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Annex: List of practical examples on the impact of the new Electronic Road Freight Control System (EKAER) in day-to-day operations to and/or from Hungary collected directly from the ground

“During the past 20 days we have spent 216 working hours with EKÁER. Those are days, nights and weekends as well.”

Company F, a multinational company operating in more than 46 countries

Company A

- The transporter cannot plan the shipment in advance: The transporter can give the information 1-2 hours before the shipment of goods on the vehicles and the registration numbers. This makes it harder to plan the work in advance.
- In most cases our vehicles are reloaded somewhere during shipment. Because of this it is not enough to ask for only one EKÁER number per trailer, but we have to handle each imported cars on different numbers. This way the necessary details can be modified retroactively which is a time consuming task;
- It is very difficult to obtain the information about reloading, which has to be recorded into the EKÁER system within the deadline. In our opinion it includes high risk of failure in the handover report, in the company’s logistic system and in the EKÁER report the dates have to be in accordance with each other;
- In order to receive the EKÁER number it is necessary to give the value of the product. As according to the Incoterms the import invoice is generated only after reloading, only the Hungarian financial director or the Hungarian sales manager has the authority in accounting system (SAP) to provide us the purchase price (in euro, which has to be exchanged on the daily rate as the EKÁER platform makes only HUF date recording possible);
- The weight of the vehicle has to be given too, which can be precisely found on the so called chain of custody (COC). The final draft of the COC is generated after the shipment, one copy is available, but for this we have to login in another system to collect the details;



- As the seller has to mention its purchaser we can have problems were the addressee of the invoice is our client. It is our task to collect all the necessary information and then forward it to our client. We wait for them to generate the EKÁER number and after we convey it to the transporter. If we ship the vehicles of three different clients on one trailer then the code has to be received from three clients in 1-2 hours. This is everything but simple even in case of appropriate preparations (different kinds of registrations) and meeting this tight deadline is almost impossible;
- The customer service of the EKÁER system gives different answers to the same question, depending on the call centre's assistant;
- One of the main problems with the new EKAER rule is that it should not apply to packaging, as Company A Packaging is never sold. Company A Packaging always remains Company A property. This means there is no VAT involved in the distribution of Company A Empty Packaging materials to the Hungarian suppliers, since there is no sale;
- Also, the EKAER puts us in a catch 22 situation, because we cannot print delivery notes and the Invoices (for customs purposes only) until after the trailer is loaded, and the EKAER system requires all weight and packaging content information of the trailer at least 24 hours prior to loading. We cannot for sure know what has been loaded on the trailer until loading is complete;
- The trailer or truck can also be changed at the last minute due to unexpected occurrences, such as breakdown of truck, traffic delays, accidents etc.. How does Hungary expect to keep track of these necessary last minute changes, with EKAER needing to be reported at least 24 hours prior?;
- The amount of information needed to be provided to the Hungarian suppliers to register for EKAER for Company A Packaging deliveries will increase our workload by an at least 10 hours per week. The amount of information required for complying with EKAER is more than with non-European Union countries – such as Turkey;
- The EKAER call centre visibly suffers with our questions. From their answers it is clear that they are uncertain about the answer. It happened that after a short discussion and after sharing with them our arguments, we were able to show them how to interpret a certain point of the regulation;



- Several times they told us to send our questions by mail, because they couldn't manage to give an answer by the phone. Still, five mails were sent and none of them answered until now;
- WEB site support: It seems that 35-40 data lines are hardly handled by the system. Since the beginning we were not able to create even one EKAER number without any problem; the program is developed on Chrome. We faced the following problems for the first 3 weeks: a) from the roll down menu we were not able to choose Hungary. System was stubbornly showing that Budapest is in Ireland b) at 6Pm we were not able to choose the current day for loading c) we entered 35-40 customs tariff numbers with the relevant value and weight data, at the end instead of giving EKAER number many lines has been deleted and only 8 lines remained. We had to start the registration from the beginning. This is a still existing problem.

Company B

- More administrative work as vendors to Hungary have to include the EKAER number in the shipping documents;
- This is a procedure that needs much back and forth between all involved parties (vendor, customer, forwarder) with all risks of errors;
- There are more parties involved than those that used to be. As an example, if there is a customer in France and the ship to is in Hungary and here we need to also have a (new) contact with the ship to location in Hungary to receive the EKAER number. Sometimes this is not even possible e.g. due to competitive situation or competition rules;
- Even if we change to FCA deliveries – we still have parts of the administrative work to do;
- The penalty is extremely high and as a result there will be a lot of discussions between all parties involved in the chain on who is to blame and who should commercially bear these costs. ;
- How does the EKAER affect the responsibility and the risk of the transport – the transporter disclaims this today – but if they change the truck or lorry and not inform the vendor or customer about it who would then be responsible for incorrect EKAER data?



- Web site for shipment registration: not 100% works functionally. Lot of errors, can block shipments and cause risk for control (colleagues creating print screens and save error messages to prove we did the necessary things);
- No clarity what will be used for control, not all data (eg value of the good) available to the drivers, how long can Hungarian control staff can block the trucks (evening or night shipment control).
- Still a lot of uncertainty about the understanding of the regulation. Even officials spread different messages;
- For the future: Companies can choose not to go to Hungary to find new customer or/and end business with companies in Hungary. The extra work is not worth the profits it would bring;
- It is easier to do a customs declaration – so why shouldn't we instead change focus away from Hungary and use our efforts, for example in countries that EU have free trade agreements with?
- It is not in line with “free trade in the European Community” at all.

For consignment supplies we are currently having this discussion with customers:

For consignment supplies from other EU countries to Hungary, Hungary applies simplified VAT rules. As a result our non-Hungarian entity is not required to register for VAT in Hungary and as a consequence has no obligations to report VAT and/or acquisitions from other EU Member States to the territory of Hungary. Under the simplified VAT rules for consignment stocks this reporting obligation is with the customer in Hungary. As a result our non-Hungarian entity is not registered as a taxpayer in Hungary as mentioned in above Section 22/E.

Does this imply that it is the Hungarian customer that has reporting obligations under EKAER or does the non-Hungarian seller have an EKAER obligation?



Amendments to Act XCII of 2003 on the Rules of Taxation

"Reporting obligation related to the transportation of goods on public roads"

Section 22/E

(1) The following acts of public transportation performed by a vehicle subject to road toll payment:

- a) acquisition of goods from another EU Member State to the territory of Hungary or acquisition for other purposes,
- b) supply of goods from the territory of Hungary to another EU Member State or supplies for other purposes,
- c) first supplies of goods subject to taxation in domestic trade, to other than end users

(hereinafter jointly: activities involving public road transportation) may only be pursued by taxpayers having a valid Electronic Public Road Trade Control System (Elektronikus Közúti Áruforgalom Ellenőrző Rendszer = EKAER, hereinafter EKAER) number.

Company C

- There was no prior stakeholder consultation period as might normally be expected for such a major change so the practical views, experience and input of business was not collected and considered before the law was drafted, approved and published;
- Initially virtually all products, and not only those which have a high risk status for VAT fraud, are in scope for the EKAER. We understand that some changes have been made here in the meantime;
- Heavy penalties can be expected for errors and non-reporting - by law the penalty is up to 40% of the value of the goods shipped. Furthermore, it is not clear whether the customer's input VAT deduction position may be impacted following an EKAER error;
- It is not possible to consult experts at the Authorities or Ministries on the various practical questions which are constantly arising. In our view, such an important legislative change should ideally be supported by dedicated officials - a real time reporting obligation with a preparation period of less than two months' notice requires a real time response rather than a reply by email within 30 days, as generally provided for by the Hungarian legislation. The Authorities and Ministries are now putting efforts into consulting with businesses/taxpayers.



This is highly appreciated but it seems that the officials are also struggling to answer many practical questions.

The EKAER on-line webportal was only available from 20 December 2014, and the penalty-free transitional period will end on 28 February 2015. Such a limited preparation period places significant pressure on business resources and within this timeframe, it is virtually impossible to arrange everything:

- It's extremely time-consuming to register many employees for the reporting obligation on the client webportal.
- Map the transactions impacted for all factories and warehouses across the country.
- Contact customers/suppliers to explain the obligation and what is expected from them.
- Ensure that IT developers can produce an automated reporting solution. Until such time as an IT solution is in place taxpayers are forced to comply with the new rules by manually entering all the data requirements into the system.
- The list of data points that need to be reported is extensive - eg, name and tax ID of dispatcher and addressee, loading and unloading address, goods description, customs tariff number, gross weight, reason for road transportation, value of goods, registration plate number of the transportation vehicle, date and time of loading and arrival. Accordingly, handling a high volume (eg, hundreds) of shipments every day is a very time-consuming exercise.

The legislation is unclear and businesses have also experienced the communication of contradictory information or the different interpretation of the rules from one day to another:

- Article 22/E (6a) a) of the Act on General Rules of Taxation exempts the shipment of non-risky goods where their weight is less than 2.5 tons or the net value does not exceed HUF 2 million. One of our trucks has already been stopped without an EKAER number and the Inspector informed us that we had interpreted article 22/E (6a) a) of the Act incorrectly – ie, the shipment should have had an EKAER number. We have still not been able to verify whether or not this advice is correct.
- It has been communicated that bonded goods (goods not in free circulation in the EU) should not be reported in the EKAER system but we cannot find such an exemption in the legislation.



- We believe that goods in transit in Hungary (goods coming from Slovakia and going to Romania through Hungary) are also exempted but this point requires formal confirmation.
- Clear rules/guidelines are required around call off stock and consignment stock regimes.
- Chain transactions where parties A and B are Hungarian and, for example, where the final customer is Italian – ie, HU1 - HU2 - IT. Standard rated VAT at 27% is charged by HU1 to HU2. The goods are transported from the manufacturing site of HU1 to the Italian customer directly so there is only one shipment associated with this business relationship and on the CMR HU2 is the despatcher. There should be a common approach as to how these transactions should be reported and whether HU2 is the despatcher for EKAER purposes as well.

There are a variety of technical issues with the EKAER client portal and the data to be reported which results in a frustrating and time consuming process for businesses:

- The VAT ID number of the addressee must be entered into the system with no less than 15 digits/characters. However, in practice, in many countries the VAT ID is less than 15 digits/characters. Therefore, in such cases it is necessary to put 'zeros' at the end of the VAT ID number in order for it to be accepted by the system – ie, in practice, business is obliged to record an invalid VAT ID number in the system.
- The article number of the goods cannot be recorded in the system but the law states that it is required if available.
- The EKAER number associated to the shipment as recorded in the EKAER website cannot be printed off. This option would be useful because although we understand that there is no requirement to include the EKAER number on the shipping documents (eg, CMR), the vehicle driver still needs to know the EKAER number.
- There are also non-EU based taxpayers registered in Hungary for VAT purposes that have Hungarian legal entities acting as fiscal representatives. The Hungarian legal entities as fiscal representatives are not able to register users in the EKAER webportal. Furthermore, a separate Power of Attorney ('VAMO') is needed for EKAER purposes only.
- If there is a shipment carried by truck and trailer and the details need to be changed in the EKAER system because the goods are reloaded onto a new truck and trailer, the trailer licence plate number cannot be amended – again business is obliged to store incorrect data in the system which may result in a penalty assessment.



- The EKAER system requires values to be given in HUF, foreign currencies are not acceptable. This is a further administrative burden for taxpayers to put a process in place to calculate the HUF value of the goods rather than simply recording the foreign currency value.
- The gross weight should be provided based on customs tariff numbers in the EKAER system. However, gross weight by customs tariff number is not always available.
- Taxpayers can only estimate the value of goods for shipments coming into Hungary from an EU country for manufacturing or repair. The customer sending the goods to Hungary for manufacturing or repair would not share the value of the products and the taxpayers would not necessarily be able to record correct values (only estimates) on the purchase price or production value in the market.

In certain practical scenarios, the speed of the communication prescribed by the EKAER rules cannot be met (eg, obtaining the information or updating the information when changes occur):

- It can be extremely difficult (in certain cases virtually impossible) to comply with the EKAER rules for shipments from an EU country. The EU despatcher is quite often responsible for transportation – e.g. 'DDP Budapest' incoterms 2000 is agreed so the Hungarian addressee does not necessarily know many details about the shipment, such as the place of loading, gross weight, value of goods, licence plate number of the vehicle. We understand that the law allows that the gross weight, value and licence plate number of the vehicle may be changed before the shipment reaches the final address but information regarding these three key data points may not be communicated by the EU despatcher to the Hungarian customer prior to the date of arrival. The communication with suppliers needs to be very prompt but it is important to understand that suppliers are not necessarily interested in providing additional information to a Hungarian customer that creates an administrative burden on the supplier side in order to help fulfil a compliance requirement which ultimately the customer is responsible for.
- The freight forwarder often uses many subcontractors and the communication flow between the subcontractor(s) and the main freight forwarder and between the freight forwarder and the supplier and then between the supplier and the customer on any changes on the road (eg, vehicle registration plate number) cannot be completed quickly enough to comply with the legislation.
- In a chain DE - HU1 - HU2, HU2 does not necessarily know the German supplier. If it does, the communication may be still slow because the



intermediary (HU1) will not necessarily want to disclose its purchasing sources to HU2.

- There may need to be changes regarding the data reported in the EKAER system. In addition, these changes might need to be recorded outside of normal working hours.

Company D

- There is bad communication from the Hungarian authorities; the webpage doesn't contain all the necessary information. Our transporter complains that they aren't sure of what's needed in the system;
- It is very hard to work with a so called LEAN (systematic method well known) organization and it seems to be easier to do business with countries outside Hungary than with Hungary;
- We have difficulties understanding the difference in split point when using our company's Hungarian VAT registration, who is the one that should report? We or the end customer? Plus other similar issues in connection to this;
- Although we understand that the registration in the EKAER system should be signed by authorized signatory in Hungary – we find it hard to do it in practice.

Company E

- Generally, our way of doing business is affected negatively by EKAER, it brought more administrative tasks;
- New IT application had to be developed in order to meet the requirements set by EKAER. Naturally, we had extra costs due to such development;
- There has been no sign of increase on the transports costs so far, but an increase in the future cannot be ruled out;
- Overall, the introduction of EKAER made our business process more complicated and more costly as well as posing the risk of being heavily penalized in case of any errors made in running the transport process;

In short, these are our experiences with the EKAER system so far:

If everything runs smoothly, the system requires at least 30 to 60 minutes of additional work from one of our employee's on a daily bases. However, if something goes wrong, (e.g. system error, data source error, etc.) it takes up to 2-5 hours of extra work per



day. There is no additional capacity for Customer Service thus we have to solve those problems with the same resources.

Another severe risk we are facing is the risk of dependency. An external foreign company must provide data (e.g. truck registration plate number) to our company. If there is a control on the way and the plate number doesn't correspond with data that was reported into EKAER, a penalty will be applied. If during the night, when crossing the border to Hungary, there is a problem with the truck and it must be replaced (ergo new plate number), there is no employee at our office's that can introduce such change into the EKAER system, leading to an involuntary situation where there is a breach of law throughout the rest of the way.

Also, according to the law in place, if a company located in another EU Member State sells goods to a Hungarian company, the local Hungarian company is the one responsible for the EKAER system registration. Foreign companies are not able to register anything into the system, meaning that the administration work must be done by the customer. This, as already explained above, involves extra costs and time, leading to a situation where most likely customers will start asking for price reductions in order to face such costs.

So far there isn't any answer on how to deal with express shipments like TNT or DHL.

Company F

During the past 20 days we have spent 216 working hours with EKAER. Those are days, nights and weekends as well.

Company G

The EKAER system was introduced at short notice and required the signature of a specific Director in order to be registered; the registration system was not available until the week of Christmas for an introduction on 1 January 2015. The registration of individuals involves a complex document and lodging into the system.

They did delay the application of penalties to recognise these issues. The actual operation requires details of the supplier, product, weight, transport company etc. etc. and the system is only available in Hungarian.

After a lot of time and effort to set up a process so that we can comply they have announced this week that you do not need to register the movement of finished pharmaceuticals, so all of that effort has been for nothing.

I know this is not an example of the problems of the daily operation, but does show that this was not fully thought out before implementation. I would not wish the decision to exclude pharmaceuticals to be changed, but I think we can feedback that there seem to have been short notice to implement and a number of changes to the requirement



which makes life difficult for business and the use of Hungarian only is not helpful either.