



DG TAXUD
Directorate C
Tax administration and fight against tax fraud
Rue de Spa 3 — 05/55A
1049 Bruxelles

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Submitted by email: Thomas.Carroll@ec.europa.eu

Electronic Road Freight Control System (EKAER)

Dear Mr. Carroll,

The business community in Europe is extremely concerned with the introduction of the new "Electronic Road Freight Control System (EKAER)" by the Hungarian Government on the 1st of January 2015 with the alleged goal of fighting VAT fraud.

BUSINESSEUROPE is the leading advocate for growth and competitiveness at European level, standing up for companies across the continent and campaigning on the issues that most influence their performance. A recognised social partner, we speak for all-sized enterprises in 33 European countries whose national business federations are our direct members and represent more than 23 million companies across Europe.

BUSINESSEUROPE fully supports the fight against fraud and considers it of vital importance for both Member States' tax authorities and businesses. However, any measures taken need to strike the right balance between fighting against the fraudsters in a targeted way while at the same time protecting legitimate business and the way they conduct their commercial activities.

We feel that the new Hungarian EKAER regulations are lacking in both these aspects. Firstly, they do not support fighting against the fraudsters in an effective and targeted way and secondly they are placing tremendous new burdens, risks and costs on legitimate business.

With the new system, all transport going into Hungary needs to be notified to the Hungarian authorities ahead of the transport operation, indicating the driver's name, cargo, license plate, etc. which imposes significant administrative burdens and additional costs. In addition, the fact that the EKAER number must correspond to a certain vehicle and even the driver, means a loss of flexibility and an additional challenge for achieving efficient logistics.



Moreover, the complexity of the new introduced measures has created legal uncertainty for companies across Europe, with both businesses and tax authorities incapable of complying.

BUSINESSEUROPE is currently collecting practical examples, from businesses across the EU, to demonstrate the disproportionate challenges and difficulties that the new system is creating in day-to-day operations to and/or from Hungary.

As we write, trucks are being stopped on the road. Since the 1st of March the penalty for non-complying can go up to 40% of the value of the goods transported, either by seizing them or immobilising the vehicle.

The Hungarian system is unique and represents an unprecedented challenge to the single market. The business community believes that the new system is not compatible with EU Law, namely with Article 26 paragraph 2 and with article 23 of the TFEU given that the system can be considered of having an "equivalent effect" of having customs duties adopted by a Member State and thus, creating artificial internal borders. In addition, it is also incompatible with secondary law, specifically with Article 276 of the Directive 2006/112/EC.

BUSINESSEUROPE calls on the Commission to thoroughly investigate this case. Moreover, we would like to engage in a constructive dialogue on this matter and remain at your disposal for any questions.

Yours sincerely,

James Watson
Director
Economics Department