysing two Hungarian cases, and attempts to answer the following research question:

Why in some cases member states comply with EU law while in other cases they go to the Court of Justice?

The goal of this project is to investigate the different motivations and incentives of member states for non-compliance with EU legislation in general, and to present an in-depth analysis of the Hungarian compliance by examining two cases that had a direct effect on business and on Hungarian and EU citizens. Both cases deal with non-compliance of an internal market legislation. Hungary has been receiving increased attention for its 'democratic backsliding", for its political developments, for having passed a new constitution (to be referred as the "Basic Law") and for many debatable acts, such as the forced retirement of Hungarian judges, central bank law, media law and education law amendments (the Central European University law).

In the first case (Case C-179/14) that I will analyse Hungary has infringed *Directive 2006/023/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market* (Services Directive). The case was referred to the Court of Justice (hereinafter: the Court) by the European Commission, and in February, 2016, the Court declared that Hungary failed to fulfil obligations by maintaining the Széchenyi leisure cards (hereinafter: SZÉP leisure card) and the Erzsébet meal vouchers. Furthermore, the companies that were negatively affected by the changes made in the cafeteria system in 2011, sued the Hungarian Government and went to the International Centre for Settlement of Investment Disputes (Váczi 2019).

In the second case, the European Commission launched infringement procedure against Hungary on April 16, 2014 (infringement number: 20132086) because the country introduced the so-called 'Plaza Stop Law' which was implicitly disadvantageous for foreign companies and limited the investment opportunities. The case was closed on February 25, 2016, because Hungary changed its legislation, the case was not referred to the Court of Justice.

This paper is organized as follows. The thesis starts out with a literature review on compliance with EU law focusing on the implementation performance of the 'new member states. Then it reviews the Hungarian accession to the EU, the current political situations, the 'country's relatively smooth path to the European Union' (Bátory 2012, p. 164.) and the increasing concerns for democratic backsliding. The last part of the literature review examines the development of the internal market, how it contributed to the economic growth of the European Union and what effects it has had on the Hungarian economy. In the third section, I examine the difference between compliance, implementation and formal transposition. They all are very important factors for researching the relationships between the European Union and the member states. I present two hypotheses and my assumptions.

The next chapter introduces the research design by explaining the method of analysis, case selection, and the operationalization and conceptualization of variables. Then I analyse the carefully selected cases, exploring the political, economic and other motives for non-compliance.
In the last chapter I discuss the results and findings of the research.

II. LITERATURE REVIEW

II.1. Compliance with European Union Law

As a consequence of the enlarged European Union with thirteen relatively new member states joined in 2004, 2007 and 2013, academic studies on compliance became increasingly important because non-compliance with EU law can undermine the functioning of the European Union. Even though they are all part of the European integration, member states are very different from each other considering the time being a member of the European Union, their history, political environment and political culture. Scholars often try to organize the member states into groups for research purposes, 'old' and 'new' member states labels are just a few of them.

Masterbroek (2005) states that compliance attracted academic attention as early as the 1980's, but the author also notes that the start of researching this field was rather eclectic because scholars focused on legal and administrative problems, rather than investigating the motivations, interests or preferences of member states. Interestingly, she claims, compliance was considered an 'a-political' process.

According to Zhelyazkova and Yordanova (2015) the number of researches focusing on national compliance with EU law is flourishing, which is no surprise at all, because correct implementation of EU decisions are the heart of the European Union. The authors also note that implementation performance is calculated on the national implementation measures, but it does not give a full picture of the *quality* of the notified measure.

The formal transposition has received more attention from scholars and more studies have been published on this topic compared to actual implementation, which has not been thoroughly investigated (Dimitrova and Steunenberg in Toshkov et al, 2010).

Börzel (2001) argues that basically compliance problems are non-existing, because the number of infringement proceedings was modest with an average 80 rulings of the Court of Justice annually between the period of 1990 and 2000.

Transposing the European law, the so-called acquis communautaire into national law has been quite a challenging task for all the member states, especially for the "new" post-communist countries from Central and Eastern Europe. There was a fear, which proved to be wrong, that after accession the compliance performance of new member states would quickly start deteriorating since the threat of withholding EU membership is no longer there (Sedelmeier 2008).

II. 2. The importance of the internal market

'What started out as an instrument for centralizing Europe's steel sector has evolved into an extremely potent regime that regulates an astonishing variety of policies' (Mastenbroek 2005, p.1103).

The European Community for Steel and Coal was founded not only for economic recovery but for preventing conflicts between France and Germany and for ensuring lasting peace in Europe (Horváth 2011). In 1952, when the coal and steel industries were integrated in Western Europe, no one could have dreamed of a European market where there were no barriers. In 1985, the White Paper presented a whole list of what needed to be done in order to create the internal market, and the end of 1992 was the deadline for achieving the goals (Moravcsik 1991). The internal market is the core of the European integration, without doubt it is one of the greatest achievements of the EU. First of all, it was established in order to raise the competitiveness of the European Communities and to keep up with the competitiveness of the United States of America but by dissolving the barriers, internal market has contributed to the economic growth of member states. The four freedoms – goods, services, capital and people – proved to be beneficial for business, citizens and the entire economy as well.

According to the document issued by the European Commission and called 'Internal Market – Ten Years Without Frontiers' (2003) - without presenting every fact in the study - the internal market contributed to the following:

- EU GDP in 2002 is 1.8 percentage points or €164.5 billion higher;
- About 2.5 million jobs have been created in the EU since 1992 that would not have been created without the opening up of frontiers;

- The Internal Market has made Europe a much more attractive location for foreign investors;
- In many cases, cheaper prices for goods and groceries thanks to the opening up of national markets and the resulting increase in competition;
- More than 15 million EU citizens have moved across borders to work or to enjoy their retirement.'

('Internal Market – Ten Years Without Frontiers 2003, p.5)

The internal market creates new opportunities for member states and lets the EU countries access a much bigger market then their own. It is vital for any country to have good trading possibilities, but essential for small countries like Hungary. Hungary has a very open economy that makes the country very vulnerable to external changes and is heavily dependent on the economic performance of other EU member states such as Germany. In the next section I will investigate Hungary's role in the EU.

'The overall success of enlargement is incontrovertible: new member states (NMS) and old member states (OMS) alike have benefited economically from the expanded internal market, and geopolitically from greater stability and security' (Vachudova 2014. p. 122.).

Establishing the internal market also meant that member states had to adopt more than 300 pieces of legislation (Masterbroek 2005). However, there are always new challenges rising and the legislative process related to the internal market is not finished, it continues even today (Horváth 2011).

II. 3. Hungary' in the European Union

Background

Hungary joined the European Union on 1st May 2004 along with nine other member states, but the relations between the country and the European Communities dates back to the 1980's. In 1988, Hungary established diplomatic relations with the European Communities and the same year a trade and commercial and economic cooperation agreement was signed. (European Commission 1989) After the fall of the communist governments in Central and Eastern Europe, Hungary was the first post-communist country to declare its intention to be part of the European Communities. The idea of joining the European Communities united the political landscape and it was supported by all major political parties as well as the public (Bátory 2012). The goal of

the first democratically-elected, post-communist government lead by Prime Minister József Antall was to help the country conclude an association agreement with the European Communities and to apply for a full membership in the near future (Bátory 2012). The date of application for EU membership was 31st March, 1994 and accession negotiations started exactly four years later, on 31st March, 1998 (European Commission 2001). As I have mentioned, the majority of people supported the EU membership, and the referendum about accession to the EU held on 12nd April, 2003, proved it as well. Even though not many people turned up to vote (only 45,68% of the registered voters appeared at polling station) 83,76% of them voted in favour of joining the European Union (Választás, 2003).

Hungarian compliance with EU Law

In the following overview of the Hungarian EU membership I primarly rely on the brilliant book which investigates every aspect of the country's membership between the period of 2004 and 2014 edited by Marján (2014).

Implementing the acquis communautaire into the national legislative system did not start at the time of EU accession, it had begun in 1994 when the European Agreements between Hungary and the EU came into force on 1st February, 1994. Even before the EU accession, the EU shaped the Hungarian domestic reforms through conditionality (Bátory 2012). The economy, the political system, the political institutions all needed to be changed. The goal of the European Agreement was to provide a framework for gradual integration into the European Union (EC website).

According to the 22nd Annual Report published by The Commission on Monitoring the Application of Community Law (2004), Hungary scored an impressive - above average - 98,66 % of national transposition measurement, disproving again the fear of the 'EU15' that new member states could not adopt the EU law.
Hungary concerning the transposition of EU directives into the national law system had been performing rather well (Marján, 2014) but recent data shows that there have been a surge in the number of infringement cases against Hungary open between 2015 and 2019.

The latest report of the European Commission on monitoring the application of EU Law (2019) showed that:

- In the year of 2019 alone, 33 new infringement cases were launched against Hungary:

Sector	Number of new infringement cases	Number of new late transposition infringement cases opened
Internal market, industry, entrepreneurship and SMEs	6	0
Mobility and transport	5	2
Migration and home affairs	5	2
Health and food safety	3	3
Environment	3	0
Justice and consumers	3	3
Taxation and costums union	3	0
Energy	3	3
Other	2	4
Total	**33**	**17**

- In 2015, there were 38 infringement cases against Hungary open while four years later there were 66.

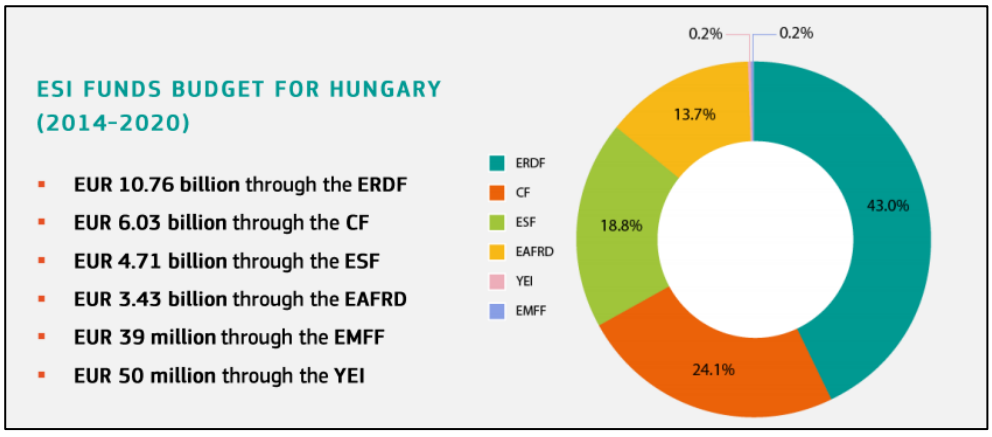
II. 4. Hungary's economy and the internal market

Hungary is a small country with a very open economy, which means that the economic performance depends on the economic performance of other countries and Hungary is extremely sensitive to changes. In this region, in comparison to the Visegrad 4 countries, Hungary has the most open economy.

Eurostat data (2020) shows that the trade in goods by top five partners of Hungary in 2020 were mostly EU member states:

Trade in goods by top 5 partners, Hungary, 2020 (in %)					
Imports			Exports		
1.	Germany	24%	1.	Germany	28%
2.	China	9%	2.	Slovakia	5%
3.	Austria	6%	3.	Romania	5%
4.	Poland	6%	4.	Italy	5%
5.	The Netherlands	5%	5.	Austria	5%

The economy heavily relies on EU funds. During the period of 2014-2020, Hungary received a total of EUR 25 billion from the European Structural and Investment Funds, with a national contribution of EUR 4,63 billion. The Funds - European Regional Development Fund (ERDF), Cohesion Fund (CF), European Social Fund (ESF), European Agricultural Fund for Rural Development (EAFRD), Europian Maritime and Fishering Fund (EMFF), and Youth Employment Initiative (YEI) - aim to support the socio-economic development of the country.



(Source: European Commission (2016), European Structural and Investments Funds)

Small and medium-sized enterprises are struggling to make progress, they are unable to make investments, particularly the domestic business investments are held back by the frequently changing regulatory environment'(OECD Economic Surveys, Hungary, 2016). It should be noted that the Hungarian government seeks to improve the business environment: the corporate income tax rate has been lowered from 19% to 9%, which is currently the lowest rate in the

European Union (European Commission 2017). Also, the National Bank launched a new program called Növekedési Hitelprogram that financed 40 000 small and medium-sized enterprises with a total of 2800 milliard HUF between June 2013 and March 2017 (MNB 2017).

III. THEORITICAL FRAMEWORK

European Union directives are the results of quite a long process, which includes negotiation and cooperation between member states, institutions, interest groups and different actors. Before directives are accepted, member states can express their opinion about the subject matter. Popular choice for research is the connection between implementation performance and the preferences of member states before an EU law is adopted. The legislative process of the EU is similar to the legislative process of a state, but it involves more actors and most importantly more levels. EU directives are actually taking place at two levels, at national level and at EU level. When we talk about EU decision-making and legislative process, we always have to take into consideration the national level. We cannot ignore the fact that member states, of course, try to pursue their own interests at the European level.

III. 1. Transposition, implementation and compliance

Until now, I used the concepts transposition, implementation and compliance interchangeable. But it is important to make a distinction between them because although the concepts are similar to each other, their meanings are different.

The term *transposition* is probably the easiest of all three to define and to measure. In this paper I will use transposition as the 'process of transforming directives into provisions of national law by the competent national legislative body or bodies' (Kaeding 2011, p. 23 in Prechal 1995: 5). In other words, it is a legal process carried out by public authorities. But even if the EU law is transposed into national law correctly and on time, it does not mean that it would reach the desired effect, and compliance problems may occur.

However, the distinction between implementation and compliance is more difficult. *Implementation* is 'the last and arguably best measure of how Europe hits home, how citizens experience policies conceived in Brussels'. (Dimitrova and Steunenberg 2013, p.246.) Transposing EU legislation into national law does not mean that the practice changes, in that case implementation problems can occur.

The concept *compliance* is the broadest term, meaning, it includes not only the legal process, but the practice and behaviour of a state towards EU law (Haas 1998). Its actors can be private business actors, public at large, public authorities and governments (Toshkov 2009).

III. 2. Infringement procedures

A compliance study would not be complete without examining the infringement procedures. The number of pending cases, the time it takes for member states to reply to the European Commission, the policy areas in which infringement cases are launched, all these factors related to infringement procedures give us useful information about the implementation performance of member states.
Infringement procedure is launched when member states fail to fulfil their obligations and when they do not comply with European Union Law.

The European Commission is responsible for monitoring the implementation progress and for the enforcement and correct application of European Union law. Not only the Commission monitors enforcement of EU law, businesses, NGO's, members of public, basically anyone has the right to report a potential breach of EU law.

<u>There are three types of infringements of EU law:</u>

- failure to notify: a member state does not notify the Commission on time of its measures to transpose a directive;
    - b) non-conformity/non-compliance: the Commission considers that a Member State's legislation is not in line with the requirements of EU legislation;
    - c) incorrect/bad application: EU law is not applied correctly, or not applied at all, by the national authorities.

Annual Report of the Commission (2015 p.16)

The European Commission as the "Guard of the Treaties" makes sure that every member state complies with EU law. Even though some member states may claim that the Commission is "punishing" them by launching infringement procedures against them, the role of the Commission is to enforce the EU law. First, the Commission tries to solve the problem through EU Pilot dialogue, if it fails, the Commission launches infringement procedure, but in the pre-litigation phase the Commission gives member states time to explain the situation.

The European Commission's Single Market Scoreboard (2015) shows that the average duration of infringement procedures was 30,7 months, more than two and a half year. Hungary's duration of infringement procedures was 22,4 months. In 2019, infringement procedures lasted for an average of 34,8 months while for Hungary it took 32,2 months to close a case (Single Market Scoreboard 2019), therefore the Hungarian cases became longer by 9,8 months.

III.3. Political interests

There are numerous reasons for non-compliance of a member state with EU law and one of the strongest motivations can be political interests. Since the time of the electoral mandate of a politician is limited, as well as the time of governments, leaders of member states tend to avoid introducing unpopular acts, especially close to elections. I argue that political motivation is often an incentive for non-compliance. If cases reach the Court of Justice, member states might intentionally choose not to comply with EU law. However, detecting the exact political interests is challenging.

My theory is that compliance is often, if not always, influenced by the political system of member states, by the political environment. National interests and the EU decision-making are inseparable from each other. Understandably, every member state would like to have advantageous legislation. When the interests of 27 member states need be harmonized and shape into legislation, conflicts and tension between member states are inevitable. Political interests and compliance with EU law also cannot be separated, because obviously the correct implementation of EU laws into national law system is the duty of the public authorities. Public authorities are part of public administration and it is up to the governments how they organize public administration. For example, in Hungary, after the landslide victory of FIDESZ political party in 2010 during national election, a major reform in public administration took place. In fact, it seems it was only the beginning of a new era, the reform has not finished yet.

As Dimitrova and Steunenberg (2013 p. 246) argues, 'implementation is a three-stage game with key roles for an enforcer, domestic policy-makers and the implementing actors.'
In my opinion, compliance is the most political of the above mentioned terms compared to transposition and implementation. Of course, transposition problems can derive from political motivation as well, but often they are due to the lack of administrative capacity.

Very few cases reach the Court of Justice compared to the number of infringement procedures launched. If member states breach EU law unintentionally and infringement procedure is

launched, usually member states try to change the legislation and negotiate with the European Commission. Member states have to have really strong motivations not to comply with EU law if they are willing to be referred to the Court of Justice by the European Commission. The Court has the right to impose sanctions on member states and this can be a strong incentive for compliance. However, it takes plenty of time from the launching of the infringement procedure until the Court of Justice makes its decision about breaching EU law. As the "Guardian of the Treaties", the European Commission plays an important role in enforcing EU law. Needless to say, not only the EC monitors the correct transposition, companies and citizens can also make complains about non-compliance, as discussed before. This is exactly what happened with the case of SZÉP leisure card system and Erzsébet meal voucher. It was the foreign companies that drew attention to the non-compliance, because by changing the legislation, the Hungarian Government, most like intentionally discriminated foreign companies. Unlike incorrect transposition, non-compliance can be undetected.

III.4. Economic interests

I use cost/benefit approach to explore the research question. When member states implement EU law into their national legislative systems, they often choose to do so by the most cost efficient way.

The Annual Report of EC (2015) shows that the majority of infringement procedures were launched because of incorrect transposition and/or bad application of EU laws while less cases were opened because of late transposition.

In my opinion, when we examine the economic motivations of a member state against whom there is already an infringement procedure launched, we need to consider two things. The first is, the Court of Justice has the right to impose financial sanction, which has to be a significant amount of money, otherwise it would lose its enforcement power. When the infringement procedure is launched, the European Commission does not propose financial penalties, it gives time to member states to answer and to explain the situation. First, the Commission sends a letter of formal notice, then a reasoned opinion, and the final stage of the infringement procedure is the referral to the Court. The Commission only proposes financial penalties when it refers member states to the Court. It means member states face financial penalties only in the final stage of the infringement procedure. If member states do not comply with EU law because it is economically beneficial for them, they will continue breaching EU law as long as they can, even during the time of the infringement procedure.

III.5. Hypotheses

In order to analyse the compliance of member states with EU law presented in the case studies, I will use the following hypotheses.

Hypothesis 1: Cases reach the Court of Justice if benefits of non-compliance are high enough.

There are many reasons why member states do not comply with EU law. According to Toshkov (2010) compliance performance of EU countries depends on institutional features of the European states, veto players, the government capacity and quality, the difference between EU and national policy, and preferences.

If member states do not comply with EU law *intentionally*, there is a higher possibility that cases reach the Court of Justice. Countries being referred to the Court of Justice for non-compliance is quite a long procedure. The European Commission first tries to negotiate with member states and tries to find a solution before referring them to the Court. According to the website of the European Commission, if breaching the EU law is detected, the European Commission sends the member state a letter of formal notice and provides two months for the EU country to reply. If the member state fails to convince the European Commission, the Commission may issue a reasoned opinion and gives another two months to comply. Member states are given a reasonable amount of time to change their legislation and comply with EU law, if they are willing to do so.

Despite the fact that there are hundreds and hundreds ongoing infringements procedures at the EU27 level, member states also take into account the political relations and interests when intentional breach of law occurs. Having a dispute with EU bodies which might end up at the Court is worth risking (political) alliances at EU level? How can national governments present the ruling of the Court to the public? Can they gain or lose support?

Hyphothesis 2: Lower economic benefits of non-compliance increase the member states' willingness to fulfil the obligations and not breach the EU law.

If economically and financially justifiable, member states are willing to breach the EU law and not transpose the directives correctly into national law.

If member states do not fully agree with the directives, they might not act on time to fulfil their obligations. Every piece of new legislation takes time and money. Public administration has to make sure that they have the capacity and resources to correctly transpose the regulations.

Even if they do, there still is a chance that it is not in line with the economic goals of the member states. Needless to say, the goal of the European Union is to increase the competitiveness of the EU as a whole and make the economy more prosperous, but it does not mean that every member state profits from a certain new legislation. Very often member states are hesitant to fully comply with EU laws because it is not in their best economic interests. If we think of environmental directives, they do not necessary bring economic benefits immediately, and they control the economic acts of member states.

IV. RESEARCH DESIGN

IV. 1.Method of analysis

For my research project and to test my theory I will examine two cases – similar cases with different outcomes - and I will use a cost/benefit approach for explaining the reasons for non-compliance with EU law in Hungary. To answer the research question, which is '*Why in some cases member states comply with EU law while in other cases they go to the Court of Justice?'* and to test the hypotheses derived from the theoretical framework, I investigate the economic and political motivations as possible reasons for non-compliance.

The dependent variable is the extent to which member states comply with EU law. Compliance is such a complex concept, it is hard to measure, although the European Commission monitors the application of EU law and states the *compliance deficit*, which shows the number of incorrectly transposed directives. As it has been mentioned before, *compliance* is the broadest term meaning when non-compliance occurs, the member state's legislation is not in line with the requirements of EU legislation, in reality it is applied incorrectly or contradictory legislations exist parallel to the EU directive. I will also include in this concept the other side of the coin and see what means the EU has to enforce the correct compliance. The infringement procedures last for a long time while member states maintain the non-compliant measures. If a case gets referred to the Court and this Body finds that in fact the member state failed to fulfil its obligation, then it has the power to impose financial penalties. It must be noted that companies, members of public, anyone can draw the Commission's attention to a possible infringement in EU law. As we will see in the analysis chapter of this paper, the foreign

companies that were affected negatively by the measures of the Hungarian Government when it changed the employee benefit system by modifying the tax law, they were the ones who made a complaint against Hungary to the European Commission.

The number of infringement procedures can serve as an indicator of compliance. But we have to be careful with examining the number of infringement procedures, because it includes the unintentional infringements as well. If member states fail to transpose directives into national legislation on time or due to administrative capacity, it will turn up in the infringement proceedings statistics.

The independent variables are economic benefits and political interests. Economic benefits are easier to be measured than the political interests. Assuming that political parties would like to remain in power, I decided to use the public support of political parties. I only examine the public support of the biggest political party, which happens to be the governing party, because in the current political situation Hungary, this party plays the most important role when it comes to compliance.

IV. 2. Case selection

I will examine *why in some cases member states comply with EU law and in other cases why not, why they let the cases reach the Court of Justice*. Based on this research puzzle, after careful consideration and reviewing numerous cases, I have selected two cases with different outcome for my research. However, due to time and space limits, I will not work with a big data of sample, I have chosen only two cases that I believe can demonstrate the reasons and motivations of a member state (Hungary) for non-compliance.

In the first case Hungary did not comply with EU Law (with legislation concerning the internal market), and the European Commission launched infringement procedure against the country and brought Hungary before the Court of Justice.
In the second case the European Commission launched infringement procedure against Hungary, but the country agreed to change its legislation and the case was closed.
The reason why I selected these two cases because they have a huge impact on the daily lives of Hungarian people and they affect the economic performance of the country and investment.

For my research I have chosen to analyse the internal market and one of its important EU directives, the Service Directive. Furthermore, I selected two cases that might justify my assumptions about why non-compliance occurred. My research question is explainatory and I

believe that examining the two cases will provide a plausible explanation to my hypotheses. In one of the cases, the Hungarian Government was determined to maintain the system of SZÉP leisure cards and Erzsébet meal vouchers and only took steps to change legislation when it was absolutely inevitable following the ruling of the Court.

In the second case, there must have been different motivations for non-compliance because the Government changed the legislation and was more cooperative respecting the EU law.

Data collection

For the case studies I use the following sources:

- Hungarian and EU legislation,
- Online sources, articles written mainly in English and some articles from the Hungarian press,
- Documents issued by the European Commission (EC), the website of the EC,
- Documents of the Court of Justice,
- The database of the Hungarian Central Statistical Office (Központi Statisztikai Hivatal, hereinafter: KSH).
- The database of the European Union, Eurostat

Limitations

As it has been mentioned before, compliance is hard to measure because this concept includes not only the legal process, but the practice, the actual implementation which not always can be seen. Economic benefits are easily measurable with numbers, such as the growth of GDP, the amount spent with SZÉP leisure cards (in the first case study). The limitations of this research project are that only two cases are being analysed to test the theory, and it does not include cases from different member states. It solely focuses on implementation problems in Hungary, and although in general, far-reaching conclusions are not deductible from only Hungarian cases, but the research project can demonstrate different motivations for non-compliance with European Union law.

V. EMPIRICAL ANALYSIS

In this chapter two Hungarian cases that infringed the EU law are analysed. The analysis starts with the introduction of the **Service Directive** (Directive 2006/023/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market) because it establishes a general framework for both case studies. Its transposition into the national law despite the huge amount of work, necessary changes and revisions of already existing Hungarian legislations was considered a success, however complying with it is a different story. Hungary among other EU legislations (Articles 14, 15, 16, 49 and 56 of the Treaty on the Functioning of the European Union) infringed the said Directive. In the following, I aim to explore the cafeteria system in Hungary, launching the **Széchenyi leisure card system** (not to be confused with the Széchenyi Card Programme that supports micro, small or medium-sized enterprises) **and the Erzsébet meal vouchers** in 2011 that led to an infringement procedure and Court case, and also **the Plaza Stop Act** that was not in line with the EU laws but the issue was solved before it reached the Court.

First, I present how the *Széchenyi leisure card system and the Erzsébet meal vouchers* work, why employers choose to give SZÉP leisure cards and Erzsébet meal vouchers to their employees, how the Hungarian government changed the legislation at the expense of foreign companies, and I also present its impact on the economy. In the second case, in the *Plaza Stop Act* case I will introduce the background of the legislation. I decided to divide the case into two sectors because the law changed significantly. The European Commission launched infringement procedure against Hungary, but the case did not reach the Court of Justice.

V.1. Implementation of the Service directive

By 1992 the internal market was successfully created by the removal of barriers. It allows countries to access a much bigger market for trading and made the lives of EU citizens much easier by 'the four freedoms'.
In the 2000's it became inevitable to further explore the possibilities of the internal market and to *improve* it.

According to the European Commission's website, the Service directive was adopted in 2006 and had to be implemented into national law by 2009 (European Commission, Service Directive). It removed administrative and legal barriers and introduced simplified measures in order to provide and use services more conveniently.

Implementing the Service directive into national legislative system meant a great challenge to every member state, since many laws had to be modified, abolished or new regulations were introduced. Boros (2012) claims that the Service directive affected almost every Public Administration law in Hungary and they had to be screened one by one. Luckily, the implementation of the Service directive coincided with the change of the legal basis of the Hungarian Public Administration. Hungary managed to implement the Service directive on time.

V. 2. Cafeteria scheme

In order to understand better the importance of one of the selected cases of this paper, I will give a review of the cafeteria scheme.

The cafeteria scheme is a kind of employee benefit system that has been present on the Hungarian labour market for decades and regulated by *the Law No CXVII of 1995 on personal income tax*. In the 1990's, introducing tax reliefs on a wide variety of products and services - local travel pass, internet subscription, educational support, leisure activities, voluntary health fund contribution, voluntary pension fund contribution, meal and vocational vouchers – encouraged employers to provide fringe benefits to their employees and the cafeteria scheme quickly became popular and widespread. Benefits are not linked to individual performance, are not part of the basic salary and their role usually are to increase employee satisfaction (Poór, J. & Óhegyi, K. 2013). They are not only an HR tool to have a competitive compensation package and attract employees, but they are cost effective as they have different tax rules.

The cafeteria scheme has three major actors: *employers, employees and the government* (the role of the voucher issuers will be discussed later). Even though providing benefits is not mandatory, lots of employers choose to do so, because as I have mentioned before, giving non-cash benefits costs less than the salary itself taxwise. According to the database of Eurostat on tax wedge on labour costs, in 2011 at the time of introducing major changes in the cafeteria scheme, the tax wedge was 45.2% in Hungary (one of the highest in the European Union) while some elements of the employee benefits had more favourable taxes imposed on them.

From a psychological point of view, employees often regard benefits as not part of their salaries, but as extra "free money" and only employers are obliged to pay taxes regarding some benefits. The third and probably most powerful actor is the government that has the power to use the cafeteria system to influence the market and serve economic goals. Even though governments do not always intervene in the economy directly but through taxation and regulations they can

effectively boost certain sectors, as we will see the changes that attracted the attention of the EU was meant to help the struggling domestic tourism.

Employers have the opportunity to give employee benefits in the form of vouchers that can be spent only on certain products or services. SZÉP leisure cards and Erzsébet meal voucher were the most popular non-salary allowances as they fall within a more advantageous tax and social security regime, millions of workers still receive SZÉP leisure cards. The Hungarian government lead by Prime Minister Viktor Orbán introduced new rules on vouchers and cafeteria in 2011 by governing *Government decree 55/2011 (IV. 12.),* and amending *Law CLVI of 2011* with an extremely short transposition time. The cafeteria system in Hungary is quite complicated, in the following sections I will focus only on the SZÉP leisure cards and the Erzsébet meal vouchers.

V.2.1. Erzsébet meal-voucher

Meal vouchers as part of employee benefits had been given to workers long before the Erzsébet meal vouchers were introduced in January, 2012 along with the SZÉP leisure cards. In the Hungarian market there were three major voucher issuers present: Edenred, Cheque Déjeuner and Sodexo that managed to make considerable profit (Váczi 2019).

How did the system work in a nutshell?

First, issuers produced the vouchers and sold them to employers who paid a small commission in addition to the nominal value (and tax to the State). The employees could use these vouchers to "buy" meals at supermarkets and restaurants. Employees did not have to pay any tax after these vouchers. Then, the (meal) providers exchanged the vouchers at the issuers for a few percentage points less than the nominal value. Since the vouchers could be used only for a limited period of time, the value of unredeemed vouchers also made profit for the issuers (Juhász, 2019). In general, these vouchers generated lots of revenue for the companies.

In 2011, the Hungarian Government announced that it would modify the cafeteria system and made significant changes: Law No CLVI of 21 November 2011 amended tax laws and Law No CIII of 6 July 2012 on the Erzsébet programme.

What changes did the Government make to intervene in the market and how did the Erzsébet mealvouchers work?

In accordance with Paragraph 2 of the Erzsébet Law, the Erzsébet vouchers could be used:

ba) for purchasing ready-to-eat cold and hot meals bought in supermarkets and served

in restaurant,

bb) for purchasing products and services prescribed by law for social purposes.

They were either issued in paper form or in electronic form. It was a monthly allowance, the limit was set to HUF 5000, later it was increased to HUF 8000. (Bardócz, I. 2013).

The Hungarian National Recreation Foundation had the sole right to issue the new vouchers. The revenue was meant to fund the Erzsébet Programme whose objective „is to reduce significantly, in the existing framework, the number of socially deprived persons, in particular children who are unable to have something to eat several times every day, to benefit from healthy food suitable for their age or to enjoy either the state of health necessary for learning or the recreation necessary for restorative purposes." (Judgement of the Court, 2016, Paragraph 21.)

V.2.2. Széchenyi card system

The Széchenyi leisure cards were introduced in 2011 by the Government Decree No 55/2011 of 12 April 2011 regulating the issue and use of the Széchenyi leisure card, and amended by Law No CLVI of 21 November 2011 amending certain tax laws and other related measures.

Széchenyi card system allows employers to give employees non-salary allowances. The amounts are reviewed every year and set by law. The highest amount that can be given in a year is HUF 450.000, but employers have the right to state a smaller amount. That is not a monthly allowance, employees receive the whole amount at the same time and there is a certain period (two and a half year in most cases, but it varies according to the start of someone's employment) when the money has to be spent. For example, if an employee received money on the SZÉP-card in the year of 2013, it could be used until the end of May, 2015. The usage of SZÉP leisure card is really easy, it is a plastic card, similar to a bank card and there is an increasing number of shops, spas and hotels that accept it within the territory of Hungary. If an employee receives this kind of non-salary allowance, the only thing that has to be done is to decide which sub-account to use. It is the employer who applies for SZÉP card, not the employee. SZÉP cards are issued by three issuer, OTP Bank, MKB Bank and K&H Bank.

According to the National Tax and Costums Administration, the SZÉP leisure card has three different sub-accounts, namely the leisure-time sub-account, the accommodation sub-account and catering sub-account. The catering sub-account of SZÉP leisure card should not be confused with the Erzsébet meal voucher. With the leisure-time sub-account a number of

services (mainly sport and cultural services) can be paid, with the accommodation sub-account domestic holidays can be booked and paid, while with the catering sub-account only hot meals can be consumed, so it is tipically used in restaurants. Interestingly, spa-and beach service is included in all three sub-accounts, which is quite a convenient thing considering that there are countless thermal spas, swimming pools and beaches in Hungary.

Money can be divided between the three sub-accounts, but there is a limit how much money each account can have. On the leisure-time sub-account the maximum amount is HUF 75.000, on the accommodation sub-account is HUF 225.000 and on the catering sub-account is HUF 150.000. Once the employee has chosen which sub-accounts to use, this decision cannot be changed, it is not possible to transfer money from one sub-account to another as a general rule, but due to the difficult situation caused by the global pandemic, authorities allowed to transfer money between the sub-accounts.

V. 2. 3 The impact of Széchenyi card and the Erzsébet meal voucher on the economic

The Széchenyi leisure card system plays a very important role in the Hungarian economy, especially in the tourism sector as it was designed to help recover the domestic tourism sector. Governments have the right and power to shape certain sectors of economy and various government measures can reach socio-economic goals.

Year	Number of unit accepting	Amount of exchanged Széchenyi vouchers, thousand HUF
2012	1,771	9,744,773
2013	1,987	15,313,773
2014	2,132	16,338,586
2015	2,178	17,625,241
2016	2,203	19,053,424
2017	2,233	20,277,222
2018	2,290	20,652,625
2019	2,244	30,865,219
2020	1,973	29,961,894

The table shows that since introducing SZÉP leisure cards, between the period of January 2012 and 2020, the number of units accepting the vouchers tripled. There is a huge surge in the

amount paid with Széchenyi vouchers, in 2012 the amount was HUF 9,744,773 and ten years later the amount equalled HUF 29,961,894. This can be explained by the rising number of employers giving non-salary allowances to workers as a way to attract employees. Another reason can be that people are more aware of the deadlines. There is a certain period, usually two and a half years, within the money transferred to Széchenyi card has to spent. Otherwise employees cannot access the allowance, the money is "lost" and it is transferred to the ministry in charge. (21.hu, 2016).

The effects of Erzsébet meal voucher are not as significant as the effects of SZÉP leisure cards, simply because its usage is more limited, it can be used only to buy food. It rarely happens that a costumer combines different methods of payment (Erzsébet voucher or cash or bank card) while doing the shopping. If employees pay the holiday accommodation with SZÉP card, we can assume that they spend money on other products and services as well.

So why is it so important for the Hungarian Government to maintain the systems of SZÉP leisure cards and Erzsébet meal vouchers?

I argue that in order to explain compliance with EU law, it is necessary to investigate the politics at national level and the expected economic benefits/losses. Political parties may use EU policies to pursue their own interests. Since 2010, the Hungarian government has criticized the European Union and European policies many times.

To explore the motivation for the unwillingness of the Government to change the law concerning the cafeteria system (the system of non-salary allowances), a closer look at the Government is very much needed.

Understanding the current relations between Hungary and the European Union, it is crucial to know the power relations. In the last 11 years, the country has been led by Prime Minister Viktor Orbán whose party, FIDESZ, managed to win the parliamentary election in 2010 with a landslide victory and got two-third majority in the parliament. FIDESZ with coalition partner KDNP (Christian Democrats) managed to win 262 parliamentary seats out of 386, gaining 67,88 % of parliamentary mandates. MSZP (Hungarian Socialist Party), which was the biggest and most powerful opposition party, gained only 59 parliamentary seats and 15, 28% of parliamentary mandates. Jobbik, a radical right-wing party was the third biggest party in the parliament with 47 parliamentary seats, LMP (Politics Can Be Different) a relatively new green political party at the time secured 16 parliamentary seats, while an independent candidate and

FIDESZ-KDNP MVMP (Entrepreneurs' Party) each had 1-1 parliamentary seat (Választás 2010).

By the next election in 2014, the power relations did not change. FIDESZ KDNP won again with a huge majority, gaining 66, 83% of parliamentary mandates. Left wing parties, MSZP-EGYÜTT-DK-PM-MLP received 19,10% of mandates, Jobbik gained 11,56% of mandates and LMP gained 2,51 % (Választás 2014). I have to note that the election law was changed before the 2014 election.

The next election in 2018 proved that FIDESZ was still the most powerful party and easily won the parliamentary election again securing 66,83 % of the mandates. Representatives of other seven parties secured the remaining parliamentary seats but the second strongest party, Jobbik got only 13,07% of the mandates (Választás 2018).

The power structure of the Hungarian politics is important in that sense that making new legislations required and still requires less negotiating time and decisions are made quicker. It has been a constant critisism of the Government that because of less parties are involved in the decision -making, the transition period sometimes is too short and not efficient.

One of my hypotheses was that cases reach the Court of Justice if benefits of non-compliance are high enough. This case demonstrated that in the hope of gaining public support and popularity the Government was willing to get referred to the Court. What were the benefits? The changes in the cafeteria system quickly became accepted and supported as employees in Hungary enjoyed the increased amount of employee benefits with the introduction of the SZÉP leisure cards and Erzsébet vouchers. The plan to boost the domestic tourism sector by modified tax laws worked as it has been demonstrated in this paper. From an economic point of view, it was also considered a success because it helped the struggling employers in the catering industry. By granting monopoly to the Hungarian National Foundation for Recreation to issue meal vouchers, the revenue and profit were also in the hands of the Government instead of foreign companies. On the other hand, due to the strick legislation, the companies previously issuing meal vouchers left the Hungarian market and sued the Government at International Centre for Settlement of Investment Disputes (Váczi 2019)

If statistics and practice showed that the Széchenyi card system and Erzsébet meal vouchers worked, were beneficial for employees and contributed to economic growth, why did the European Commission want to change the non-salary allowance system in Hungary?

The following section is mainly based on the documents issued by the Court of Justice and the European Commission.

By modifying the tax law, the SZÉP card system and Erzsébet meal vouchers enjoyed privilege by the means of advantageous tax conditions. Needless to say, employers favour these non-salary allowances over other vouchers. This change in legislation was very disadvantageous for big international companies like Sodexo, Edenred, and Le Cheque Déjeuner. They had to leave the Hungarian market and that is why they made a complaint against Hungary.

The European Commission launched infringement procedure against Hungary. That was hardly a surprise because the Commission had not supported the modification of the tax law (Balla, 2014).

The Commission claimed that Hungary infringed Articles of the Service Directive, the freedom of establishment and the freedom to provide services.

The Hungarian Government was determined to 'protect' and to maintain the cafeteria system and was not open to negotiations. The Commission brought Hungary before the Court in April, 2014 and two years later the Court published its judgment on the case. On 23rd February, 2016, the Court of Justice ruled that Hungary in fact did not fulfil its obligation (Failure of a Member State to fulfil obligations — Directive 2006/123/EC — Articles 14 to 16 — Article 49 TFEU — Freedom of establishment — Article 56 TFEU — Freedom to provide services) and infringed EU law by maintaining the SZÉP card system and Erzsébet meal-vouchers.

The Court noted the following problems with the Hungarian legislation in force:

1. Branches of foreign companies were not allowed to issue SZÉP leisure cards;
2. Issuers legally had to be public limited companies or private limited companies and have a registered office in Hungary;
3. Issuers must have costumer offices in the cities with more than 35,000 inhabitans;
4. Monopoly was granted to the Hungarian National Foundation for Recreation.

What happened after the Court ruling?

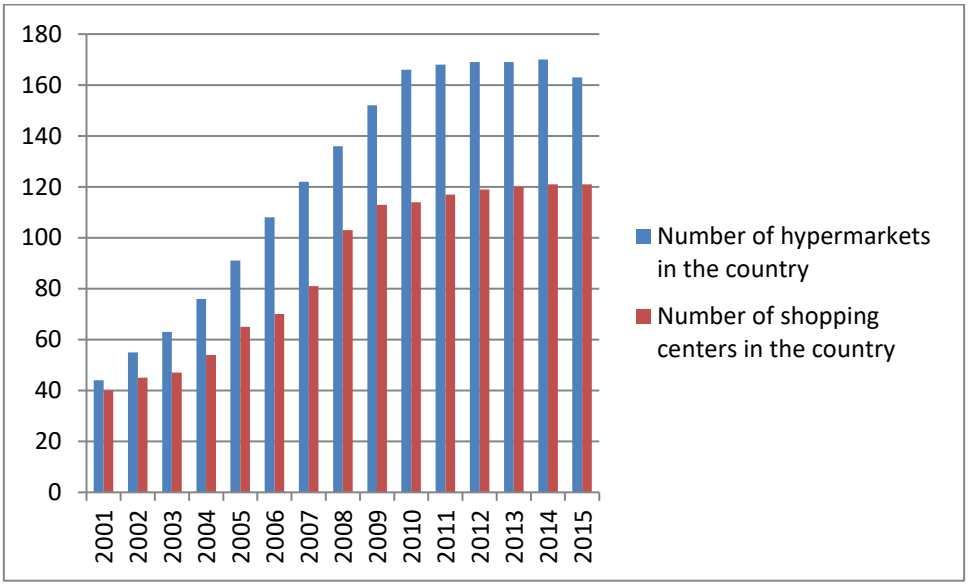
Prime Minister Viktor Orbán announced that there were different ideas how to change the employee benefit system and make the Hungarian legislation in line with the EU law. One of them was to eliminate the whole cafeteria system and replace it with cash-allowance, but as of today the SZÉP cards are still present on the market, although the taxation has been modified many times since February, 2016.

V.3. PLAZA STOP ACT

In the last couple of years retail sector in Hungary went through quite a dynamic change. The government imposed questionable economic policy measures in the retail sector that raised competition concerns. How does the protectionist policy approach represented by the Hungarian Government undermine competitiveness (Molnár, 2015)? Or in contrast, does it contribute to economic growth? How does it affect the consumers, potential investors? The core of the internal market is the free movement of goods, services, capitals and workers, yet the Hungarian Government modified legislation that is against the internal market in the eyes of the European Union. To what extent does Plaza Stop Act comply with EU law? In this chapter I attempt to answer the questions above.

V.3.1. Plaza Stop Act between 2012-2015

The number of shopping centres and hypermarkets increased considerably in the last fifteen years, and as a consequence, the costumer behaviour changed, as did the retail sector. The chart below shows that in 2001 there were 40 shopping centres and 44 hypermarkets in the Hungary. By 2015 these figures increased to 121 shopping centres and to 163 hypermarkets.



Source: KSH

The surge of the number of shops also brought greater competition between the actors in the retail sector. It is a well-known fact that competition means lower prices since actors need to compete for possible costumers. The bottom line is that competition is advantageous to consumers. Needless to say, it is more convenient to be able to buy everything at the same place, and shopping centres provide everything that one needs, while services and leisure-time

activities are also available. Competing hypermarkets, such as Tesco, Spar, Lidl, Aldi, Auchan, just to name a few, attract consumer with low prices.

The Hungarian Government imposed new economic policies by modifying the *Act LXXVIII of 1997 on the Formation and Protection of the Built Environment (Paragraph III/A)* which entered into force on 1st January, 2012. The law prohibited the expansion and construction of any retail units over 300 m^2. No shops, hypermarkets, shopping centres, plazas over the 300 m^2 limit could be built, nor functioning retail units could expand the area. Exemptions could be given only by the Minister of National Economy. The law was meant to remain in effect until 31st December, 2014. The government explanation for introducing such strict measures was the protection of the small, local enterprises.

This new economic measure impaired large retailers and retail chains, and it also harmed the investment opportunities. If a retail chain decides to open a shop, it creates new jobs. First, it invests in buying, or renting a property where the shop would be located. Then it employs workers to (re)construct the property and it needs employees to sell the products, to maintain the property etc. It contributes to the GDP, because it has to pay taxes and by giving salary to employees, employees have money to spend and that increases consumption. If there is such a law in effect, it discourages companies and they will not even consider investing.
The Government has a protectionist approach and a tendency can be seen when we examine the relations between the Government and multinational, foreign-owned companies.
This measure is not the first and quite possible not the last measure to hinder the functioning of multinational companies. The Hungarian Government increased food chain control fee, 'forbid companies that have been operating at a loss for two consecutive years from selling consumer goods' and introduced mandatory Sunday closing (Macroeconomic Imbalances Country Report - Hungary, p. 54, 2015).

The *Act LXXVIII of 1997 on the Formation and Protection of the Built Environment* states that in special circumstances exemptions could be given by the Minister of National Economy based on the opinion of a committee formed by the representatives of various ministries (Jámbor & Jámbor 2015).
The decision whether or not a retail unit can have exemption was made by the Minister of National Economy and not by an independent authority. It was not clarified on what basis the minister gives derogation. The law does not state objective criteria.

It would be very useful information to know how the exemptions were given. 444.hu, a online news provider requested the documents (444.hu, 2014), but the Ministry of National Economy denied access. Their argument was that if this information were made public, 'neutral' decision of the minister would be at risk. But the news provider requested the list of already given derogations therefore decisions of the minister could not be influenced at all, because the decisions had already been made. 444.hu made a lawsuit in order to get the requested documents and the Hungarian judiciary actually ruled that the information about derogations in fact could not be hidden.

444.hu got access to the documents of the Ministry of National Economy and published its findings about derogations. Applications for exemption of foreign-owned retail units, like Penny, Lidl, Aldi, Tesco and Metro were rejected (444.hu, 2015). Of course it can be a coincidence, but this is in line with the government's protectionist approach.

This modification of *Act LXXVIII of 1997 on the Formation and Protection of the Built Environment* raised concerns about Hungary not complying with EU law. The European Commission launched an infringement procedure against Hungary in April, 2014.

Even though the Plaza Stop Act was originally in effect until the end of 2014, with some modifications the shopping mall ban continues.

V.3.2. The current legislation

The Hungarian Government changed the *Act LXXVIII of 1997 on the Formation and Protection of the Built Environment* again and adopted the 5/2015. (I. 29.) Government Decree which regulates the functioning of the' Plaza Stop Committe' (Jámbor and Jámbor, 2015). The second Plaza Stop Act came into force on 1st February, 2015.

The biggest difference was compared to the previous one that the size of the retail units was increased to 400 m^2.

Until the end of 2014, exemption were given by the Minister of National Economy. In the new regulation, there is a special committee that makes the decision, that is the Government Office of Hajdú-Bihar County (Hajdú-Bihar Megyei Kormányhivatal).

The main criticism against Plaza Stop Act was that besides having negative economic affects, there is no control who receives exemption and who does not. Despite the change in legislation, the independency of the special committee is in doubt. Now there are more actors involved in

deciding who is given exemption, but the Plaza Committee is made up of representatives of the ministries instead of professionals and decision-making may seem a bit arbitrary.

VI. CONCLUSION

My research investigated the motivations and factors of compliance with European Union law in Hungary. In order to solve the research puzzle and to answer the following research question *'Why in some cases member states comply with EU law while in other cases they go to the Court of Justice?* I analysed two cases. My theory was that national political and economic interests affect the compliance with EU law.

I also need to acknowledge the limitations of my research. Investigating the underlying political motivations behind an act is always a complicated task. To better understand the selected cases, I relied on statistics provided by the Hungarian Central Statistical Office, the press and the official European Union data derived from Eurostat. Using EU data was necessary to compare the Hungarian compliance with EU law to other member states'. Another limitation of my work is that the research focuses on only one member state and we cannot draw an inference as to general motivations for breaching the EU law. In other words, this research is rather a case study of Hungary than a study giving generalizable explanation to compliance in the European Union.

My hypotheses were that H1: the cases reach the Court of Justice if benefits of non-compliance are hight enough and H2: lower economic benefits of non-compliance increase the member states' willingness to fulfil the obligations and not breach the EU law.
The case studies supported my theories in the sense that in both cases the political and the economic motivations were strong. In the case of SZÉP leisure cards and Erzsébet meal vouchers the political motivation was to gain public support even at the price of a Court case. The economic interests were crystal clear that the Government wished to intervene and boost the domestic tourism by providing advantageous non-cash employee benefits and it also wished to reshape the meal voucher business by granting monopoly to the Hungarian National Recreation Foundation.

I believe that in the second case (Plaza Stop Act), the political interests were to reshape the retail sector. In spite of the fact that the Plaza Stop Act is still in effect, in 2015 the government

managed to seemingly change the legislation by increasing the area of retail units to 400 m^2 , and by establishing a special committee.

All member states without doubt try to represent and protect their national interests as much as they can when the national interests are opposed to the interests of the European Union, but that is the nature of the EU policy and decision-making, because as I have mentioned earlier, every policy and decision are outcome of very long discussions, debates and bargaining between the member states and this constant co-operation keeps the European Union function.

Future studies might focus on analysing the compliance with one specific European Union directive in every member state or one specific field. Comparative evaluation of compliance with a directive would allow to explore the above mentioned motivations better and general conclusion could be made.

Overall, as the research showed, the number of infringement cases has been increasing in the European Union which questions that successful harmonization of the national legal systems. Further studies need to be carried out to understand better the reasons behind non-compliance.

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