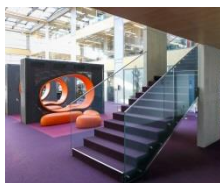




**SZÉCHENYI
EGYETEM**
UNIVERSITY OF GYŐR



Twenty Years in the European Union

4th EU Business Law Forum

Invitation

Széchenyi István University | Faculty of Law and Political Sciences |

Centre for European Studies |

Hybrid conference |

4 October 2024 | Győr | Hungary

The conference is carried out within the research stream of “Jean Monnet Module on EU Business Law” (EUBLAW) funded by the Erasmus+ Programme and is organised with the support of the National Media and Infocommunications Authority



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Invitation

The Centre for European Studies (CES) of Faculty of Law and Political Sciences of the Széchenyi István University cordially invites you to the conference “Twenty Years in the European Union – 4th EU Business Law Forum.” The main aim of the 2024 Forum is to discover the effects and current state of EU Business Law in light of the EU enlargement processes taking place since 2004. The Forum is part of the ‘Jean Monnet Module on EU Business Law’ (EUBLAW) project funded by the European Commission’s Erasmus+ Programme.

Programme

4th October 2024 (Friday)

9:30 – 9:45 Opening address

László Milassin (Dr. habil., PhD, hc. university professor, former head of the Centre and Jean Monnet Chair holder, Széchenyi István University, Faculty of Law and Political Sciences, Győr, Hungary)

Panel 1: *Single market and EU policies – Internal and external challenges*

Chair: László Milassin (Széchenyi István University)

9:45 – 10:00 Unanimous decision-making and the financial legislation in the EU

Zsolt Halász (associate professor, head of department, Pázmány Péter Catholic University, Faculty of Law, Financial Law Department; Budapest, Hungary)

10:00 – 10:15 Reducing VAT rates on residential property sales – a tool of social policy?

Gábor Butor (attorney at law, office member, Becher, Torma & Partners Law Office – DLA Piper Tax Advisory Ltd; Budapest, Hungary)

10:15 – 10:30 The WTO Agreement on E-Commerce: the EU perspective

Gábor Hajdu (senior lecturer, University of Szeged, Faculty of Law and Political Sciences, Department of Private International Law; Szeged, Hungary; junior research fellow, HUN-REN Centre for Social Sciences, Institute for Legal Studies; Budapest, Hungary)

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10:30 – 10:45 Sustainable agricultural policy in a “European Green Dream” (Hungary and the aims and impacts of the European Green Deal and the "F2F" strategy)

Gergely Horváth (*associate professor, Széchenyi István University, Faculty of Law and Political Sciences, Department of Commercial and Agricultural Law; Győr, Hungary*)

10:45 – 11:00 Discussion

Panel 2: *The EU single market in the international trade and investment order*

Chair: Balázs Horváthy (Széchenyi István University)

11:00 – 11:15 Objective necessity or administrative convenience? Standards of assessing effects on trade and competition in state aid law and under Foreign Subsidies Regulation: A comparative analysis

Jakub Kociubiński (*associate professor, University of Wrocław, Faculty of Law, Administration and Economics; Wrocław, Poland*)

11:15 – 11:30 The proposal on the New Regulation on the Screening of Foreign Direct Investments into the European Union

Zoltán Vig (*senior lecturer, Budapest University of Technology and Economics, Faculty of Economic and Social Sciences, Department of Business Law; Budapest, Hungary*)

11:30 – 11:45 Protection begets protectionism: Potential consequences of investment screening in the European Union

Bálint Kovács (*assistant Lecturer, University of Szeged; Szeged, Hungary*)

11:45 – 12:00 Direct Effect of International Treaties in the EU Legal Order

Dominika Moravcová (*assistant professor, Trnava University, Faculty of Law, Institute of Clinical Legal Education; Trnava, Slovakia*)

12:00 – 12:15 Discussion

Panel 3: *Wider circles of cooperation – Global and regional implications*

Chair: *László Knapp (Széchenyi István University)*

12:15 – 12:30 How the EU is shaping the WTO dispute settlement reform

Balázs Horváthy (associate professor, Széchenyi István University Faculty of Law and Political Sciences, Department of International and European Law; Győr, Hungary; research fellow, HUN-REN Centre for Social Sciences, Institute for Legal Studies; Budapest, Hungary)

12:30 –12:45 Identity as border in the Republic of Moldova and the Western Balkans. Conceptual approaches and comparative elements

Mircea Brie (professor, University of Oradea, Department of International Relations and European Studies; Oradea, Romania)

12:45 – 13:00 New forms of territorial and transnational cooperation in the area of the Western Balkans

István József Polgár (associate professor, University of Oradea, Department of International Relations and European Studies; Oradea, Romania)

13:00 – 13:15 Expanding the EU single market: The Deep and Comprehensive Free Trade Area

László Knapp (associate professor, Széchenyi István University, Faculty of Law and Political Sciences, Department of International and European Law; Győr, Hungary)

13:15 – 13:45 Discussion and closing remarks

13.45 – Lunch

Conference format:

The 4th EU Business Law Forum will take place at the Faculty of Law and Political Sciences of Széchenyi István University (H-9026 Győr, Áldozat u. 12), and online participation will be provided via Google Meet. The link to join the event will be sent to the participants via email.

Registration for the audience:

The conference is open to the public, but the participation is subject to prior registration by email at ces@sze.hu.

Contact and information:

Please send all questions and inquiries regarding the event to the conference organizers by email at ces@sze.hu

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Abstracts

Panel 1: Single market and EU policies – Internal and external challenges

Unanimous decision-making and the financial legislation in the EU

Zsolt Halász, PhD, associate professor, head of department, Pázmány Péter Catholic University, Faculty of Law, Financial Law Department (Budapest, Hungary)

The unanimous decision making requirement in the Council in the field of finances (especially taxation and budgetary matters) is one of the hot topics in the EU reform proposals. Most recently the Draghi Report on the future of the European competitiveness proposed the Council votes subject to qualified majority voting (QMV) should be extended to more areas including taxation, or even generalised. Although the requirement for unanimity in the Council has been replaced by QMV in many areas since the conclusion of the founding treaties, the Lisbon Treaty has maintained the unanimity rule in the Council for legislation topics in taxation and in certain budgetary rules. The Lisbon Treaty currently requires unanimity in the Council in around 30 key policy areas, almost half of which relate to fiscal, budgetary or economic policy legislation. The requirement for unanimous decision-making is now increasingly criticised as a technical obstacle, especially in the field of tax harmonisation and the development of budgetary rules, and these criticisms also suggest a decisive move towards qualified majority voting. However, tax and budgetary legislation are an essential part of the financial sovereignty of states, in the case of the EU, also of the Member States. Further deepening of integration between Member States obviously calls for further integration steps in the financial policy areas. In my contribution, I intend to explore the question of how the maintenance or possible reform of the current decision-making system in the financial topics might affect the future relations between the Member States themselves and between the Member States and the European Union. I intend to focus especially on the links between legal framework related to the economic policy coordination in the one hand and Member States' competences in national budgetary and taxation legislation in the other.

Reducing VAT rates on residential property sales – a tool of social policy?

Gábor Butor, attorney at law, office member, Becher, Torma & Partners Law Office – DLA Piper Tax Advisory Ltd (Budapest, Hungary)

From 2010 onwards, an important tax policy objective was to increase the emphasis on consumption-type taxes in taxes over taxes on income, and to reform the complex and over-regulated tax system, including the system of VAT payment and collection. A key moment of the VAT reform measures in Hungary was the reduction of the VAT rate on new home sales from 2016. Such a reduction is possible under the applicable rules of EU law if the measure serves social policy objectives. Taxation plays a key role in social policy instruments, and the relationship between taxation and social policy is very close. However, in my view it is questionable whether the reduced tax rate introduced for new homes can be regarded as a social policy step, especially if social policy can be regarded as a step that aims to preserve people's everyday life, living conditions, quality of life and life chances, in short: their well-being. For example, the reduction of the VAT rate was not a solution to what I consider to be the most

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serious social problem, the housing crisis, which affects approximately 2.5 million people in Hungary today. The latter doubts are reinforced by the findings of the European Court of Justice. According to the Court the social policy nature of the VAT reduction must be interpreted narrowly in this regard (e.g. it is not social policy if the measure in question generally improves people's well-being, but the measure should actually help poorer sections of the population to have access to certain housing-related goods). In the Hungarian legislation, such a specification cannot be seen, since the territorial and other conditions formulated in connection with the concept of new housing include all newly built apartments, with few exceptions. In my view, therefore, it is questionable whether domestic legislation would pass the social policy test of the Court. In my presentation I aim to elaborate on the abovementioned topics.

The WTO Agreement on E-Commerce: the EU perspective

Gábor Hajdu, PhD, senior lecturer, University of Szeged, Faculty of Law and Political Sciences, Department of Private International Law (Szeged, Hungary); junior research fellow, HUN-REN Centre for Social Sciences, Institute for Legal Studies (Budapest, Hungary)

The World Trade Organization has long been working on questions of electronic commerce, starting with its original e-commerce work programme from the late 1990s. However, it was in 2017 and 2019, respectively, when substantive progress was made. In 2017, 71 WTO members (including the EU) agreed to begin exploratory work for a future negotiation on e-commerce topics. This materialized in 2019, and after five years of work, in July 2024, a new draft agreement was published, the so-called "Agreement on Electronic Commerce". With more than 90 WTO members participating in the process, this draft agreement seems set on the path of becoming a part of the WTO legal framework. The relationship between WTO law and EU law has not always been the most harmonious, and with the arrival of this new draft agreement, we might potentially see further frictions developing, this time with regards to e-commerce regulations. Thus, the purpose of this paper is to identify the points of the draft agreement already covered by existing EU regulations and then use comparative analysis to determine how compatible these existing regulations are with the planned WTO approach. Our principal research questions are whether there are any fundamental incompatibilities between the draft agreement and EU law, and if so, how can they be potentially resolved, what other non-fundamental differences can we identify, and whether these would necessitate a regulatory adjustment. Through the comparative analysis, the author will be able to answer these research questions and pave the way for further exploration and discussion of e-commerce law from an international and EU perspective.

Sustainable agricultural policy in a "European Green Dream" (Hungary and the aims and impacts of the European Green Deal and the "F2F" strategy)

Gergely Horváth; PhD, associate professor, Széchenyi István University, Faculty of Law and Political Sciences, Department of Commercial Law and Agricultural Law (Győr, Hungary)

The 'European Green Deal' (EGD) sets out how to make the EU climate-neutral by 2050. Right at the centre of the EGD the Farm to Fork Strategy (F2F) is aiming to make food systems fair, healthy and environmentally-friendly as a key stone for the achievement of the Union's climate-neutrality objective. This ideal and distant aim of achieving negative emissions is based on environmentally adequate utilization as a necessity, but some sacrifices are already here and now squeezing farmers and food business operators with this disadvantageous psychological effect of the particularly long time horizon. The scale of the objectives itself raises questions and encodes certain obstacles related

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to farmer and consumer acceptability (in connection with eg. insect-based proteins and meat substitutes). It is a pervasive agro-economic and at the same time social question, whether the reduction in competitiveness that necessarily comes from the increase of production costs can be tolerated by the actors of EU agriculture. The farmers' protests and blockades across Europe show that the planned and initiated "green and digital transition" does not promise to be smooth, so the strategy may need to be reconsidered and transformed along the pillars of sustainability. The comprehensive strategy system however sets a number of forward-looking goals that are advantageous and promising also from Hungary's point of view and interests, such as preserving and restoring ecosystems and biodiversity, reaching the objective of at least 25% of the EU's agricultural land under organic farming and reducing the overall use and risk of chemical pesticides by 50% or halving per capita food waste at retail and consumer levels by 2030. The EU strategic documents in topic actually offer Hungarian agriculture to become a healthy food-producing 'organic garden' of the EU.

Panel 2: The EU single market in the international trade and investment order

Objective necessity or administrative convenience? Standards of assessing effects on trade and competition in state aid law and under Foreign Subsidies Regulation: A comparative analysis

Jakub Kociubiński, *Dr. hab., LL.M, Ph.D, D.Sc, associate professor, Faculty of Law, Administration and Economics, University of Wrocław (Wrocław, Poland)*

By ceding competences to decide on granting aid from the national to the European level, the State aid law has contributed to curbing subsidy races and maintaining a level playing field. At the same time, it is regularly criticized for lagging behind antitrust in utilizing economic analysis to identify the impact of aid on markets. A measure is almost automatically regarded as having a distortive effect when it confers a selective advantage. Simultaneously, the European Union increasingly recognizes the distortions to markets resulting from foreign subsidization, which has led to the adoption of the Foreign Subsidies Regulation. This regulation complements State aid rules by extending the scope of the EU's subsidy discipline abroad. However, while detecting anticompetitive effects of State aid does not prevent it from being permitted, detecting anticompetitive effects of foreign subsidies triggers redressive measures. Given the European Commission's extensive institutional experience, it can be reasonably assumed—something that limited practice already confirms—that subsidy regulation will be interpreted through the lens of templates developed in the State aid acquis. The standard of assessing impact on the market is explained and justified by the objective limitations of control mechanisms. This paper seeks to establish whether this is indeed the case or whether— as the working hypothesis suggests—it is driven primarily by administrative convenience. The knock-on effects include the inability to adequately weigh the pros and cons in State aid and accusations of protectionist conduct in foreign subsidy regulation. By examining the different characteristics of each of these frameworks, the question to be answered is to what extent these differences dictate varying assessment standards and what improvements can be made.

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The proposal on the New Regulation on the Screening of Foreign Direct Investments into the European Union

Zoltán Vig, PhD, senior lecturer, Budapest University of Technology and Economics, Faculty of Economic and Social Sciences, Department of Business Law (Budapest, Hungary)

Foreign direct investments play an important role in the economic landscape of the European Union, driving growth, innovation, and competitiveness. At the same time, it is important to have a complex mechanism for the protection of all parties involved. The EU's open market policy has historically attracted significant foreign direct investments, strengthening various sectors from technology to infrastructure and manufacturing. However, the evolving global context, marked by rising geopolitical tensions and rapid technological advancements is in need for a reassessment of how such investments are screened to safeguard the EU's strategic interests. There are several reasons for the revision of the existing screening regulation (Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union): there are new challenges, like the pandemics, the war in Ukraine, the energy crisis and the strengthening of protectionism globally. The Proposal signifies a major advancement toward creating a more unified investment screening system within the EU. Its aim is to improve both the security and attractiveness of the EU as an investment destination by establishing a more harmonized approach to foreign direct investment screening. The main novel features of the Screening Regulation Proposal are: (1) requiring all member states to have a screening mechanism in place (and harmonizing these rules), (2) extending EU screening to investments by EU investors that are ultimately controlled by individuals or businesses from a non-EU countries, and (3) identifying the sectors in which all member states must screen foreign investments.

Protection begets protectionism: Potential consequences of investment screening in the European Union

Bálint Kovács, assistant Lecturer, University of Szeged (Szeged, Hungary)

With the introduction of investment screening mechanisms, enabling the broader use of the national security exception, there is a new tool in the state's toolkit for involvement in the economy. In the neoliberal paradigm upon which the EU is built, the rules of the open market can only in exceptional circumstances be overwritten by national security concerns. But the number of exceptional circumstances appears to be growing rapidly. My aim is to explore the effects of the broader use of the national security exception. National security includes several dimensions, such as economic security, data security, or even knowledge security. Its dimensions all justify state involvement, and constitute the outlines of new boundaries regulating the flow of capital. Scholars believe that these are not simply new and narrow exceptions, but signify a shift of such importance that they usher in a new international economic order. These new developments are considered part of a shift towards a geoeconomic world order, in which the exception of national security easily overrides the rules of the neoliberal system. Presenting a few cases of foreign direct investment screening within the EU, this analysis will turn towards some of the effects of the use of the national security exception on economic policy. The argument is that a restriction on the flow of capital, or de-risking, can have various consequences which mandate further state intervention. The firm-level effects of screening decisions bear hints at what more may come in the area of state intervention.

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Direct effect of international treaties in the EU legal order

Dominika Moravcová, *JUDr., Ing., PhD., MBA; assistant professor, Trnava University, Faculty of Law, Institute of Clinical Legal Educatio (Trnava, Slovakia)*

The direct effect of international treaties in EU law remains a constantly relevant topic, with the case law of the Court of Justice continually evolving on this issue. The Court has established relatively clear criteria for the direct effect of treaty provisions within EU law. However, subsequent case law has gradually shaped certain exceptions, and more recent judgments, through generalization, may to some extent introduce uncertainty into this previously settled matter. This paper focuses on the criteria for granting the direct effect to international treaties in EU law, the exceptions, and the direction in which the CJEU case law is heading in this area.

Panel 3: Wider circles of cooperation – Global and regional implications

How the EU is shaping the WTO dispute settlement reform

Balázs Horváthy, *PhD, associate professor, Széchenyi István University Faculty of Law and Political Sciences, Department of International and European Law (Győr, Hungary); research fellow, HUN-REN Centre for Social Sciences, Institute for Legal Studies (Budapest, Hungary)*

The EU plays a pivotal role in shaping the reform of the WTO dispute settlement mechanism, especially in light of the current Appellate Body crisis since 2019. The paper examines these efforts made by the EU to maintain a rule-based multilateral trading system. The EU was already a key contributor to WTO dispute settlement reform efforts even in the Doha Round negotiations, launched in 2001 and aimed at agreeing also on improvements of the Dispute Settlement Understanding. The EU pushed for reforms that would address concerns related to the transparency and efficiency of the mechanism, specifically the length of disputes, access for developing countries, and the implementation of the decisions. Although the Doha Round ultimately stalled, the EU's contributions laid important basis for future reform discussions. In the current crisis, the EU's proposal has been originally based on the European Commission's 2018 concept paper on WTO modernization, in which dispute settlement reform has been a key focus. The EU proposal emphasizes the importance of maintaining the binding, two-tier dispute settlement system; calls to make the mechanism more efficient by speeding up the procedure, addressing the problems over the AB's 'judicial overreach' (as perceived by the US), and makes proposal for the appointment of judges. Moreover, the EU has actively promoted an interim mechanism and played major role in the negotiations on the Multi-Party Interim Appeal Arbitration Arrangement to temporarily bypass the Appellate Body's paralysis and maintain a rules-based dispute resolution framework. The paper concludes that the EU's approach to the WTO dispute settlement reform reflects its broader objective of strengthening global trade governance, fostering international cooperation, and ensuring that the WTO remains a central pillar of the global trading system.

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Identity as border in the Republic of Moldova and the Western Balkans. Conceptual approaches and comparative elements

Mircea Brie, PhD, professor, University of Oradea, Department of International Relations and European Studies (Oradea, Romania)

The identity, be it that of an individual, a group or a community, can generate convergence, but also divergence in relation to the other. The other, dichotomous, acquires the expression of the "beyond"; beyond what is specific to one, to one's identity. A frontier, be it symbolic or ideological, can thus be identified around identity constructions. Central and Eastern Europe does not only make no exception to this rule, but, in our assertion, it is the space that imposes, perhaps most in Europe, such identity borders. Methodologically, the focus of our analysis lies primarily on the identity boundaries generated by the specific ethno-religious, linguistic or cultural, but also by the nature of the mental specific to the area. This paper develops in a new methodological construction ideas and synthetic research contained in a previous paper on identity as a border in the space of Central and Eastern Europe. For the purpose of a conceptual clarification and to respond to the methodological desideratum already announced, this paper makes comparative references to the case of the states of Northern Macedonia, Bosnia and Herzegovina and Montenegro or to the case of the Albanians in the Balkans. At a comparative level, the reality of identity cleavages, which often takes the shape of borders, is similar in the Republic of Moldova and in the Balkans. However, a particular note given by the context is kept, namely the specificity and the geopolitics of the former Soviet space in relation to the former Yugoslav one. Identity dilemmas and controversies in the Republic of Moldova, as well as others in Central and Eastern Europe, are determined / fuelled by the geopolitical interests of some states / powers that have used them to expand or maintain influences. Here, the boundaries of identity took the form of ideological or symbolic boundaries.

New forms of territorial and transnational cooperation in the area of the Western Balkans

István József Polgár, PhD, associate professor, University of Oradea, Department of International Relations and European Studies (Oradea, Romania)

The main conflicts of the twentieth century occurred mainly because of political and ideological reasons. The borders of states became real insurmountable barriers not only for enemies, but several times also for their own citizens. This character of the borders created rather the role of elements that prevented the emergence of common activities and values. The dissolution of Yugoslavia at the beginning of the 90s created seven new independent states. After the armed conflicts that followed the initial proclamation of independence in several of these countries, a period of consolidation came, along with European integration as well as cooperation and reconciliation efforts. The process of European integration seemed to be the solution in the context of widespread aspirations of the populations of these states towards EU accession. The study aims to realize an inventory of the general trends and evolutions from the past decade, regarding the perception of the border in the Western Balkan space, but also focuses on the border cooperation activities which had an impact on transnational institution building in the process of cross-border cooperation.

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