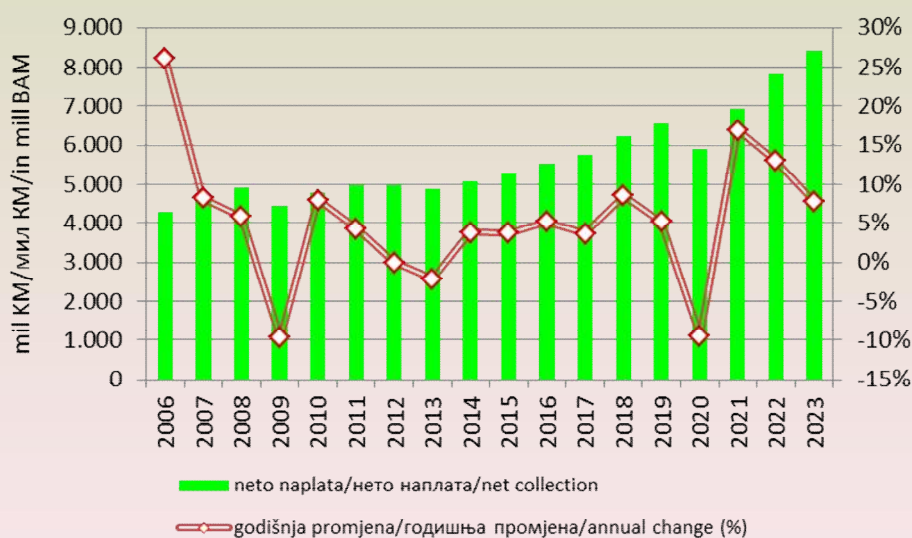




Macroeconomic Unit of the Governing Board of the Indirect Taxation Authority

ОМЈА Билтен



Broj
Број
Number **229/230**

juli/avgust – srpanj/kolovoz 2024 – јули/август 2024 – July/August 2024

With this issue

According to the preliminary report on the cash flow of the ITA, 924.7 million BAM of gross revenue from indirect taxes was collected in June 2024, which is 1.5% or 14.1 million BAM more than in the same month of 2023, while the refund payments were lower by 6.5 million BAM. The net collection of indirect taxes amounted to 771.2 million BAM, representing a growth of 2.7% compared to June 2023. At the level of the first half of 2024, gross revenues from indirect taxes amounted to 5.422 billion BAM, which is 8.4% more than in the first half of 2023. Refund payments were lower by 66.3 million BAM, and the net collection of indirect taxes was realized in the amount of 4.399 billion BAM. In the first half of 2024, net revenues from indirect taxes grew by 12.5%, which is 487.4 million BAM more compared to the same period in 2023.

Chart 1

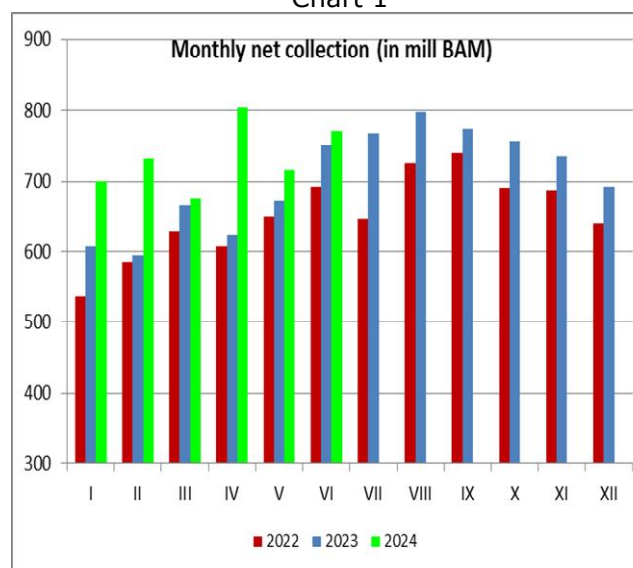
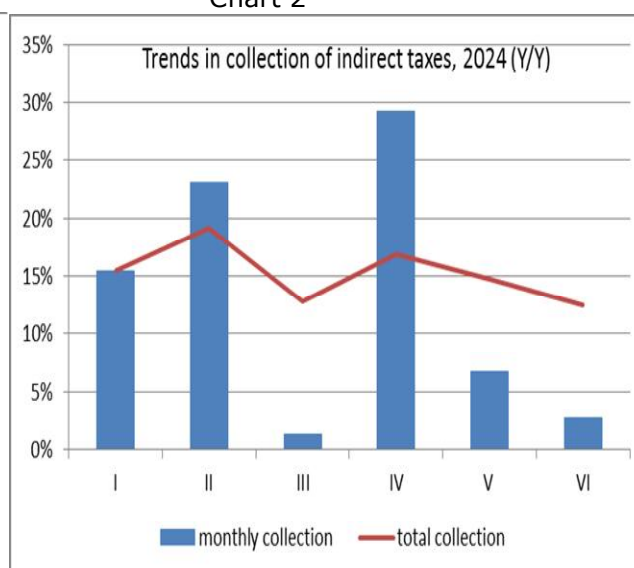


Chart 2



A comparative overview of the net collection of indirect taxes (Chart 1) shows strong oscillations in the monthly collection, which were largely the result of the effect of a lower base in the first five months of 2023, due to high VAT refund payments and loss of excise revenue due to the transition to the new regime of excise duty payments on tobacco products. The lowest growth rate of 1.4% was achieved in March, and the highest of 29.2% in April 2024 (Chart 2, "monthly collection"). In the last two months, there has been an evident slowdown in collection, both in absolute amounts and in growth rates, as estimated in the April projections of revenues from indirect taxes for the period 2024-2027 (see MAU Bulletin #227/228, May/June 2024). The slowdown in monthly collection in the last two months was also reflected in the cumulative growth rate, which in June was lower by as much as 4.5 p.p. compared to April (Chart 2, "cumulative").

Dinka Antić, PhD
Head of Unit

Table of contents:

Excise duties on oil derivatives and road fees in the period 2006-2023	2
Analysis of revenue collection from excise duties on non-alcoholic beverages and current trends	10
Reform of tax decision-making in the EU in the light of the enlargement to the Western Balkans	24

Technical design: Sulejman Hasanović, IT expert
Reader/translator: Darija Komlenović, professor

Banja Luka: Bana Lazarevića, 78 000 Banja Luka, Tel/fax: +387 51 335 350, E-mail: oma@uino.gov.ba
Sarajevo: Zmaja od Bosne 47b, 71 000 Sarajevo, Tel:+387 33 246 081, Fax:+387 033 246 080, Web: www.oma.uino.gov.ba

Excise duties on oil derivatives and road fees in the period 2006-2023

(prepared by: Aleksandra Regoje, macroeconomist)

Introduction

The consumption of oil derivatives in the period 2006-2023 is analyzed below. The period is characterized by great turbulences in all fields of the economy, considering that it covers changes in excise and road fee rates, huge fluctuations on the world oil market, the outbreak of the global financial crisis in 2008, the outbreak of the crisis caused by the corona virus, and then the crisis caused by the events in Ukraine.

In Part 1, the excise duties on oil derivatives in B&H were analyzed, namely: (a) the movement of their basis; (b) changes in taxation rates; (c) revenues from excise duties on oil derivatives, and (d) the relationship between excise duties collected and the price of crude oil on the world market.

In Part 2, all the mentioned topics are described for the road fee: from (a) to (d).

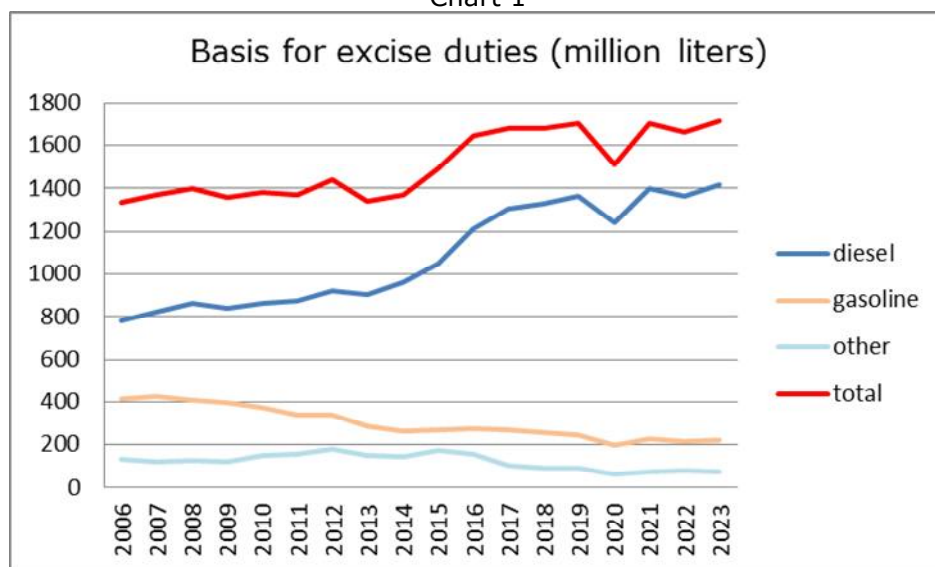
1. Excise duties on oil derivatives

(a) Basis for calculation of excise duties on oil derivatives

In this part, the consumption of oil derivatives included in the base for excise duties in the period 2006-2023 is analyzed. Observed in the total amount, the consumption of derivatives that enter the base for excise duties (diesel, gasoline, heating oil and kerosene) was quite stable in the period 2006-2014 with a range¹ of approximately 100 million liters. In 2015 and 2016, with the drop in oil prices on the world market and oil derivatives on the B&H market, the base for excise duties increased strongly (annual growth of +124.4 and +148.7 million liters, respectively), and then a slight growth trend lasted until 2019. Despite the low prices of oil derivatives, as a result of restrictive measures in the fight against the corona virus, in 2020 the consumption of derivatives from this group decreased by a high of 192.4 million liters. In the following year, 2021, the consumption increased again (+193.1 million liters) reaching a level that is slightly higher than in 2019, while in 2022, the consumption fell again (-44.1 million liters), as a consequence of the high prices of oil derivatives due to the war events in Ukraine. In 2023, the consumption of oil derivatives that are included in the base for excise duties increased by 53.7 million liters or 3.2% compared to the previous year.

¹ The difference between the maximum and minimum values.

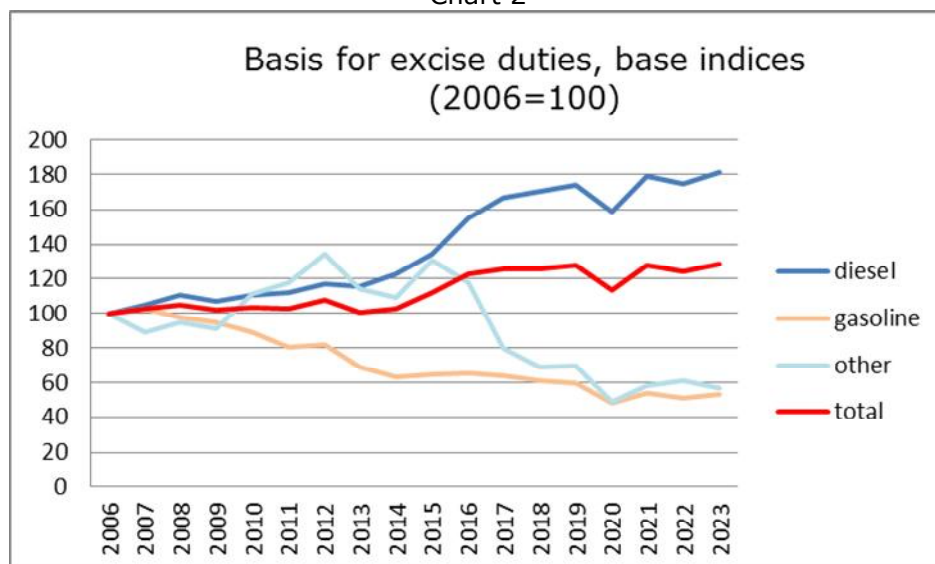
Chart 1



Source: Calculation and presentation of the author based on the ITA data

Compared to 2006, the consumption of oil derivatives that are included in the excise tax base increased by 28.5% (Chart 2, red line). It is interesting to analyze the dynamics of consumption categories that enter the base for excise taxes. Compared to 2006, the consumption of diesel fuel increased by a high 80.8%, while the consumption of gasoline and other derivatives that enter the base (kerosene and fuel oil) almost halved (-46.8% and -42.9 %, respectively).

Chart 2



Source: Calculation and presentation of the author based on the ITA data

(b) Excise duty rates on oil derivatives

The movement of the components of the excise tax base is relevant for the collection of excise revenue, given the differentiated rates of their taxation. The policy of excise duties on oil derivatives in B&H is defined by the Law on Excise Duties in Bosnia and Herzegovina („Official Gazette of B&H“ No. 49/09) adopted in 2009. The Law has been changed /amended four times

since 2009, twice in 2014, in 2017 and in 2022. Amendments to the Law adopted in 2017 (applied from February 1, 2018) related to the taxation of oil derivatives (excise duty and road fees). Changes to the excise duty policy on oil derivatives (Table 1) included: an increase in the excise duty rate on heating oil from 0.30 to 0.45 BAM/l and the introduction of excise duty on biofuels and bio-liquids (0.30 BAM/l).

Table 1. Excise duty rates on oil derivatives (BAM/l)

	Base	2009 Law	Changes in the Law (2017)	difference
a)	diesel fuels and other gas oils	0,30	0,30	
b)	petroleum (kerosene)	0,30	0,30	
c)	motor petrol - unleaded	0,35	0,35	
d)	motor petrol	0,40	0,40	
e)	heating oil extra light and easy special	0,30	0,45	0,15
f)	liquid petroleum gas for the propulsion of motor vehicles		0,00	
g)	biofuels and bio-liquids		0,30	0,30

Note: The Law from 2009 has been in force since July 1, 2009. Amendments to the Law from 2017 have been in force since February 1, 2018.

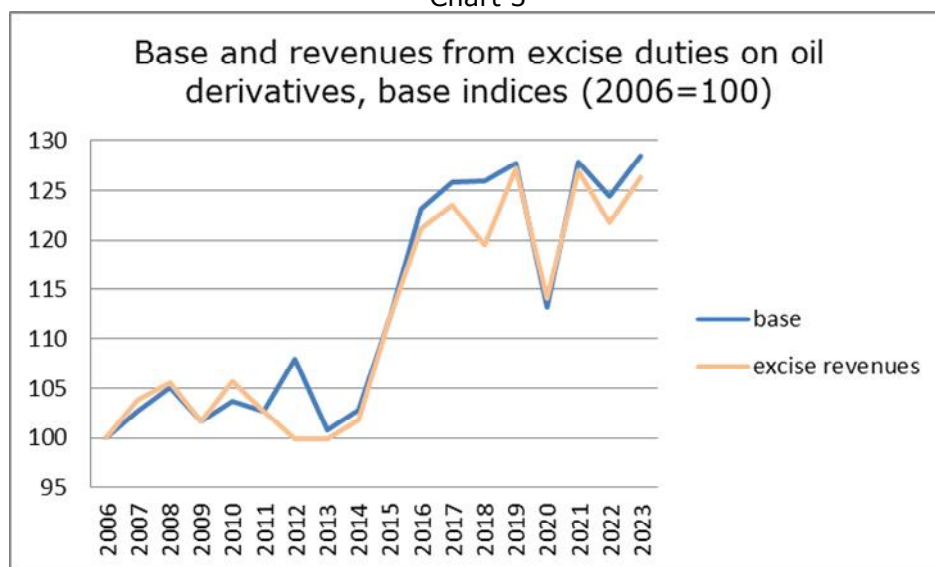
(c) Revenues from excise duties on oil derivatives

In the period 2006-2023, revenues from excise duties on oil derivatives were relatively stable (coefficient of variation 9.2%), and ranged from 417.9 million BAM to 532.4 million BAM. In the observed period 2006-2023, revenue from excise duties on oil derivatives did not fully follow the movement of the total base for excise duties, due to the following factors:

- i. Policies of differentiated taxation of derivatives,
- ii. Changes in excise duty rates on certain types of derivatives in the observed period (fuel oil, biofuels and bio-liquids; February 2018),
- iii. Practices for compensation of obligations for excise duty and road fee from receivables based on VAT credit, which was especially pronounced in 2018,
- iv. Changes in the level of debt based on excise duties on derivatives.

On the basis of Chart 3, we can see that there were no major differences between the movement of the total amount of consumption of derivatives that enter the basis for excise duties and revenues from excise duties, although in the period 2006-2023 there was a significant change in the structure of the basis. There was a strong growth in the consumption of diesel fuel (which is relatively less taxed) and the decline of components with a relatively higher excise rate (gasoline, heating oil). It should also be noted that the previously negligible consumption of kerosene has gradually gained importance due to the growth of air traffic (low-budget flights), and that in 2023 it even exceeded the consumption of heating oil. Finally, the base index for the year 2023 (2006=100) is 2.1 points lower in the case of revenues from excise duties on oil derivatives compared to the total consumption of derivatives included in the base.

Chart 3



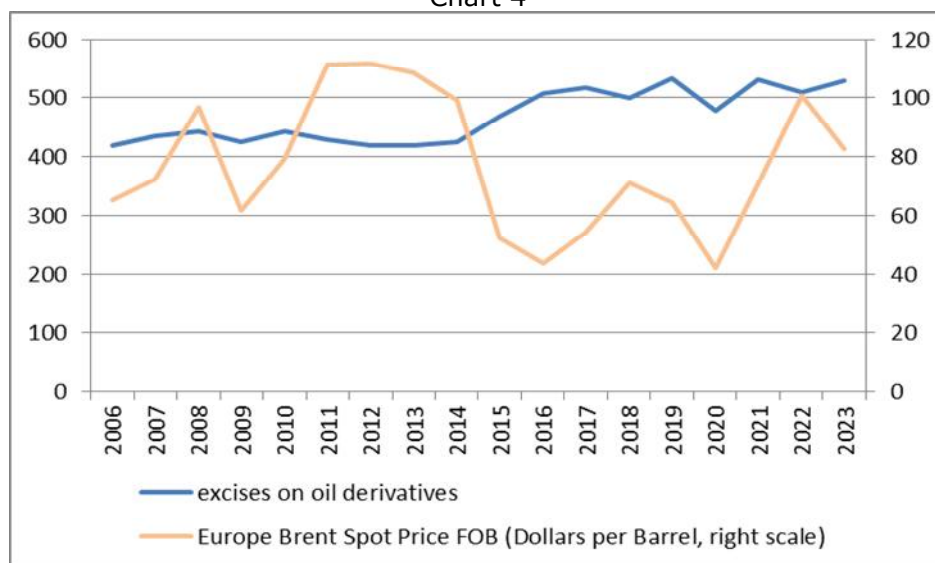
Source: Calculation and presentation of the author based on the ITA data

(d) Revenues from excise duties on oil derivatives in relation to oil prices on the world market

In the first nine years of the analyzed period, from 2006 to 2014, the collection of excise duties on oil derivatives was quite uniform, with an average of 428.1 million BAM (min 417.9 million; max 442.1 million BAM) and a coefficient of variation of only 2.1%. On the other hand, oil prices on the world market in the mentioned period have varied strongly², ranging between 61.7 and 111.6 dollars per barrel (coefficient of variation 21.1%). Oil prices on the world market fell sharply in 2015, leading to a drop in the prices of derivatives on the B&H market and an increase in the collection of excise duties on oil derivatives. In the period 2015-2019, oil prices on the world market were in the range of 43.6-71.3 dollars per barrel (coefficient of variation 29.9%), while the collection of excise duties on the Single Account of the ITA of B&H ranged between 468.9 and 532.4 million BAM (coefficient of variation 4.2%). The following period, 2020-2023, was very turbulent, both in terms of oil prices and the collection of excise duties on oil derivatives. The prices of derivatives fell sharply in 2020 (to only 42 dollars per barrel), and contrary to the laws of the market economy, as a result of restrictive measures in the fight against the corona virus and the consequent loss of consumption, the collection of excise duties on oil derivatives also fell (477.5 million BAM). In 2021, oil prices on the world market increased (to 70.9 dollars per barrel), but so did the collection of excise duties on derivatives (531.2 million BAM) due to the recovery of consumption. In 2022, there was again a decline in excise duty collection (509.7 million BAM) and high oil prices on the world market (100.9 dollars per barrel) due to war events in Ukraine, while in 2023, the reverse trends were recorded (oil prices at world market 82.5 dollars per barrel, collection of excise duty on oil derivatives 528.6 million BAM). Based on the above, it can be concluded that oil prices on the world market have varied much more than the collected excise duties on oil derivatives in B&H.

² It should be noted that this period includes the year of the outbreak of the global financial crisis in 2008. Compared to 2008, in 2009, oil prices on the world market fell by 36.3% (data from the U.S. Energy Information Administration, Europe Brent Spot Price FOB, dollars per barrel). According to the same source, oil prices on the world market increased by a high 80.2% in 2022 compared to 2009.

Chart 4



Source: Author's presentation based on data from the ITA (revenue collection) and U.S. Energy Information Administration (oil prices on the world market)

If we create a simple regression model and analyze the relationship between excise duties on oil derivatives in Bosnia and Herzegovina and oil prices on the world market in the period 2006-2023, we will see that the coefficient of determination R^2 is only 20.4% (correlation coefficient is -0.45). On the other hand, in the regression model of collected excise duties on oil derivatives and the level of GDP in B&H, R^2 is much more significant and amounts to 68.4% (correlation coefficient is +0.82). If we create a multiple regression model, which makes it possible to determine the combined influence of several independent variables on the dependent variable, with the dependent variable "collected excises on oil derivatives", and the independent variables: (1) GDP and (2) oil prices on the world market (dollars per barrel), R^2 rises to a high 88.6%, which means that the variability of collected excise duties with the dynamics of GDP and oil prices on the world market in the mentioned regression model amounts to that percentage. The p-value for both variables is zero, meaning that both independent variables are significant to the model.³

2. Road fee

(a) Basis for calculation of road fee

The dynamics of the base for the road fee calculation is slightly different from the base for excise duties on oil derivatives because it does not include the consumption of kerosene and heating oil, but includes the consumption of liquid petroleum gas, and due to the existence of benefits, in the form of exemption from paying road fees, for mines, thermal power plants and railways. However, due to the decision of the State Aid Council of B&H⁴, the release of road fee payments for the mentioned categories of taxpayers was suspended in 2023.

(b) Road fee rate

Non-earmarked road fee for road construction amounts to 0.15 BAM/l and has not change during the observed period 2006-2023. The earmarked road fee was introduced on July 1, 2009 and from then until February 2018 it amounted to 0.10 BAM/liter of oil derivatives, intended entirely for the

³ The year 2020 is excluded from the analysis, due to its specificity. Data Source: ITA (revenue collection), U.S. Energy Information Administration (oil prices on the world market), BHAS (GDP data) and DEP's projections (GDP for 2023)

⁴ "Official Gazette of B&H" 49/23 and "Official Gazette of B&H" 63/23

construction of highways. Changes to the road fee policy from 2017 (applied from February 1, 2018) related to the increase in the earmarked road fee rate from 0.10 to 0.25 BAM/l (with the separation of rates⁵ and funds according to the purpose for highways and other roads), and changes in the scope of the road fee base in the sense of including biofuels and bio-liquids, as well as liquid petroleum gas for driving motor vehicles in the base. The total road fee rate (non-earmarked + earmarked) is presented in Table 2.

Table 2. Road fee rates on oil derivatives (BAM/l)

	Base	2009 Law	Changes in the Law (2017)	difference
a)	diesel fuels and other gas oils	0,25	0,40	0,15
b)	petroleum (kerosene)			
c)	motor petrol - unleaded	0,25	0,40	0,15
d)	motor petrol	0,25	0,40	0,15
e)	heating oil extra light and easy special			
f)	liquid petroleum gas for the propulsion of motor vehicles		0,40	0,40
g)	biofuels and bio-liquids		0,40	0,40

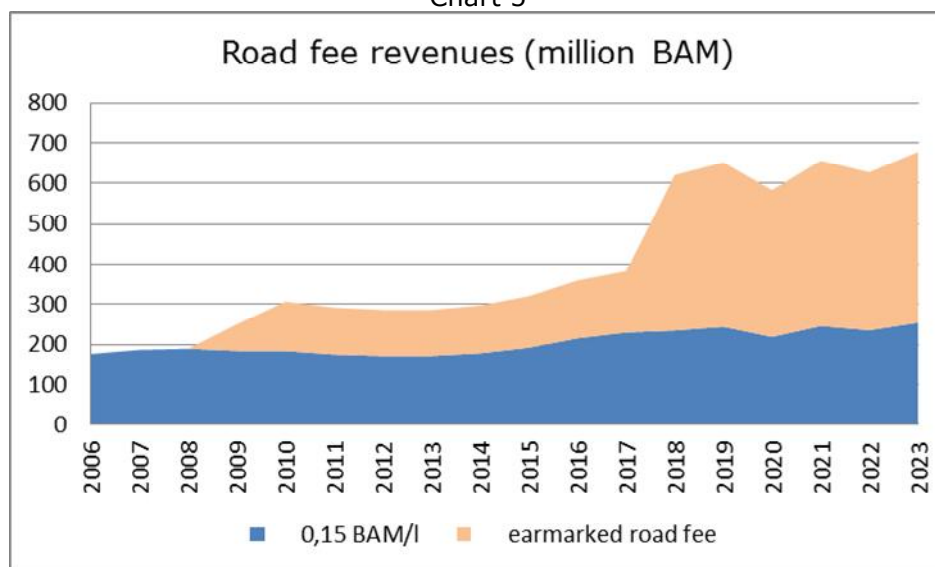
Note: Road fee on liquid petroleum gas is expressed in BAM/kg. The Law from 2009 has been in force since July 1, 2009. The amendments to the Law from 2017 have been in force since February 1, 2018.

(c) Road fee revenues

In contrast to excise duties on oil derivatives, the dynamics of road fee revenues have been most affected by the changes in taxation rates. Until 2009, the share of road fee revenues was not significant in indirect tax revenues, and they were in the range between 176.6 and 189.5 million BAM. With the increase in the earmarked road fee rate in the middle of 2009, road fee revenues have a significant share in indirect taxes. Observed in absolute terms, in the period 2009-2014, road fee revenues were in the range between 250.2 and 307 million BAM. With the drop in oil prices on the world market and the prices of oil derivatives on the B&H market in 2015, as well as in the case of excise duties on oil derivatives, road fee revenues have been increasing. In the period 2015-2017, road fee revenues were in the range between 320.5 and 382.7 million BAM. In February 2018, the earmarked road fee rate increased again, and road fee revenues recorded a sharp jump in collection. In the period 2018-2023, they were in the range between 584 and 677.8 million BAM, and the significant fluctuation in this period was a consequence of restrictive measures in the fight against the corona virus, the war in Ukraine and the resulting huge differences in the prices of oil on the world market and oil derivatives on the B&H market. For example, oil prices on the world market (Europe Brent Spot Price FOB) were 2.4 times higher in 2022 (the beginning of the war in Ukraine) compared to 2020 (the year of the corona virus).

⁵ For the construction of highways 0.20 BAM/l and for the construction and reconstruction of other roads 0.05 BAM/l.
Banja Luka: Bana Lazarevića, 78 000 Banja Luka, Tel/fax: +387 51 335 350, E-mail: oma@uino.gov.ba
Sarajevo: Zmaja od Bosne 47b, 71 000 Sarajevo, Tel:+387 33 246 081, Fax:+387 033 246 080, Web: www.oma.uino.gov.ba

Chart 5



Source: Presentation of the author based on the ITA data

(d) Road fee revenues in relation to oil prices on the world market

We have seen that the revenues from road fees have varied strongly in the observed period (coefficient of variation 44.7%). They increased from 176.6 million BAM in 2006 to 677.8 million BAM in 2023. Apart from fluctuations in the oil market, the introduction and later increase of the earmarked road fee rate contributed the most to this. When performing a regression analysis of road fee revenue, significant differences in taxation rates in the specified period should therefore be taken into account. If we create a multiple regression model, with the dependent variable "collected road fee", and the independent variables: (1) GDP, (2) oil prices on the world market (dollars per barrel) and (3) road fee rate, the R^2 is quite high, but p-value for the GDP variable amounts to 0.09, which means that the variable is not significant at the 5% confidence level. When the variable (1) GDP is excluded from the model, the R^2 is a high 95%, and both remaining variables have a satisfactory level of p-value. In the analysis, data from the period 2006-2023 were taken, with the exception of 2020 (when numerous movement bans were in force due to the fight against the coronavirus), and years when earmarked road fee rate were changed.⁶

Instead of a conclusion

The dynamics of the consumption of oil derivatives is regularly the subject of analysis by the Unit because it is extremely important for the collection of revenues from indirect taxes in Bosnia and Herzegovina. Revenues from excise duties on oil derivatives and road fees have a significant share in revenues from indirect taxes. Observed in the total amount (revenues from excise duties on oil derivatives + road fees), in the period 2006-2023, the mentioned revenues more than doubled (growth rate amounts to +102.8%). In the period from 2006 to 2023, the share of gross revenues from excises on oil derivatives and road fees in the total gross revenues from indirect taxes on the Single Account of the ITA ranged from 10.8% (min, 2008) to 14.8% (max, 2018 and 2019). The largest annual increases in the ratios were recorded in 2009 and 2018, and these are the years when the earmarked road fee rate was introduced and increased. In 2023, that ratio was 11.3%.

⁶ 2009 and 2018, since the application of higher rates was not in force from the very beginning of the year. The following data sources were used: ITA data (revenue collection), U.S. Energy Information Administration (oil prices on the world market), BHAS (GDP data) and DEP's projections (GDP for 2023).

If we add the corresponding revenues from VAT to the revenues from excise taxes on oil derivatives and road fees, then the share of revenues calculated in this way in the total gross revenues from indirect taxes on ITA SA ranged between 12.6% and a high of 17.3%, with a share of 13.3% in 2023.

From this article, it can be concluded that revenues from excise duties on oil derivatives in the period 2006-2023 were extremely stable, despite numerous crises in the world economy and turbulences on the oil market and their repercussions on the economy of Bosnia and Herzegovina. On the other hand, revenues from road fees have increased strongly in the mentioned period, and apart from the growth of the gross domestic product in B&H, this was primarily the result of the increase in the rate of earmarked road fee.

Archive of bulletins:

http://www.oma.uino.gov.ba/04_objasnjenja.asp?l=e

Analysis of revenue collection from excise duties on non-alcoholic beverages and current trends

(Author: Mirjana Popović, expert advisor - macroeconomist)

Summary

The analysis of trends in the collection of revenue from excise duties on non-alcoholic beverages in Bosnia and Herzegovina (hereinafter: B&H) is a continuation of the analyzes published in previous issues of the Unit's bulletin⁷. The focus of this analysis is:

- *Annual collection and annual growth rate of total revenues from excise duties on non-alcoholic beverages, revenues from excise duties on imported and domestic non-alcoholic beverages. The collection in the period 2021-2023⁸ was analyzed⁹ and the growth rate for 2022 and 2023.*
- *Quarterly collection and quarterly growth rate of total revenues from excise duties on non-alcoholic beverages, revenues from excise duties on imported and domestic non-alcoholic beverages. The collection for the period Q1 2021-Q1 2024 was analyzed¹⁰ and the growth rate for the period Q1 2022-Q1 2024.*
- *Monthly collection and monthly growth rate of total revenues from excise duties on non-alcoholic beverages, revenues from excise duties on imported and domestic non-alcoholic beverages. The collection for the period January 2021 - April 2024 was analyzed¹¹ and the growth rate for the period January 2022-April 2024.*

1. Annual movement of revenues from excise duties on non-alcoholic beverages

Total revenues from excise duties have a large share in total revenues from indirect taxes. However, the share of total revenues from excise duties on non-alcoholic beverages in total revenues from excise duties at the annual level in the last three years can be considered relatively small¹² compared to revenues from excise duties on other excise products such as tobacco products, alcoholic beverages and fuel.

Chart one shows the movement of annual revenue collection from excise duties on non-alcoholic beverages for the period 2021-2023, in millions of BAM. The annual collection of total revenues from excise duties on non-alcoholic beverages in the observed time period and the annual collection of excise revenues on non-alcoholic beverages separated into components - revenues from excise duties on imported non-alcoholic beverages and revenues from excise duties on domestic non-alcoholic beverages are shown.

⁷ More on the policy of taxation of non-alcoholic beverages and the collection of revenue from excise duties on non-alcoholic beverages in: Popović, M. (2022). "Analysis of collection of revenues from excise duties on non-alcoholic beverages". MAU bulletin no. 205/206. More about trends in the collection of these revenues and current trends in: Popović M. (2023) "Analysis of revenue collection from excise duties on non-alcoholic beverages and current trends". MAU bulletin no. 217/218.

⁸ Latest available annual data

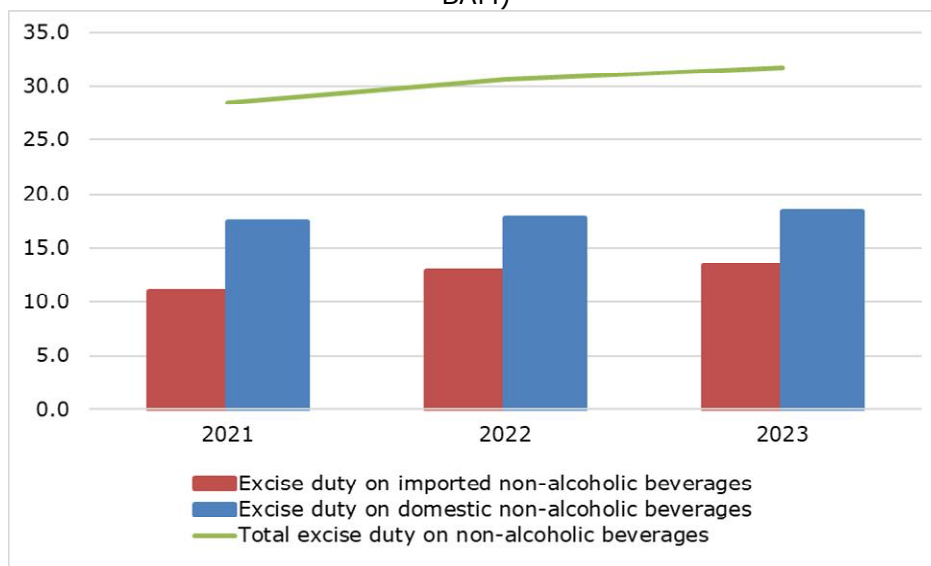
⁹ Due to the emergence of the Covid-19 pandemic and a period of economic uncertainty when consumers cut back on spending, 2020 is not relevant for comparison.

¹⁰ Latest available quarterly data

¹¹ Latest available monthly data

¹² These revenues account for 1.9% of total excise revenues on an annual basis in the period 2021-2023.

Chart 1. Annual revenue collection from excise duties on non-alcoholic beverages (in millions of BAM)



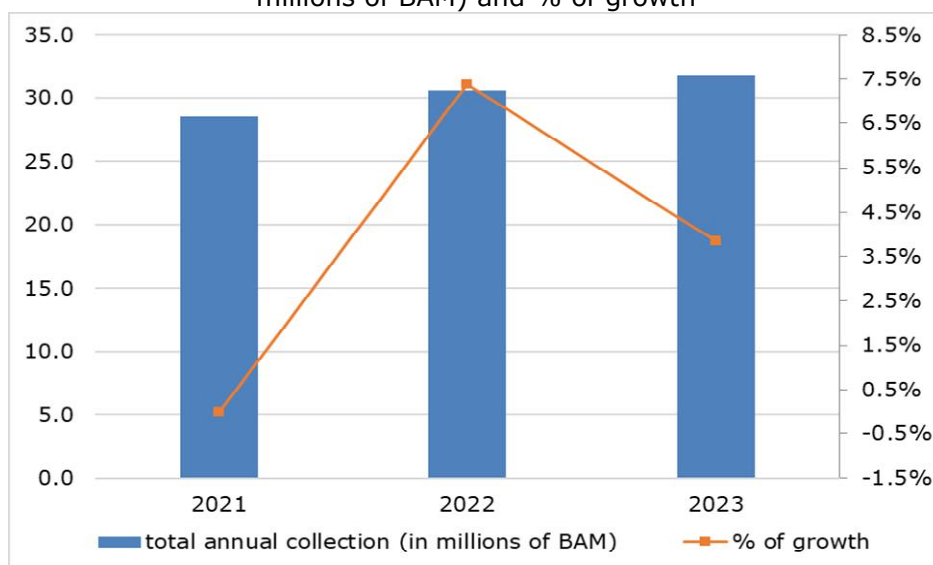
Source: Data from the Indirect Taxation Authority of B&H, MAU overview

In the last three years, total revenues from excise duties on non-alcoholic beverages in B&H had a growing trend, reaching a record level of collection of these revenues since the establishment of the Indirect Taxation Authority. This is a significant indicator of increased consumption, that is, an increase in the standard of living and an improvement in the efficiency of excise duty collection in the country, that is, a reduction in the informal market. However, what is noticeable is the faster growth of revenue from excise duties on imported non-alcoholic beverages compared to revenue from excise duties on domestic non-alcoholic beverages, which should be a warning sign for domestic producers. Accordingly, a detailed analysis of total revenues from excise duties on non-alcoholic beverages and revenues from excise duties on non-alcoholic beverages by component is presented below, as well as the growth rate of these revenues on an annual basis. The analysis of revenue collection from excise duties on non-alcoholic beverages separated by components - import and domestic excise duty, provides more detailed information on consumer preferences and the influence of other external factors on the consumption of non-alcoholic beverages that are subject to excise taxation.

1.1. Annual movement of total revenues from excise duties on non-alcoholic beverages

Chart two shows the annual collection of total revenues from excise duties on non-alcoholic beverages for the period 2021-2023, in millions of BAM (left vertical scale) and the annual growth rate of these revenues in 2022 and 2023 (right vertical scale).

Chart 2. Annual collection of total revenues from excise duties on non-alcoholic beverages (in millions of BAM) and % of growth



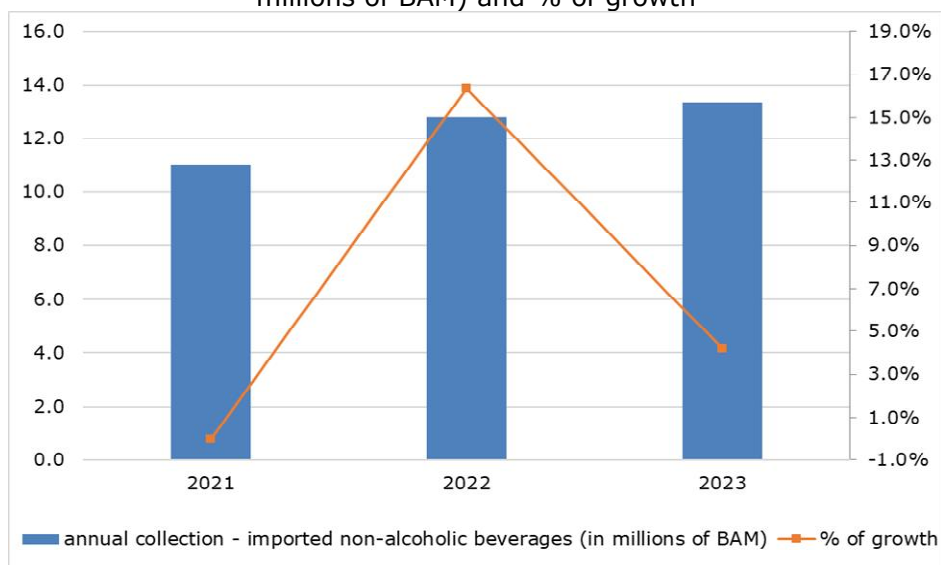
Source: Data from the Indirect Taxation Authority of B&H, MAU overview

In 2023, the collection of total revenues from excise duties on non-alcoholic beverages increased by 3.8% compared to the previous year (Chart 2, % of growth), while in 2022, an increase of 7.4% was recorded compared to 2021 (Chart 2, % of growth).

Annual movement of revenues from excise duties on imported non-alcoholic beverages

Chart three shows the annual collection of revenue from excise duties on imported non-alcoholic beverages for the period 2021-2023, in millions of BAM (left vertical scale) and the annual growth rate of these revenues in 2022 and 2023 (right vertical scale).

Chart 3. Annual revenue collection from excise duties on imported non-alcoholic beverages (in millions of BAM) and % of growth



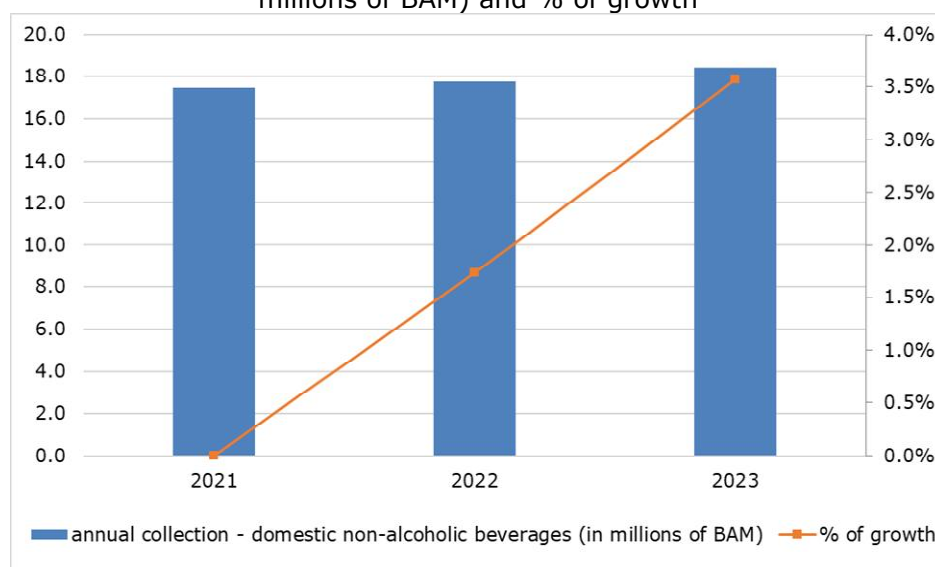
Source: Data from the Indirect Taxation Authority of B&H, MAU overview

The chart shows a 4.2% increase in revenue from excise duties on imported non-alcoholic beverages in 2023 compared to the previous year, and a 16.4% increase in 2022 compared to 2021. Intensive marketing campaigns of producers and distributors of imported non-alcoholic beverages through online and offline channels such as increasingly popular social networks, billboards and the press, consumer preferences towards foreign brands due to quality, taste and competitive prices, and a large offer of imported non-alcoholic beverages, contribute to the increase in consumption of this excise product.

1.2. Annual movement of revenue from excise duties on domestic non-alcoholic beverages

Chart four shows the annual collection of revenue from excise duties on domestic non-alcoholic beverages for the period 2021-2023, in millions of BAM (left vertical scale) and the annual growth rate of these revenues in 2022 and 2023 (right vertical scale).

Chart 4. Annual revenue collection from excise duties on domestic non-alcoholic beverages (in millions of BAM) and % of growth



Source: Data from the Indirect Taxation Authority of B&H, MAU overview

In 2023, an increase of 3.6% was recorded, while in 2022, an increase of 1.7% was recorded in revenues from excise duties on domestic non-alcoholic beverages compared to the previous year (Chart 4, % of growth).

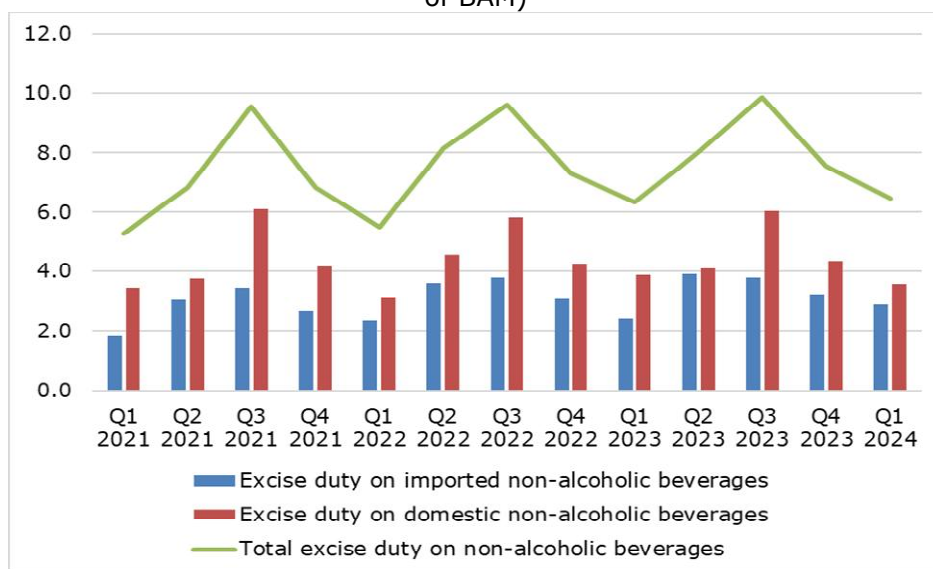
Although revenues from excise duties on domestic non-alcoholic beverages are still higher than revenues from excise duties on imported non-alcoholic beverages, it is important to emphasize that the share of excise duties on domestic non-alcoholic beverages decreases from year to year in total revenues from excise duties on non-alcoholic beverages, while the share of revenue from excise duties on imported non-alcoholic beverages is increasing. Consumer preferences, prices, marketing, supply and other mentioned factors are the biggest causes of the growing difference between the rate of growth of revenue from excise duties on imported and domestic non-alcoholic beverages.

2. Quarterly movement of revenues from excise duties on non-alcoholic beverages

Chart five shows the quarterly revenue collection from excise duties on non-alcoholic beverages for the period from the first quarter (Q1) of 2021 to the first quarter (Q1) of 2024, in millions of

BAM. The chart shows the quarterly dynamics of total revenues from excise duties on non-alcoholic beverages, as well as revenues from excise duties on non-alcoholic beverages by component - revenues from excise duties on imported non-alcoholic beverages and revenues from excise duties on domestic non-alcoholic beverages.

Chart 5. Quarterly collection of revenue from excise duties on non-alcoholic beverages (in millions of BAM)



Source: Data from the Indirect Taxation Authority of B&H, MAU overview

Quarterly revenues from excise duties on non-alcoholic beverages are highest in the third quarters as a result of a combination of various seasonal and social factors. The third quarter includes the summer months when the consumption of non-alcoholic beverages is the highest due to high temperatures and the population's need for hydration. These are the months of the increased tourist season in the country, which increases the total consumption of beverages, including non-alcoholic beverages. The third quarter is also a period that includes many social events such as festivals and events that encourage increased consumption of non-alcoholic beverages and many manufacturers and distributors organize special promotions and marketing campaigns to take advantage of the increased demand during this period.

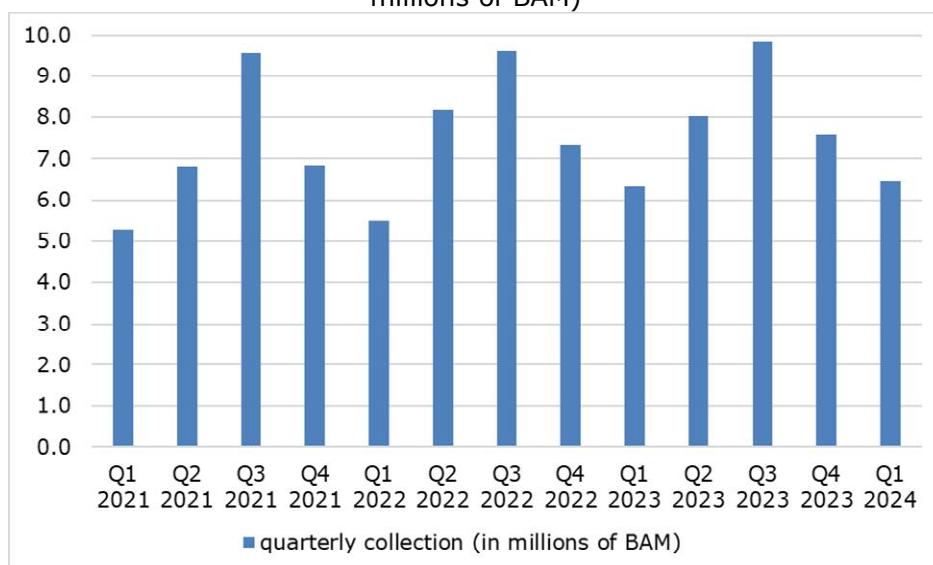
2.1. Quarterly movement of total revenues from excise duties on non-alcoholic beverages

Chart six shows the quarterly collection of total revenue from excise duties on non-alcoholic beverages for the period Q1 2021-Q1 2024, in millions of BAM.

As a consequence of the seasonal influence, it can be seen from the chart that the collection of these revenues in the third quarters is significantly higher than the collection in the other quarters. The growth rate of these revenues is shown in the following chart.

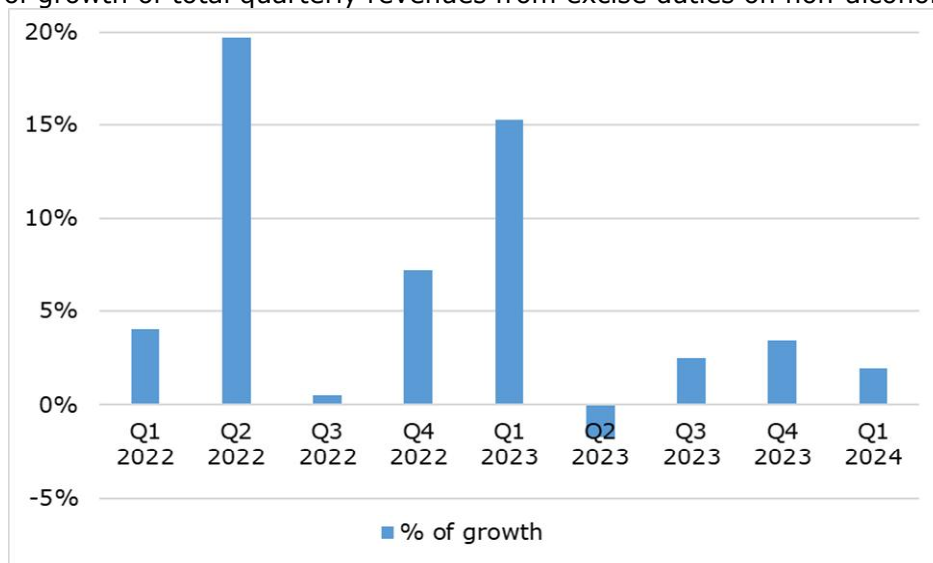
Chart seven shows the quarterly growth rate of total excise revenue on non-alcoholic beverages for the period Q1 2022-Q1 2024.

Chart 6. Quarterly collection of total revenues from excise duties on non-alcoholic beverages (in millions of BAM)



Source: Data from the Indirect Taxation Authority of BiH, MAU overview

Chart 7. % of growth of total quarterly revenues from excise duties on non-alcoholic beverages



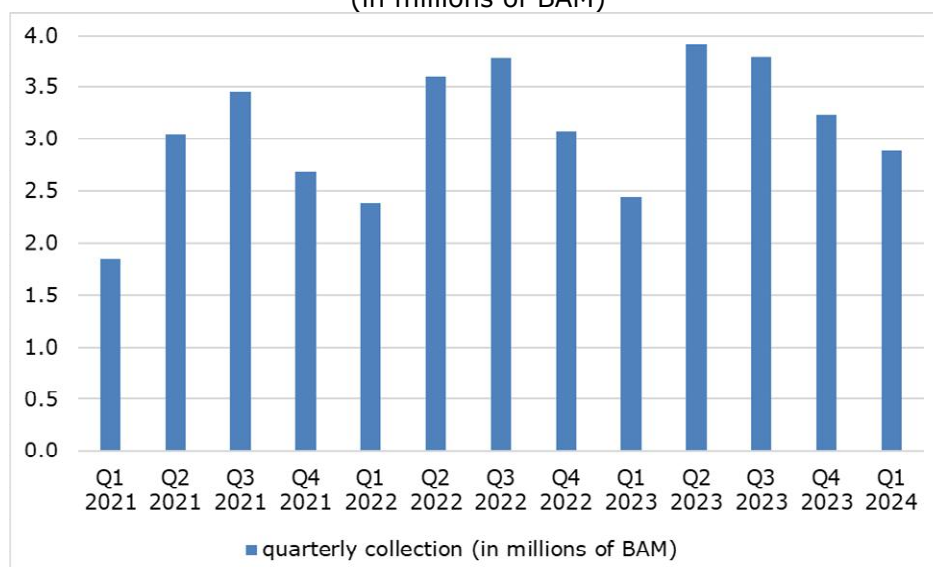
Source: Data from the Indirect Taxation Authority of B&H, MAU overview

Analyzing the quarterly trends in the total revenues from excise duties on non-alcoholic beverages, a higher growth in the collection of these revenues in the second quarter of 2022 is 19.7%, in the fourth quarter of the same year 7.2% and in the first quarter of 2023 15.3%. In the remaining quarters, a smaller increase in collection was recorded, while the only reduction in collection was recorded in the second quarter of 2023 by 1.7%, compared to the same quarter of 2022.

2.2. Quarterly movement of revenues from excise duties on imported non-alcoholic beverages

Chart eight shows the quarterly collection of revenue from excise duties on imported non-alcoholic beverages for the period Q1 2021-Q1 2024, in millions of BAM.

Chart 8. Quarterly collection of revenue from excise duties on imported non-alcoholic beverages (in millions of BAM)

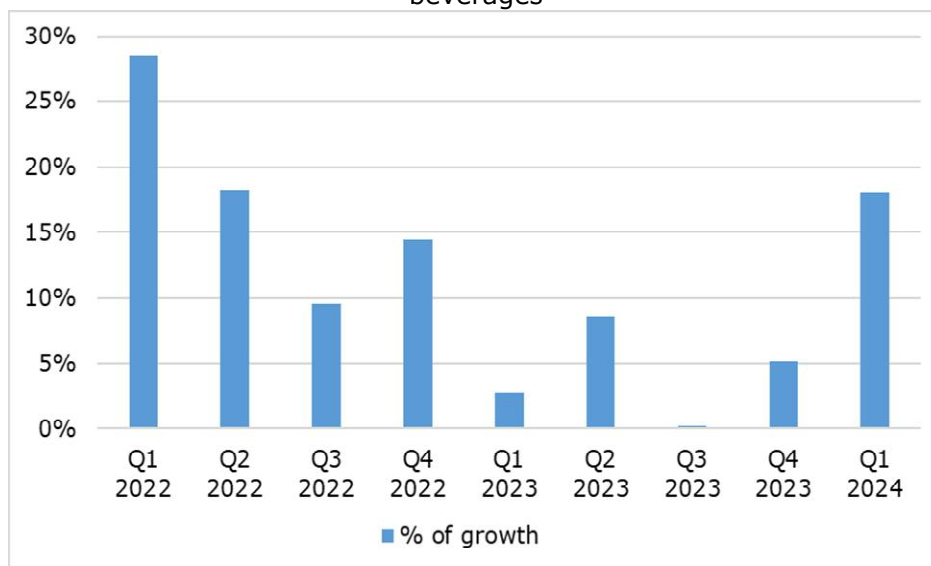


Source: Data from the Indirect Taxation Authority of B&H, MAU overview

As with the quarterly collection of total revenue from excise duties on non-alcoholic beverages, the quarterly collection of revenue from excise duties on imported non-alcoholic beverages is also of a seasonal nature, and the highest collection of these revenues is in the third quarter, i.e. the summer months. Summer is often a period when manufacturers and sellers conduct intensive marketing campaigns, increased tourist arrivals, sports and cultural events in the country during the summer additionally influence the increase in the consumption of non-alcoholic beverages.

Chart nine shows the quarterly growth rate of revenue from excise duties on imported non-alcoholic beverages for the period Q1 2022-Q1 2024.

Chart 9. % of growth of quarterly revenues from excise duties on imported non-alcoholic beverages



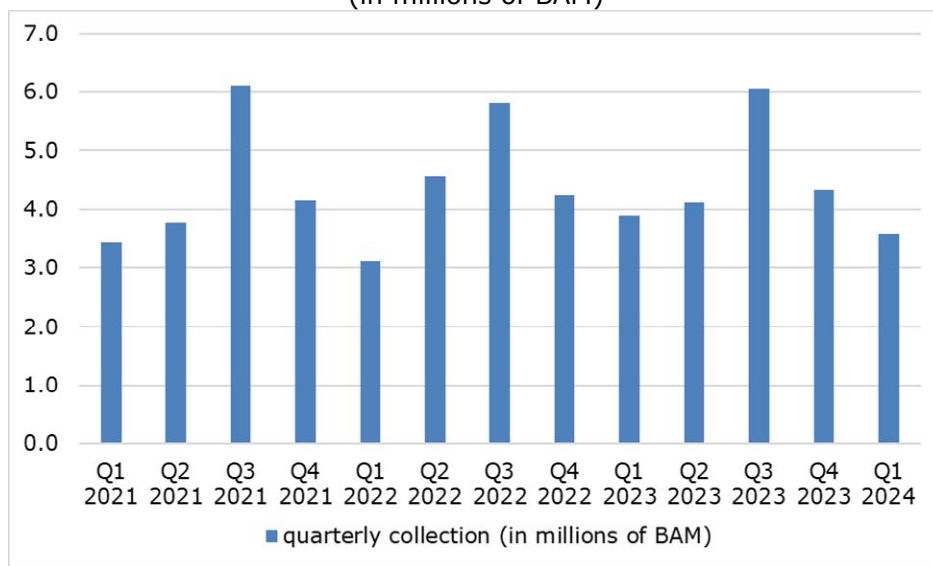
Source: Data from the Indirect Taxation Authority of B&H, MAU overview

The quarterly collection of revenue from excise duties on imported non-alcoholic beverages has a positive trend during all quarters shown in the table. However, the largest increase in these revenues was recorded in the first quarter of 2022 by 28.5% as a result of the economic recovery after the COVID-19 pandemic. The economy began to recover, which increased the disposable income of consumers and their purchasing power, including the consumption of imported non-alcoholic beverages, the lifting and easing of restrictions related to the pandemic increased consumption in restaurants, cafes and other catering establishments, which led to higher imports of non-alcoholic beverages. The recovery of tourism in the first quarter of 2022, changes in consumer habits and stabilization of global trade flows are factors that additionally influenced the increase in demand for imported non-alcoholic beverages. The growth trend of these revenues continued in the other quarters of the same and the following year, while a higher growth was recorded in the second quarter of 2022, 18.3%, as well as in the first quarter of the current year, 18.1%, compared to the same quarter of the previous year.

2.3. Quarterly movement of revenues from excise duties on domestic non-alcoholic beverages

Chart 10 shows the quarterly collection of revenue from excise duties on domestic non-alcoholic beverages for the period Q1 2021-Q1 2024, in millions of BAM.

Chart 10. Quarterly collection of revenue from excise duties on domestic non-alcoholic beverages (in millions of BAM)

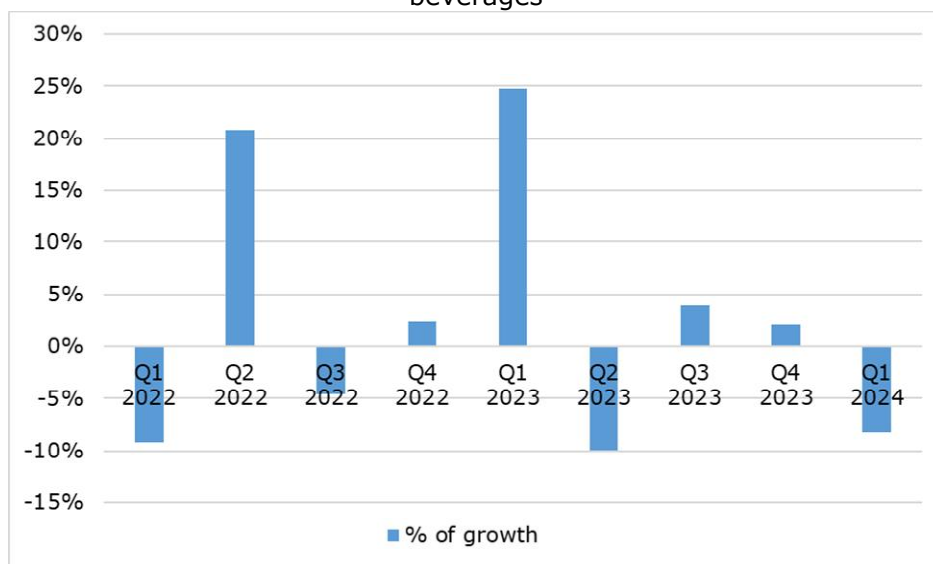


Source: Data from the Indirect Taxation Authority of B&H, MAU overview

As with the quarterly collection of total revenue from excise duties on non-alcoholic beverages, and the quarterly collection of revenue from excise duties on imported non-alcoholic beverages, the quarterly collection of revenue from excise duties on domestic non-alcoholic beverages is of a seasonal nature. In the observed period the highest collection was recorded in the summer months, i.e. in third quarters.

Chart 11 shows the quarterly growth rate of revenue from excise duties on domestic non-alcoholic beverages for the period Q1 2022-Q1 2024.

Chart 11. % of growth of quarterly revenues from excise duties on domestic non-alcoholic beverages



Source: Data from the Indirect Taxation Authority of B&H, MAU overview

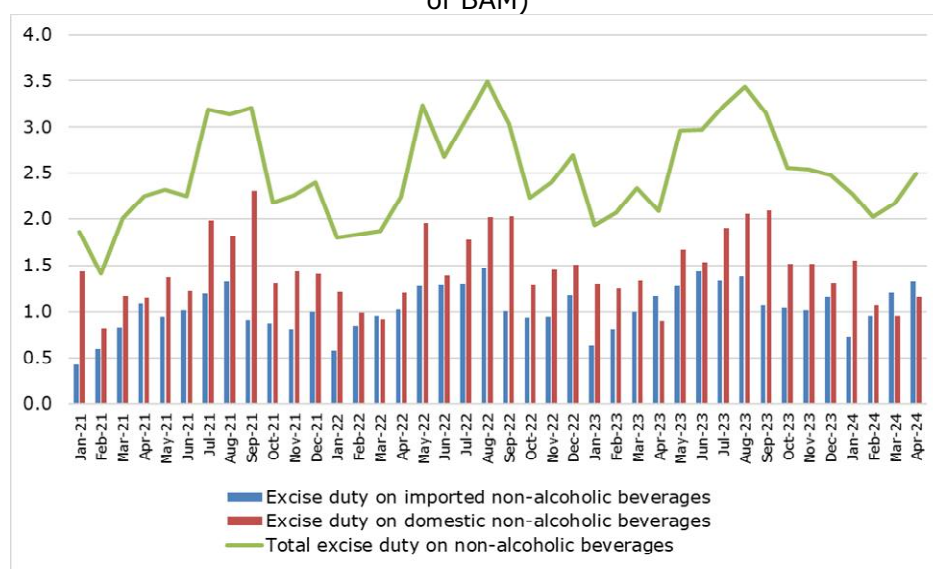
The largest increase in these revenues was recorded in the second quarter of 2022 by 20.8% as a general increase in the consumption of domestic products due to economic recovery after the pandemic. Also, a large growth of these revenues was recorded in the first quarter of 2023, 24.8%. Certain quarters recorded a decrease in the collection of these revenues, which ranged from 4.6% in the third quarter of 2022 to 9.9% in the second quarter of 2023, when the largest decrease was recorded in the observed period.

3. Monthly movement of revenues from excise duties on non-alcoholic beverages

The monthly dynamics of revenue collection from excise duties on non-alcoholic beverages is shown for the period from January 2021 to April 2024. The aim of the analysis of the monthly movement of revenue collection from excise duties on non-alcoholic beverages is a more detailed presentation of the movement of these revenues under the influence of current external factors such as the prices of raw materials such as water, sugar and other ingredients that affect the price of the final product, the general economic situation and the purchasing power of consumers that affect the consumption of non-alcoholic beverages, seasonality, inflation and other factors.

Chart 12 shows the monthly movement of revenue from excise duties on non-alcoholic beverages for the period January 2021-April 2024, in millions of BAM. The monthly movement of the total collection of revenue from excise duties on non-alcoholic beverages in the observed period of time, as well as the monthly movement of collection of revenue from excise duties on non-alcoholic beverages separated by components - revenues from excise duties on imported and domestic non-alcoholic beverages are shown.

Chart 12. Monthly collection of revenue from excise duties on non-alcoholic beverages (in millions of BAM)



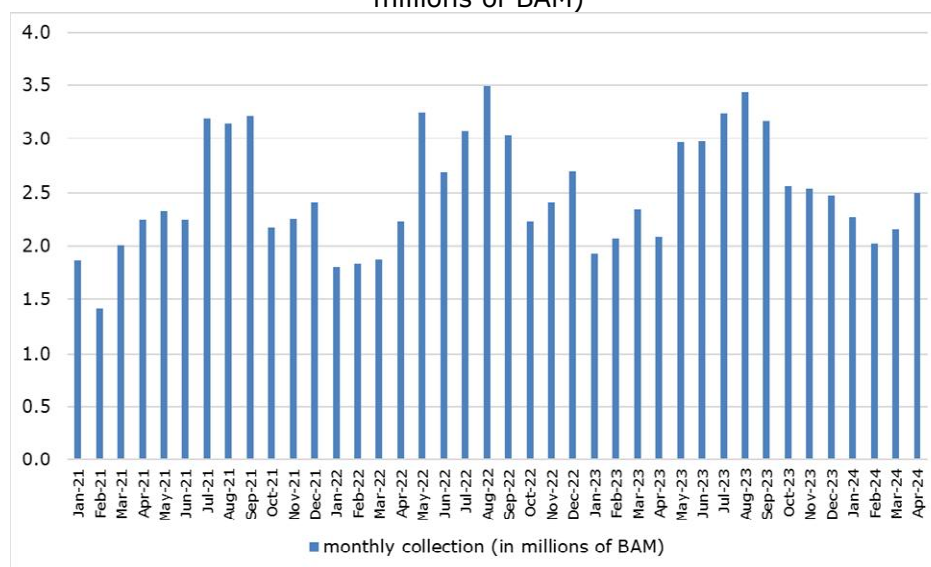
Source: Data from the Indirect Taxation Authority of B&H, MAU overview

From the monthly data on the collection of revenue from excise duties on non-alcoholic beverages, it can be concluded that seasonal influence, that is, weather conditions have the greatest impact on consumption. A more detailed analysis of the movement of total monthly revenues from excise duties on non-alcoholic beverages, as well as revenues from excise duties on non-alcoholic beverages by component - imported and domestic non-alcoholic beverages on a monthly basis, is presented below.

3.1. *Monthly movement of total revenues from excise duties on non-alcoholic beverages*

Chart 13 shows the monthly collection of total revenues from excise duties on non-alcoholic beverages for the period January 2021-April 2024, in millions of BAM.

Chart 13. Monthly collection of total revenues from excise duties on non-alcoholic beverages (in millions of BAM)



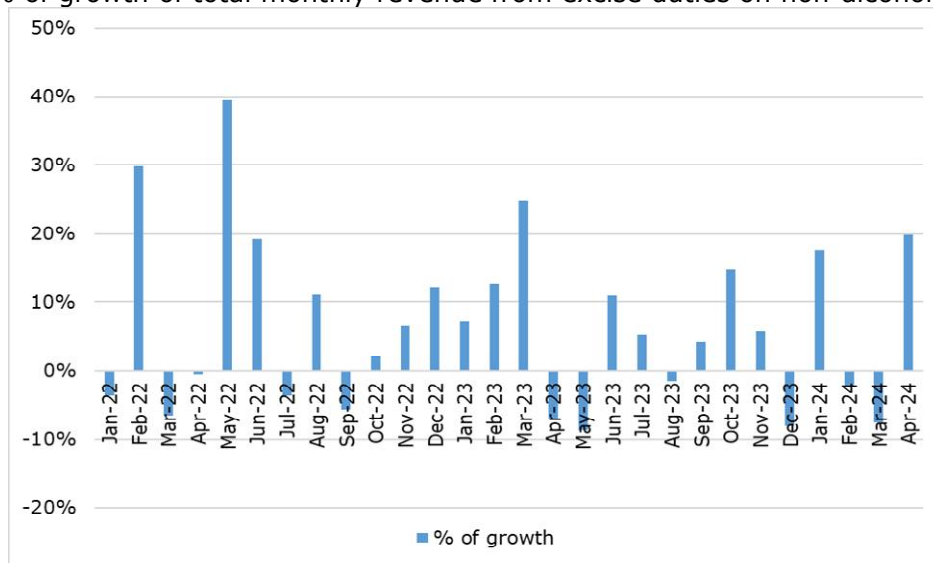
Source: Data from the Indirect Taxation Authority of B&H, MAU overview

In the observed period on a monthly basis, the highest collection of total revenue from excise duties on non-alcoholic beverages was recorded in the summer months, i.e. in the period from May to September every year, while the lowest collection of these revenues on a monthly level was recorded at the beginning of the year, in January and February, in the observed three years. The reason for low revenues from excise duties on non-alcoholic beverages at the beginning of the year is mostly consumption, which due to lower temperatures decreases during the winter months because consumers consume less cold drinks, resulting in lower sales and, consequently, lower revenues from excise duties. Also, the beginning of the year is the period of the so-called holiday season, and consumers secured supplies earlier, mostly in December.

Chart 14 shows the monthly growth rate of total revenue from excise duties on non-alcoholic beverages for the period January 2022-April 2024, compared to the same month of the previous year.

The largest increase in the collection of total revenues from excise duties on non-alcoholic beverages was recorded in May 39.6% and February 29.8% in 2022, as well as in March 2023, 24.8%, compared to the same month of the previous year. In the observed period, there was no major decrease in the collection of these revenues, i.e. a higher negative growth rate. The largest decrease was recorded in May 2023, 8.6%, due to bad weather and a large number of rainy days, which affected the reduction of social events and gatherings.

Chart 14. % of growth of total monthly revenue from excise duties on non-alcoholic beverages

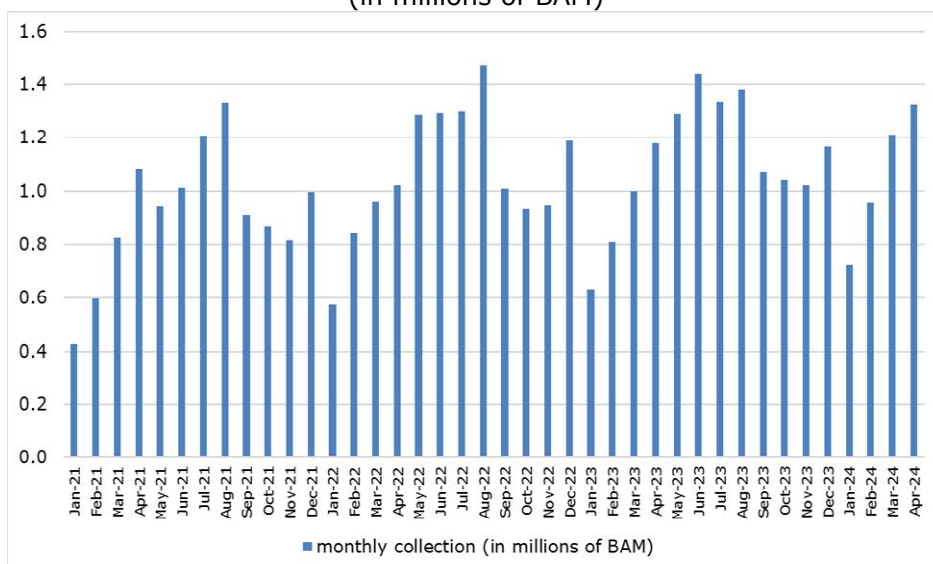


Source: Data from the Indirect Taxation Authority of B&H, MAU overview

3.2. *Monthly movement of revenues from excise duties on imported non-alcoholic beverages*

Chart 15 shows the monthly movement of revenue collection from excise duties on imported non-alcoholic beverages for the period January 2021-April 2024, in millions of BAM.

Chart 15. Monthly collection of revenue from excise duties on imported non-alcoholic beverages (in millions of BAM)

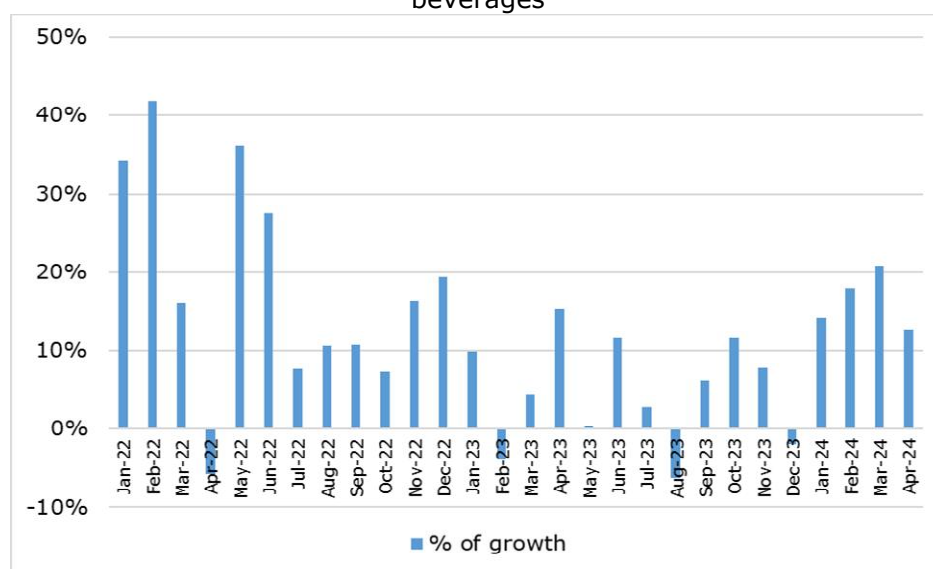


Source: Data from the Indirect Taxation Authority of B&H, MAU overview

As with the total revenues from excise duties on non-alcoholic beverages shown on a monthly level, the highest revenue collection from excise duties on imported non-alcoholic beverages is also in the summer months, while the lowest monthly collection of these revenues from year to year was recorded in January.

Chart 16 shows the monthly growth rate of revenue from excise duties on imported non-alcoholic beverages for the period January 2022 - April 2024, compared to the same month of the previous year.

Chart 16. % of growth of monthly revenue from excise duties on imported non-alcoholic beverages



Source: Data from the Indirect Taxation Authority of B&H, MAU overview

The highest growth in the collection of revenue from excise duties on imported non-alcoholic beverages on a monthly basis was recorded at the beginning of 2022 as a result of the easing of measures, post-pandemic recovery and changes in consumer habits, which led to increased consumption. Thus, in January of the same year, an increase in collection was recorded by 34.3%, in February by 41.9%, in May by 36.1% and in June by 27.5% compared to the same month of the previous year. In the observed period, a very low negative growth rate of revenue from excise duties on imported non-alcoholic beverages was recorded in April 2022, February, August and December 2023, ranging from 2.0% to 6.3%, and compared to the same month last year.

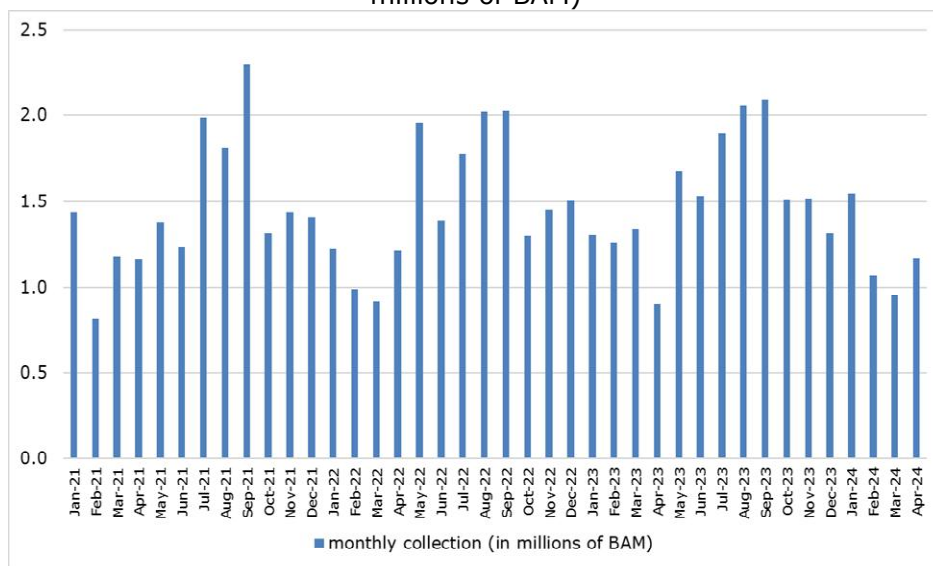
3.3. Monthly movement of revenues from excise duties on domestic non-alcoholic beverages

Chart 17 shows the monthly movement of excise revenue collection on domestic non-alcoholic beverages for the period January 2021-April 2024, in millions of BAM.

A similar trend in collection as with total revenues from excise duties on non-alcoholic beverages and revenues from excise duties on imported non-alcoholic beverages is also noted in the collection of excise revenues on domestic non-alcoholic beverages. The highest collection of these revenues was recorded in the summer months, however, the lowest collection was recorded in February 2021, March 2022 and April 2023, which cannot be attributed to a reduction in consumption due to extremely low temperatures and post-holiday consumption.

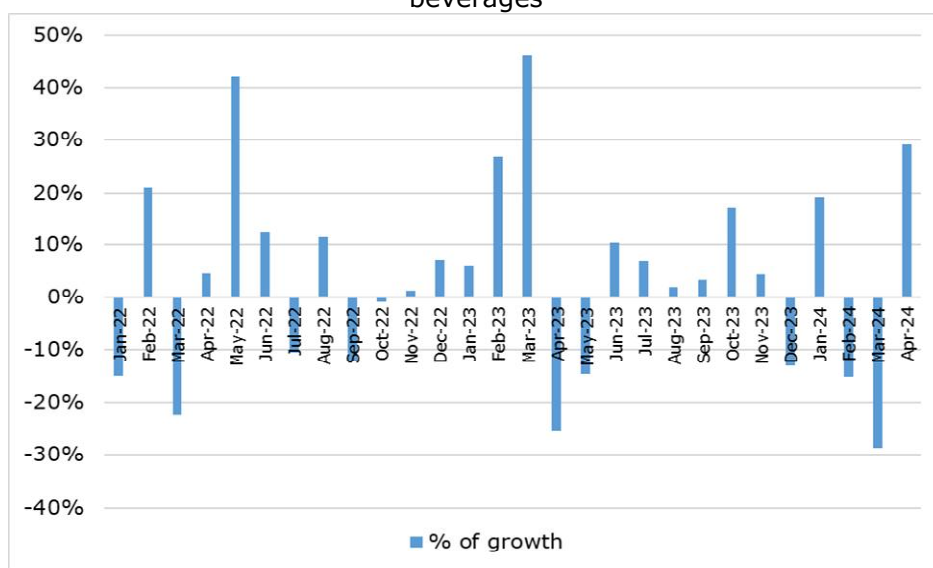
Chart 18 shows the monthly growth rate of excise duty on domestic non-alcoholic beverages for the period January 2022-April 2024, compared to the same month of the previous year.

Chart 17. Monthly revenue collection from excise duty on domestic non-alcoholic beverages (in millions of BAM)



Source: Data from the Indirect Taxation Authority of B&H, MAU overview

Chart 18. % of growth of monthly revenues from excise duties on domestic non-alcoholic beverages



Source: Data from the Indirect Taxation Authority of B&H, MAU overview

The growth rate of revenue from excise duties on domestic non-alcoholic beverages recorded the highest growth in May 2022, 42.0%, March 2023, 46.1%, and April of the current year, 29.2% compared to the same month of the previous year. The negative growth rate of excise revenue on domestic non-alcoholic beverages on a monthly basis is more common than the negative growth rate of excise revenue on imported non-alcoholic beverages, which should alarm domestic producers to innovate, improve the quality of their products, reduce costs or develop new marketing strategies. Thus, in the current year, a negative growth rate was recorded in February 15.0% and March 28.7%, which indicates the trend of consumer preferences towards imported non-alcoholic beverages compared to domestic non-alcoholic beverages.

Reform of tax decision-making in the EU in the light of the enlargement to the Western Balkans

(Author: Dinka Antic, PhD)

INTRODUCTION

The "green light" for Bosnia and Herzegovina means the reopening of topics that are important for the European path after a multi-year standstill. Coincidence or not, just before the "green light" was given to B&H and support for EU expansion to the Western Balkans, two important decisions were made in the EU institutions regarding taxation policy in the EU, which will, at the same time, become part of the "tax" acquis for new member states. First, on March 19, 2024, the Council of the EU adopted a regulation by which, in order to increase the efficiency of the work of the Court of Justice of the EU, the competences for deciding in the area of taxes in the EU are transferred from the Court of Justice to the General Court, and the very next day the European Commission published a Communication on pre-enlargement reforms and policy reviews, which, among other things, focuses on the problem of unanimous decision-making on tax issues and advocates the transition to decision-making by qualified majority. Basically, it is about strengthening cohesion in two segments of tax integration at the EU level - negative tax integration, which is realized through the application of the case-law of the EU Court of Justice in the tax sphere, and positive tax integration, which is realized through the application of regulations and directives from the tax sphere, which the Council of the EU, according to the current decision-making method, unanimously adopts on the proposal of the European Commission. In any case, the adoption of two important documents, which change or want to change decision-making in the tax sphere at the EU level, immediately before the decision to give the "green" light to B&H and support the accession of other countries of the Western Balkans and Eastern Europe, represents a positive political signal that the EU is already starting preparations for enlargement.

LEGAL FRAMEWORK AND MECHANISMS OF TAX INTEGRATION

Treaty contains an explicit legal basis for the harmonization of indirect taxes, prescribing the competence of the Council of the EU to „unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition“.¹³

Unlike indirect taxes, the harmonization of direct taxes in the EU is not prescribed, but the need to harmonize direct taxes at the EU level, considering the impact of taxation on the functioning of the market, can be seen from the provisions authorizing the Council to "issue directives for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market".¹⁴ This legal positioning of tax harmonization in the EU represents a balance between two mutually opposing requirements: on the one hand, to ensure the functioning of the Union, while on the other hand, the fiscal sovereignty of the member states is not violated. A certain level of tax integration was necessary, because maintaining autonomous national tax systems would lead to tax competition between member states and fragmentation of the single market along national borders, which directly threatens the basic postulates of the Union market - the free movement of people, goods, services and capital.

¹³ Treaty on European Union and the Treaty on the Functioning of the European Union, consolidated version, OJ C 115, 9.5.2008, Article 113

¹⁴ Ibid. Article 115

The solution is found in a balanced approach that includes the following three groups of mechanisms:

- i. legislative mechanisms,
- ii. judicial mechanisms,
- iii. institutional mechanisms.¹⁵

Legislative integration, which is also known as "hard law", is achieved in practice in three ways:

- by adopting regulations at the EU level,
- by harmonizing the national legal framework with EU regulations,
- coordination between members.

Judicial integration of tax systems is carried out by the Court of Justice of the European Union. The judgments of the Court as "case law" are binding for all member states. Member states that are parties to the dispute are obliged to harmonize national tax regulations with the judgments of the Court. However, other member states are also forced to harmonize national regulations with judgments in order not to come under the influence of the Court in the future. In this way, court judgments become a mechanism through which harmonization of national tax regulations and integration of national tax systems is carried out forcibly, without the initiative of a member state.

In recent years, **institutional integration** through binding and non-binding instruments has increasingly appeared in practice. Institutional integration is also known as "soft law". Non-binding instruments include recommendations and reports of the European Commission, which, invoking the powers granted to it by the Treaty ("guardian of the Treaty"), often initiates procedures against member states whose national tax regulations violate the fundamental principles of the functioning of the Union, the freedom of movement of goods, services, capital and workforce, endangering the functioning of the EU single market. In cases of violation of EU legal regulations, the Commission issues reasoned opinions that are binding on the member states. The request of the Commission in the form of a reasoned opinion represents the second stage of the procedure in case of violation of EU law, in accordance with Article 258 of the Treaty.¹⁶ In case the member states do not comply with the request, the case will be addressed to the Court of Justice of the EU. In the largest number of tax cases, reasoned opinions refer to the application of the Sixth VAT Directive (from 1 January 2007 Council Directive 2006/112/EC), but also to directives in the area of excise taxation, and in all other cases when the Commission assesses that national tax laws represent a threat to the proper functioning of the EU single market.

Most of the listed mechanisms are binding, while only a small number of institutional mechanisms are of an advisory nature (eg reports and recommendations of the European Commission, guidelines of committees and working bodies operating under the aegis of the Commission). The obligingness of integration mechanisms can be realized in various ways, by applying one or more mechanisms. It is possible for a member state to incorporate European law into the national legislative system without pressure or Court orders, or to do so in a second step after the intervention of the Commission and the receipt of a binding opinion on the violation of the Treaty. However, it is possible for a member state to amend its national regulations in the third step only when the Court of Justice of the EU renders a judgment, after the European Commission has initiated proceedings before the Court.

INTERACTION BETWEEN MECHANISMS

Integration theories distinguish between positive and negative integration. Positive integration implies the adoption of common rules by the supranational level (EU), while the removal of

¹⁵ Terra B.J.M., Wattel P.J., „European Tax Law“, 5th Edition, Kluwer Law International, Alphen aan den Rijn, Netherlands, 2008., pp.158-169.

¹⁶ Former Art. 226 of the Treaty of Nice.

obstacles between member states is called negative integration. In the spirit of this division, tax integration through the EU laws is considered a positive integration of tax systems. On the other hand, due to ensuring integration through prohibitive and restrictive effects on the national regulations and practices of all member states, judicial integration is considered a negative integration of tax systems (see Chart 1). In principle, the mechanisms of positive integration are applied to indirect taxes, while the integration of the direct taxation system is carried out mainly on the basis of judgments of the Court of Justice of the EU.

The mentioned sequence of tax integration mechanisms (legislative, judicial, institutional) also represents a chronological sequence. After adoption of the basic legal framework of tax harmonization at the EU level, the second phase of integration involved judicial intervention in order to correctly apply the adopted EU laws. As the workload of the Court of Justice of the EU grew over time, the European Commission intensified the institutional mechanisms for the protection of the legal framework of taxation at the EU level. In this regard, institutional tax integration can be considered a mechanism that indirectly ensures the application of legislation in the area of taxes without the intervention of the Court. Institutional tax integration has gained more and more importance over time. In addition to relieving the Court of Justice of the EU, a significant reason for the greater influence of the Commission in the tax systems of member states lies in the fact that the process of legislative tax integration (in the first place of the VAT system) has stalled on the legal framework. The adoption of the directives was not accompanied by the adoption of implementing regulations, which led to divergent tax practices in the member states. Common provisions in the sphere of VAT taxation were interpreted in different ways in individual member states, which escalated with the expansion of the Union to 25 and 27 member states. Aware of the consequences of harmful tax competition in the sphere of indirect taxes, the EU institutions have attempted to close the legal gap with the action of institutional mechanisms, advisory and binding in nature, in order to achieve a higher level of harmonization in the application of common VAT taxation rules.

The above-mentioned examples of functioning of tax integration mechanisms in the EU indicate the existence of mutual interaction. The national fiscal sovereignties of the member states are limited on the one hand by the scope of positive integration (i.e. by the existence of legislation at the EU level), and on the other hand by the objectives of the EU. Regarding the achievement of the goal of the "four freedoms" and competitiveness on the EU market, EU member states are not allowed to adopt tax regulations or regulations from the sphere of fiscal (state) aid, nor to maintain administrative practices that lead to discrimination or restrictions on the establishment and operation of companies, the movement of workers, capital, goods and services. In addition, the national tax sovereignties of member states are also limited by the scope of negative tax integration (i.e. the capacity and mandate of the Court).

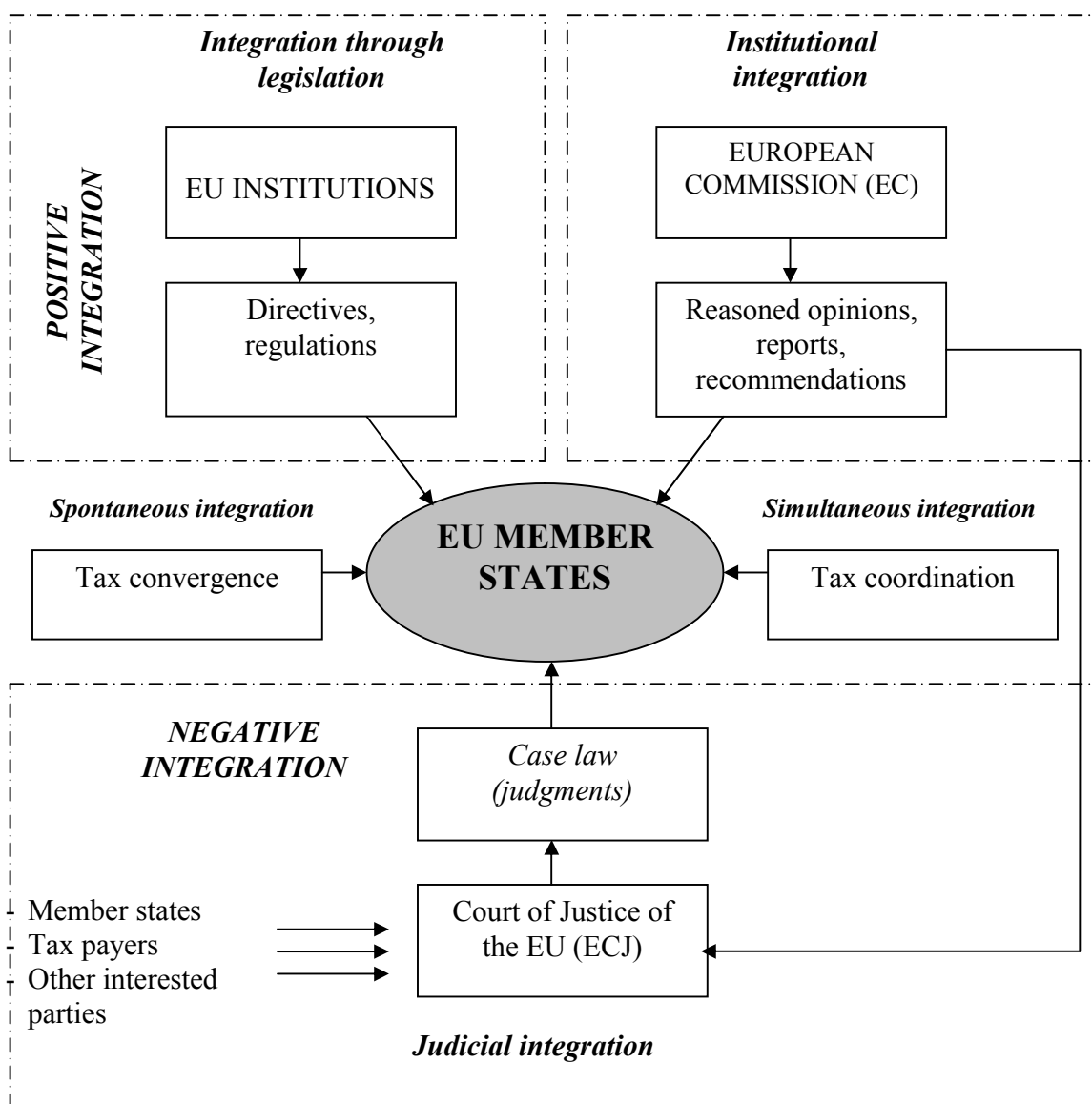
The application of different integration mechanisms in certain segments of taxation has led to different degrees of harmonization, depending on whether direct or indirect taxes are concerned.

In the case of indirect taxation, a high degree of harmonization has been achieved at the EU level. This was made possible by the adoption of the following regulations: Customs Code of the EU, the redesigned VAT Directive 2006/112/EC, a set of directives in the field of excise taxation (energy products, tobacco products, and alcoholic beverages), decrees on the official cooperation of member tax administrations in the field of VAT and excises. The Customs Code and regulations on the official cooperation of tax administrations are directly applied in the member states, while the directives in the field of VAT and excise duties contain minimum standards and rules that must be incorporated into the national regulations of member states. The European Commission is in charge of supervising the process of incorporating directives into the national legislation of the

member states. In some cases, directives prescribe the method of harmonizing national regulations.¹⁷

Negative tax integration in the sphere of indirect taxes is achieved only in a limited segment - judgments of the Court of Justice of the EU in cases initiated by the Commission against member states and judgments in disputes between taxpayers and national tax administrations in connection with the implementation of regulations and directives in the sphere of customs, VAT and excise tax.

Chart 1: Mechanisms of tax integration in the EU and mutual interactions (presentation of the author)



¹⁷ Most often, member states are left to choose between directly taking over the provisions of the directives into national regulations or adding references to the provisions of the EU directive in the national regulations.

Advisory institutional mechanisms play a major role in the integration of indirect taxes. Considering the dominant role of VAT in the process of tax integration, the most significant advisory mechanisms relate to the implementation of the VAT directive in EU member states. The advisory mechanisms of the tax integration of VAT in the EU include:

- the best practice of the member states
- guidelines of the VAT Committee.

The best practice in the field of VAT implies the practical application of certain rules or taxation schemes in some member states, prescribed by the VAT directive or derogations granted by the Council of the EU to a certain member state. The practice also includes the application of various methods for the operationalization of common rules, which are prescribed by national by-laws (regulations, instructions) in the sphere of VAT. It very often happens that the other member states also accept the best practice of one state, if it has proven to be efficient and correct. In that case, the harmonization process in the next step implies the extension of derogations to other member states who request it from the Council of the EU, then, if it proves to be effective for the entire VAT system, the best practice is incorporated as an option in the VAT Directive¹⁸, and, finally, in the last phase of harmonization, it becomes a binding provision for all member states¹⁹.

Another advisory mechanism for integration of VAT system in the EU is the VAT Committee, established by the Sixth VAT Directive. The guidelines issued by the Committee do not have legal force and are not published in the Official Gazette of the EU, but are applied by member states and taxpayers as unique and binding taxation rules. This indirectly speeds up the process of tax integration in the EU, but also directly prevents spending in budgets of member states, given that any failure to follow the Committee's guidelines would be the subject of proceedings before the Commission and the Court of Justice of the EU, which would be lost in advance, bearing in mind that both the Commission and the Court respect the Committee's guidelines when deciding. Both advisory mechanisms, since they lead to a higher degree of harmonization without coercive methods, although of an institutional character, *de facto* represent forms of positive integration of the VAT system at the EU level.

In contrast to the integration of indirect taxes, which mainly relies on legislative and institutional mechanisms, the integration of direct taxes (profit and income taxes) is achieved through mechanisms of negative integration. Elements of positive integration of direct taxes through EU directives are found only in a limited segment of taxation (parent and subsidiary companies, mergers, interest and royalties, interest on savings), and in the sphere of joint cooperation on the assessment and compensation of tax claims. The reasons for such a trend are to be found in the nature of taxes. Indirect taxes, such as taxes on sales transactions, directly affect the freedom of trade. In order to establish free trade within the EU, member states had to agree to the abolition of fiscal borders between them, which required the harmonization of the rules of taxation of the turnover of goods and services between member states. By giving consent to the establishment of a single market, member states renounced part of their national fiscal sovereignty in the sphere of indirect taxes. However, member states were not willing to approach the harmonization of direct taxes, considering them an essential element of fiscal sovereignty that enables them to conduct an active macroeconomic policy.

¹⁸ For example, the mechanism of transfer of VAT liability from the seller to the buyer (reverse charge mechanism), known in B&H as a special scheme for construction, was approved by some member states as a derogation only for certain sales transactions and certain projects (e.g. construction of joint bridges). After the mechanism proved effective in the fight against VAT fraud, it was included first as an option in the Sixth VAT Directive, and then with a wider scope of application in Directive 2006/112/EC.

¹⁹ A large number of derogations granted to some member states, which were not published, nor were they an integral part of the Sixth Directive, were incorporated into the new Directive 2006/112/EC in the process of its redesign.

Given the limited area of positive integration in the sphere of direct taxes, the activities of the Court of Justice of the EU were to a lesser extent related to the implementation of EU directives. Generally, the Court decides in cases related to the conflict of freedoms and principles from the Treaty and the provisions of national tax regulations.²⁰ The Court does not have the ability to rule on issues of double taxation or some other fiscal issues (e.g. jurisdiction for taxes, alimentation and allocation of the EU budget), although it increasingly refers to international tax agreements, such as the Model Tax Conventions applied by OECD member states.

Due to the absence of the EU legislation in the sphere of direct taxes, the Court can examine whether the disputed national tax regulations represent "an illegal escape from the provisions of the Treaty". In these cases, the Court applies the so-called "rule of reason", assessing the degree of restrictiveness of the national tax measure in relation to the Treaty, whether the freedoms ensured by the Treaty are restricted by national regulations to a greater extent than is necessary to achieve the public interest in the member state whose law is the subject to review by the Court. According to the "rule of reason", a restrictive national tax measure is allowed, even though it is not explicitly mentioned as such in the Treaty, (i) if it is necessary to protect the public interest, (ii) if it does not introduce different treatment of domestic and imported goods and (iii) if its restrictive effects do not go beyond what is necessary to protect legitimate interests.

IMPLICATIONS OF TAX COMPETITION ON TAX INTEGRATION

Since the establishment of the European Community, tax integration has been an issue on which it was difficult to reach a compromise. On the other hand, a compromise is necessary if the European law in the field of taxation is to be adopted unanimously, in accordance with the provisions of the Treaty. The impossibility of reaching a compromise has greatly limited the scope of the existing level of tax integration, especially in the area of direct taxes, which opened up space for tax competition among EU member states. As there is no agreement regarding the desirable degree of tax integration in the EU, there is also no agreement regarding tax competition between member states. In a complex economic integration, such as the Union, which is characterized by a high tax burden,²¹ tax competition between member states can lead to an increase in the efficiency of member tax systems and a reduction in the total tax burden. With only that in mind, any supranational intervention in taxes from the EU level would threaten healthy tax competition between governments and make tax relief impossible. Proponents of tax competition in the EU consider supranational intervention in taxes to be a kind of "international tax cartelization", regardless of the form and strength of the intervention, whether it is restrictive or prohibitive or implies intergovernmental coordination. However, the negative economic and fiscal effects of tax competition should not be ignored either. Uncontrolled tax competition²² can absorb budgets of other member states, leading to an unacceptable decrease in the financing of public services and fiscal degradation, and the impoverishment of the Union as a whole. The EU, as a unique economic area, can be regionally and globally competitive only if an efficient allocation of capital and other resources within the Union has been achieved. The existence of different tax regimes and low tax rates in member states causes companies to make decisions on investment, establishment of company headquarters and employment on the basis of more favorable tax treatment, and not on the basis of consumer preferences and investment efficiency. Therefore, observed from the EU level, tax competition between member states leads to inefficient allocation

²⁰ The measure must satisfy the principle of proportionality. According to this fundamental principle of the functioning of the EU, the content and form of the Union's action will not exceed what is necessary to achieve the objectives of the Treaty. See Article 5 of the Treaty of Lisbon.

²¹ The tax burden of the EU-27 amounts to 40.1% of the Union's GDP, more than the OECD member states (33.8%) and significantly more than global competitors the USA (25.5%) and Japan (31.4%). Source: European Commission, Taxation trends in the European Union, 2022 Edition.

²² For example, the race between member states to lower tax rates in order to attract investors, which in the literature is called "the race to the bottom", can result in the effect of "beggar thy neighbor" or "draining" income and economic activities in member states that are affected by the measures, but also in member states that implement the measures.

of capital and other resources of the Union and violation of the principle of neutrality of taxation. Inefficient capital allocation, tax fragmentation and tax competition within the EU mostly affect companies from the EU operating on the world market, which due to higher costs and inefficiency become uncompetitive in relation to global competition. The existence of 27 different tax systems makes it difficult and more expensive for companies within the EU to do business, and deters companies from third countries from entering the Union market, thus making the EU, on a global scale, an unattractive market for investments.

The tax competition, which took place simultaneously between member states in recent years, resulted in reaching a certain degree of convergence of direct taxes in member states, which *de facto* led to a greater degree of tax integration without activating the mechanisms of negative integration. Due to its indirect integrative effects, the convergence of member tax systems can be considered a certain form of **spontaneous tax integration** that occurs among member states, without the action of the EU institutions and its legal mechanisms. However, since 2004, after the accession of 13 new member states, the divergence between member tax systems has increased. There was a danger that the competition in taxes between "new" and "old member states", apart from deepening the differences between the tax systems of the states, could lead to counter-effects for the member state which is forcing such measures. In order to prevent spontaneous tax competition from crossing the limit of "usefulness" and escalating into an uncontrolled process, which could threaten the revenues of member states and the Union, an agreement was reached on the coordination of the process of convergence of tax systems in the EU.

Coordination of tax systems implies harmonization of the effects of convergence of certain types of taxes and interaction and balancing of tax policies of member states in all segments: between direct and indirect taxes, between taxes and social contributions, within each group of taxes, and in relation to the introduction of ecological ("green") taxes. In the evolution of tax integration in the EU, tax coordination represents a new mechanism, which is based on the simultaneous activities of EU institutions and all member states. In a certain way, it completes the conceptual framework of tax integration mechanisms in the EU (see Chart 1).

TAX DECISION-MAKING REFORMS (MARCH 2024)

I. Reform of judicial tax integration

The reform of decision-making in tax matters began at the end of 2022, at the request of the Court of Justice, with the aim of agreeing on amendments to the relevant regulations at the end of 2023, as a result of negotiations between the European Parliament and the Council of the EU, with the participation of the Court of Justice and the European Commission.

Basically, it is about the transfer of jurisdiction to decide on previous issues to the General Court in certain special areas, with the aim of increasing the efficiency of the EU judicial system.

The General Court is, along with the Court of Justice, a component of the Court of Justice of the EU. The basic task of the Court of Justice of the EU, as well as the General Court, is to ensure uniform interpretation of EU law and its uniform application in member states. Before the adoption of the Treaty of Lisbon (entered into force on December 1, 2009), the General Court was called the Court of First Instance. Bearing this in mind, the decisions of the General Court can be appealed to the the Court of the EU. As of December 1, 2019, each member state appoints two judges to the General Court for terms of 6 years, which can be renewed if the agreement of all member states is reached.

Until the latest reform, the General Court was competent for the following:

- disputes between persons/companies and EU institutions, including labor disputes between employees of EU institutions and EU institutions, as well as lawsuits related to intellectual property rights;
- disputes initiated by EU member states against the European Commission and/or Council decisions;
- claims for compensation for damage caused by EU institutions and bodies.

The reason for transfer of the jurisdiction of the Court of Justice to the General Court is the increase in the number of pending cases regarding the requests for a preliminary ruling as well as the average time for resolving the case, which threatens the efficiency of the EU judicial system as a whole. On the other hand, Article 256(3) of the Treaty provided the transfer of jurisdiction to the General Court in specific areas prescribed by the Statute of the Court of Justice of the EU.²³ It was necessary to precisely define the "specific areas" that can be transferred to the jurisdiction of the General Court, in order to ensure legal security for all parties. It is of crucial importance that specific areas are clearly defined and clearly demarcated from other areas, in order to avoid doubts and different treatment.

Another important issue when choosing the area for the transfer of jurisdiction to the General Court was the existence of comprehensive case law by which the General Court can be guided in the preliminary rulings procedure. The system of indirect taxes at the EU level and the customs system are recognized as a specific area, suitable for the transfer of competences. This is a specific area in which there is comprehensive case law, bearing in mind that only in the area of VAT taxation, the harmonized system at the Union level, based on the Sixth VAT Directive, has been functioning for almost six decades.

The Regulation²⁴ lists the following tax and customs areas in which jurisdiction are transferred from the Court of Justice to the General Court:

- (a) the common system of value added tax,;
- (b) excise duties;
- (c) the Customs Code;
- (d) the tariff classification of goods under the Combined Nomenclature²⁵.

In the preamble of the Regulation, the content of the specific areas to be decided by the General Court is explained in more detail:

- determination of the tax base for the assessment of value added tax
- determination of the exemption from payment VAT
- the interpretation of the general arrangements and payments on alcohol, alcoholic beverages, tobacco, energy products and electricity
- application of import and export duties in the context of the trade in goods (common customs tariff, the origin and customs value of goods; import and export procedures, including the incurrance, determination and extinction of a customs debt; specific customs arrangements; the system of relief from customs duties)
- interpretation of specific tariff headings and the criteria for the classification of certain goods in the Combined Nomenclature

²³ Protocol (No 3) on the Statute of the Court of Justice of the European Union, <https://curia.europa.eu>

²⁴ Regulation of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union, Brussels, 6 March 2024 (OR. en) 2022/0906 (COD) PE-CONS 85/23.

²⁵ In addition to the aforementioned items, the transfer of decision-making jurisdiction to the General Court also refers to compensation and assistance to passengers in case of denial, cancellation or delay of transportation services, as well as to the scheme for greenhouse gas emission allowance trading.

In order to implement the Regulation, it is necessary for the Court of Justice and the General Court to amend their rules of procedure.

ii. Reform of legislative tax integration

The problem of unanimous decision making on taxes

As part of the preparations for the future enlargement of the EU and the reforms that the EU needs to make in order to adequately prepare the legal system and institutions for the entry of the countries of the Western Balkans and other countries of Eastern Europe, the European Commission adopted on 20/3/2024 the Communication²⁶ on pre-enlargement reforms and policy reviews, where the potential implications in several areas are emphasized. One of the important issues addressed in the Communication is the issue of unanimous decision-making in tax matters. The EU, as an integration of 27 member states, is already facing the problem of unanimous decision-making regarding taxes. This is expected, because taxes, as a segment of fiscal sovereignty, represent an important macroeconomic instrument of each member state. Difficulties in reaching consensus are not specific to taxes only, but also occur in other areas, because in addition to taxation, unanimous decision-making is also necessary in foreign affairs and social issues. It is realistic to expect that the continued enlargement of the EU to the Western Balkans will further increase the differences in development within the EU, including the increase in the differences between the tax systems of the old EU members, the new 12 member states that joined in the period 2004-2013, and the future member states from the Western Balkans. Bearing this in mind, it will be difficult to reach consensus on changes to tax regulations, and the risk of blocking a proposal supported by the majority of member states by one state will be getting bigger and bigger.

In order to create conditions for social, economic and territorial convergence, the Commission proposed the expansion of the "tax *acquis*", which should encourage the cross-border activities and trade in the EU for citizens and companies, and contribute to the development of a single market based on the principles of equality of all participants. In the enlarged EU (due to the still unknown dynamics of the entry of new member states - "in a package" or individually - the abbreviation "EU 30+" is used), the existing requirement for unanimous decision of the Council on tax issues will be a big challenge. In order to ensure the easiness of decision-making on tax issues, the Commission proposes to consider the application of a qualified majority when making decisions in the tax sphere as well, as is currently the case for most decisions made by the Council.²⁷

A qualified majority during the voting of the Council is achieved if two conditions are met simultaneously:

- (i) that 55% of member states voted for the proposal (15 out of 27),
- (ii) that the proposal is supported by 65% of the EU population.

Because of the above mentioned two conditions, the procedure is called "double majority rule"

From the point of view of the candidate countries²⁸ for EU membership, the application of qualified majority decision-making means that, if all the countries of the Western Balkans and other eastern countries are EU member states, in order to fulfill the condition of "55% of the member states" it will be necessary for at least 20 member states to vote in favor of the proposal (that is, five more

²⁶ European Commission, Communication from the Commission to the European Parliament, the European Council and the Council on pre-enlargement reforms and policy reviews, Brussels, 20.3.2024 COM(2024) 146 final.

²⁷ About 80% of Council decisions are made by qualified majority. Source: <https://www.consilium.europa.eu/en/council-eu>

²⁸ Currently, negotiations are open with 4 countries (Serbia, Montenegro, Albania, North Macedonia), and 4 countries are candidates (B&H, Ukraine, Georgia, Moldova).

than today). Regarding the fulfillment of the second condition "65% of the population", Ukraine is the only large country of the future member states, which has a significant weight in terms of the number of inhabitants. The total weight of the eight countries of the Western Balkans and other eastern countries will amount to about 11% of the population of the enlarged EU²⁹.

Passerelle³⁰ clause

A novelty in the Commission's Communication is the proposal to apply the so-called "passerelle" clause. However, in order for that proposal to be adopted, it needs to be supported by all existing member states.

The Treaty foresees two general "passerelle" clauses within the framework of Article 48(7)TEU³¹ and special "passerelle" clauses for certain areas.³² The general clause is a novelty of the Treaty of Lisbon, while some of the special "passerelle" clauses existed in previous treaties³³ as well. Both types of clauses refer only to acts adopted by the Council of the EU. The first type of general "passerelle" clause, Article 48(7)(1)TEU, implies changes from unanimous decision-making in the Council of the EU to a qualified majority. It is applied in the case when regulations related to common foreign and social policy are proposed. The second type of general "passerelle" clause, Article 48(7)(2) TEU, implies a switch from the special procedure to the ordinary procedure of adopting regulations.

It is often considered that unanimous decision-making in the Council is "bypassed" by means of "passerelle" clauses. However, this claim refers only to the first type of general clause, while the second type, which implies that acts are passed in an ordinary procedure instead of a special, *de facto* strengthens the role of the EU Parliament and increases the transparency of decision-making at the EU level.

Special "passerelle" clauses modify the usual way of decision-making in the following areas: family law with cross-border implications, social policy, environmental policy and enhanced cooperation policy.

The basic difference between general and special "passerelle" clauses is that general clauses apply to a certain policy in general, while special clauses apply only to the decision-making process of individual arrangements. Special clauses differ from general ones because they usually require simpler procedures for approval and introduction, and the role of Parliament is significantly reduced or has an advisory character. In the case of general clauses, the Commission has no formal role, in contrast to special clauses where its role is strengthened.

"Passerelle" clause in deciding on taxes

Already in 2018, the Commission initiated a proposal³⁴ on the application of the "passerelle" clause for the areas of foreign policy, taxes, social and energy policy, but there was no consensus in this regard, although the EU Parliament expressed itself positively. There was a fear among member states that they would be excluded from decision-making on issues of strategic importance for the member.

²⁹ According to data for 2023, there are 448 million inhabitants in the EU, and the total number of inhabitants of the eight candidate countries is 59.1 million.

³⁰ In the documents, it is also called a "bridge" clause

³¹ TEU – Treaty of the EU

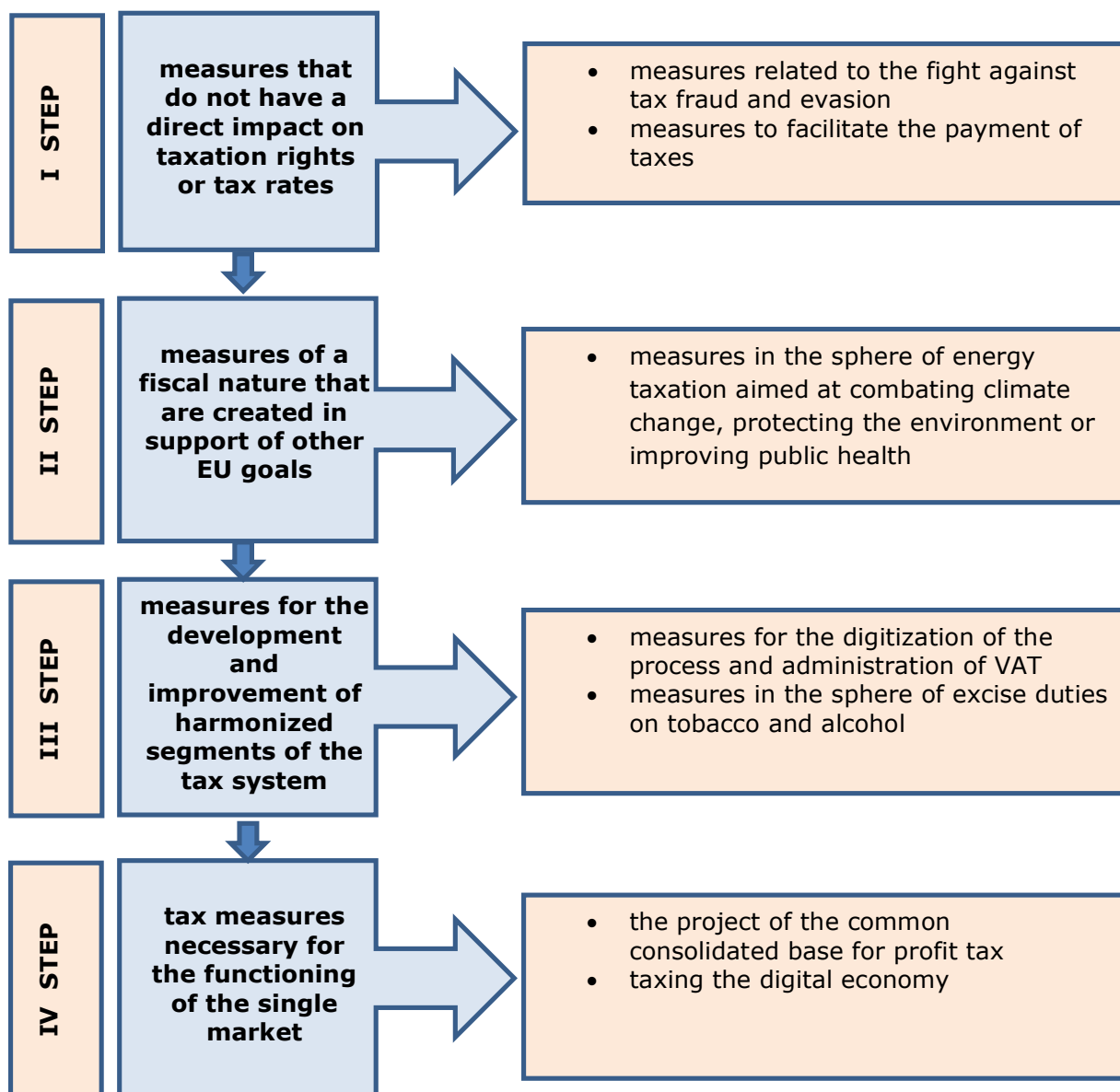
³² See: <https://eur-lex.europa.eu/EN/legal-content/glossary/passerelle-clauses.html>

³³ Clauses for the environment and social issues; See: European Parliament, Passerelle clauses in the EU Treaties, Opportunities for more flexible supranational decision-making, European Parliamentary Research Service, December 2020.

³⁴ Communication from the Commission to the European Parliament, the European Council and the Council, Towards a more efficient and democratic decision-making in EU tax policy, COM/2019/8 final of 15.1.2019.

In the explanation of the proposal, the Commission pointed out that, in addition to greater efficiency in deciding on tax issues, an important goal to be achieved by changing the way of deciding on taxes is to speed up the reforms of the EU tax system, which are not keeping up with the rapid changes in the EU and the environment and with the challenges of globalization and digitization. Taxation is presented as an important policy for the development of the EU single market, economic development, growth and creation of new jobs. Likewise, taxation is a significant instrument for a responsible social policy. It is estimated that the complexity in deciding on tax reforms, which ultimately requires the consent of all member states, cost the EU around EUR 440 billion per year at the time preparing the proposal. The biggest revenue loss due to the slowdown of reforms is estimated in the VAT collection (45%), due to the refusal to introduce a standard VAT return, and then due to the failure to adopt a common consolidated base for profit tax, tax on financial transactions and tax on digital services. Likewise, the problem of reaching an agreement on the revision of taxation of energy products has a negative impact on the achievement of the goals of energy policy and environmental policy.

Chart 2: Stages of transition to qualified majority decision-making (presentation of the author)



Aware of the importance of taxes for the fiscal sovereignty of the members, the Commission proposed a staged reform of the way of decision-making in the sphere of taxes, starting with easier issues, about which there are no significant disputes between the member states, that is, where a high degree of agreement exists, up to the most complex tax reforms. Advocating the activation of the "passerelle" clause, the Commission proposed a plan to switch to a qualified majority when deciding on taxes. The plan implies the introduction of a qualified majority in four steps, from less demanding interventions in the EU tax system to complex reforms of significant segments of taxation (Chart 2).

It should be borne in mind that the Commission does not change the content of the latest communication, but tries to remove the obstacles that prevented the adoption of the proposal in 2019. This time, in order to eliminate the resistance of member states to introduce a qualified majority in decision-making, the Commission proposes, along with the activation of the "passerelle" clause enabled by the Treaty, a set of measures to be adopted to protect the strategic national interests of member states. In practice, this would mean that, along with the Council's decision on activating the "passerelle" clause, a conclusion should be adopted that allows member states which consider themselves affected by the Council's decision, to invoke the reason of exceptional national interests. Thus, they could continue the discussion with the aim of reaching a satisfactory solution, or they could request that the Council continue to argue on the issue.

INSTEAD OF CONCLUSION

Taxation represents an important pillar of the sovereignty of every country, including EU member states. However, entry into economic integration necessarily requires renunciation of fiscal competences, in order for the EU to function as a single unit and be competitive on the world market. The large internal differences between the western and eastern member states will be increased by the entry of the candidate countries. On the other hand, the EU needs to respond to challenges from the environment, such as globalization and digitalization, as well as political, economic and financial crises in the world. In order to provide an adequate response, flexibility is necessary in the adoption of regulations in the EU and their operationalization. In such circumstances, the existence of unanimous decision-making in the tax sphere becomes a major obstacle to strengthening the EU's competitiveness on the world market. The slowness in bringing tax reforms and their implementation is manifested in the high tax burden of taxpayers in the EU compared to taxpayers in the USA, Japan and other developed countries in the world, making the EU a less attractive destination for residence, business and investment.

Activating the "passerelle" clause for tax issues does not require an amendment to the Treaty, and thus does not require ratification by all member states. It is a flexible mechanism that allows the Council, if necessary, to apply a different voting method compared to the initially prescribed one. Likewise, the transfer of jurisdiction for tax disputes from the Court of Justice to the General Court should contribute to the efficiency of the judicial system, both at the EU level and in the member states. The expansion of jurisdiction for taxes and the strengthening of the internal capacities of the General Court significantly before the planned enlargement of the EU aims to avoid shocks due to the entry of new member states of the Western Balkans and to ensure continuity and uniformity in tax case procedures, which is the basis of legal security for taxpayers and national tax and judicial institutions.

The continuation of EU enlargement, which implies the accession of at least eight new member states, reopens "old" issues from the previous ten years. It is realistic to expect a deepening of differences between national tax systems, because future member states have the characteristics of inherited tax systems from the era of socialism, bearing in mind the dominance of indirect taxes in the tax structure and the low share of direct taxes. The high importance of indirect taxes for

financing the budget also implies the interest of the new member states in not jeopardizing their share, which can slow down the reforms of indirect and direct taxes advocated by Western member states whose tax structure is dominated by income and profit taxes. The different capacities of tax administrations in all segments (human resources, material and technical equipment, level of digitization of processes, available budget, etc.) can prevent the uniform application of EU legislation (regulations and judgments of the Court of Justice). Differences in the tax burden can lead to harmful tax competition, given the lower tax rates in the future member states. The enlargement of the EU also leads to an increase in the complexity of complying with tax regulations for those entities that operate in several member states, which increases costs for taxpayers, especially small companies. The system of data exchange between member tax administrations may be threatened due to the lower level of technical and IT equipment of the tax administrations of future member states. Doing business in the enlarged Union opens up space for tax fraud and increases the vulnerabilities of the EU tax system.

Bearing in mind the above, **the latest decisions of the EU institutions in the tax sphere should be understood as the first step in order to initially neutralize possible problems and remove obstacles, and in a timely manner create prerequisites for the successful integration of tax systems and administrations of future member states into the EU tax system.**