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Cseres, K.

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ENERGY CONSUMER LAW AND GOVERNANCE IN HUNGARY

Kati Cseres

10.1 Introduction

Hungary's energy law and governance have been shaped by path dependencies of wasteful energy practices that were ingrained in the institutions that for decades set central targets for energy allocation, encouraging energy consumption and discouraging efficient energy production, use and distribution.

Over the past 13 years, the Hungarian government's energy policy has focused on exploiting utility price controls for political gains, the nationalization of energy assets, and centralizing control over the sector. Hence, a policy advocating competitive markets and benefiting the consumers could not materialize. At the same time, consumer law developed in the shadow of enlargement and later as a fragmented field of law.

Despite Hungary's membership of the European Union, the country's energy transition has been unfolding slowly, as the government takes moderate action concerning climate and energy efficiency targets. The diffusion of renewables is hindered by historic legacies of Hungarian governments controlling energy prices and disengaged consumers.

The paternalist approach of Hungarian governments ensuring low prices to build political capital has hindered consumer awareness of energy efficiency and consumer empowerment that are crucial components of the energy transition.

10.2 The Development of Energy Law and Liberalization of Energy Markets

Hungary, as many Eastern European countries emerged at the beginning of the 1990s from a long tradition of wasteful energy practices that were deeply ingrained in the institutions that for decades have set central targets for energy allocation, with no incentives for efficient production, distribution or use of energy. On the contrary, increased energy consumption was actively encouraged and efficiency discouraged (Kats 1991, 856). In the early 1990s, a central element of Hungary's economic restructuring was the closing of loss-making, energy-intensive industries including steel, iron and chemical processing plants (Kats 1991, 857). About a decade later, Hungary was named the forerunner in "Eastern reforms" largely privat-

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izing its energy sector with foreign capital (Bakos 2001). The Hungarian Parliament's energy policy adopted in 1993 well illustrated the focus on the need for energy import diversification to reduce dependence on Russian supplies, and for improving efficiency by introducing market competition and privatization (Bakos 2001, 1120). In 1994, the Hungarian Energy Office was established to supervise the energy market, in particular to license the forming of companies in the energy sector, to protect consumers and to prepare the necessary price adjustments for electricity (and gas) (Bakos 2001, 1121).

From 1994 until the end of 2002, certain segments of the fixed energy market were still fully regulated. Liberalization and deregulation of the energy market started from 1 January 2003 and, for the gas market, from 1 January 2004. Liberalization took place gradually; first only the larger industrial customers and, from July 2004, all non-residential consumers were allowed to enter the electricity market. Full liberalization started on 1 July 2007, enabling residential consumers to buy electricity from traders and producers. Liberalization meant that vertically integrated electricity companies were unbundled, monopoly and competing businesses were separated, and distribution-supply businesses were partially privatized for subsequent market opening. Although privatization was successful, long-term contractual arrangements between market actors limited the development of competition in the wholesale market for many years. A business-based operation and the creation of effective competition took place through the adoption of the 2001 and 2007 electricity acts and power purchase agreements which enabled a competitive electricity market (Kácsor, Kerekes, and Mezősi 2019). Until the end of 2007, the electricity market was characterized by the so-called dual model; that is,public service and free market segments operated in parallel. The dual market model was replaced by a competitive market model in 2008 through the adoption of Act LXXXVI of 2007 on Electricity.

Since then, the Electricity Act has undergone various amendments over the years in 2011 (Act XXIX of 2011), 2015 (Act CXCVI. of 2015) and 2020 (Act CLXXVI. of 2020), implementing important EU Energy Directives, including the Third Energy package (Directive 2009/72/EC) and the Winter package of 2019 (Directive 2009/72/EC). Accordingly, important rules for the protection and empowerment of consumers were transplanted in energy law (Cseres 2018). In 2015, after an infringement procedure was started by the Commission against Hungary for late implementation, Act LVII on energy efficiency implemented EU Directive 2012/27 on energy efficiency. In June 2020, Hungary adopted a Climate Protection Law, which made it the first country in Central Europe to set a legally binding domestic climate neutrality target for 2050.

Hungary's medium- and long-term energy and climate policy is guided by the National Energy and Climate Plan (NECP) of 2022 and the National Clean Development Strategy (NCDS) of 2021 (Hungary 2021).

While the Hungarian implementation of the various EU energy directives also implemented relevant consumer rules, the realization and policy support of EU consumer empowerment policies has not taken place. Since 2013, household retail prices for electricity and natural gas have been capped in order to keep prices for households affordable and to avoid exposing households to price volatility (Act LIV. Of 2013, utility price reduction Act XI. Of 2014 amending certain laws relating to the reduction of utility prices and consumer protection). This entailed a high level of compensation to utility companies for the losses they incurred. However, such regulated energy prices were made available to all household consumers and small businesses, not only vulnerable ones, and as such impeded decarbonization efforts, consumer choice and retail competition (International Energy Agency, Hungary, Report 2022). It was suggested that the regulatory framework be reviewed in order to increase energy market competition, ensure a level playing field for market participants, strengthen the position of consumers and open markets for new investors and services. In 2022, the support was scaled back to support only those households that consume less than the national average, and the price caps were phased out for most types of non-residential use (e.g. by micro enterprises) (European Semester, Country Report Hungary 2023).

The Hungarian electricity sector is fully unbundled. It is largely privatized in the generation, distribution and supply sectors. These sectors of the electricity market are liberalised, and as a result, end-users may now freely choose their suppliers.

10.3 The Development of Consumer Law and Governance in Hungary

Consumer law in Hungary, as in many countries in Central and Eastern Europe, was crucially shaped by the fact that it emerged due to the pressure of EU accession and thus much less as a necessity of market developments. As functioning market economies were in fact non-existent before 1989 in the countries of Central and Eastern Europe, a clear and comprehensive set of consumer rules only developed in the course of EU accession. Consumer law was thus instrumental for the CEECs' successful accession process, and it initially formed part of the CEECs' legal obligations during their accession to the EU.

Hence, it was the enlargement process that induced the adoption of an identifiable body of consumer law in Hungary and led to the continuous alignment of domestic laws with legislative and policy developments in EU law (Cafaggi et al. 2010). The legal and institutional framework of EU accession and, more specifically, the legal basis for aligning domestic laws with that of the EU were laid down in various bilateral agreements between the EU and the candidate countries from Central and Eastern Europe.

Accordingly, the enactment of consumer laws was subject to top-down rule transfer, and the law-making process was governed by strong EU conditionality (Schimmelfennig, Sedelmeier 2004). Similarly to the EU legal framework, where the consumer is a legal instrument to build, support and expand the Single European Market (Weatherhill 1996; Bartl 2015) in CEECs, consumer law functioned as an instrument to complete accession and EU membership. The Europeanization process (Bache, Jordan (2006)) through legal transplants from EU consumer law was governed by the CEECs' strong desire to "return to Europe" and accorded the EU unprecedented power to influence their development. The CEECs' accession has widely been seen as a process where Europeanization was massive and predominantly driven by the incentives of membership (Matlak, Schimmelfennig, Woźniakowski 2018).

The first recognition of consumer protection as a specific regulatory area and the state's role in supervising consumer protection was the establishment of the General Inspectorate for Consumer Protection in 1991 (Government decree 95/1991). This was followed by a first wave of consumer protection legislation, such as Government Decree 117/1991 on sales guarantees, Act X of 1993 on product liability, Decree 17/1994 of the Ministry of Industry and Trade on doorstep selling and Act XC of 1995 on foodstuffs (Fazekas 2015, 30).

On the basis of the Europe Agreements (Europe Agreement Hungary 1991) that formed the legal basis for harmonization and the White Paper that provided guidance for implementation (Chapter 23 of the White Paper), the Hungarian Government adopted Decision No

2145/1996 in 1999, which laid down the most important principles and tasks for consumer protection regulation, and stipulated that the competent ministries should prepare a draft Consumer Protection Act (Fazekas 2015, 31). In order to fulfilll the EU requirement to establish a uniform system of consumer protection in Hungary, Act No. CLV of 1997 on Consumer Protection was enacted in 1998. Although it was drafted as a framework law, it did not embrace all the fundamental rules of consumer protection, but it laid down basic elements of Hungarian consumer law and enabled harmonizing it with the EU *acquis* as well as serving as a basis for institutional development (Regular Report from the Commission on Hungary's progress towards accession 1998, 35)

This Act was relevant as a matter of legal policy and with regard to Hungary's commitment to European integration. It included rules on the basic rights of consumers, such as the safety of goods, consumer credit, price indications, out-of-court schemes for enforcing consumer rights and the institutional system of consumer protection. However, a more robust and policy-based regulation of consumer protection and the development of the institutional system only began in the mid-1990s. The first consumer policy program was published in 1999 by Government Decree 1036/1999. The Government Decree specified the direction of the Government's legislation and the responsibilities and functions of the Government and other organizations (Government Decree 2145/1996 (VI.13.) Government Decree 2298/1997 (IX.30.).

In the late 1990s, further fundamental building blocks of consumer protection were adopted. In 1996, new legislation entered into force, the Prohibition of Unfair and Restrictive Market Practices (Hungarian Competition Act), which had important provisions prohibiting the unfair manipulation of consumer choice (Articles 8–10 Hungarian Competition Act). In 1997, the law on commercial advertising (Act LVIII) was adopted, and a new package of consumer legislation transposing several EU Directives entered into force, such as Government Regulation 44/1998 on doorstep selling, 79/1998 Decree on the safety of goods and services and the related market surveillance procedure, Government Regulation 17/1999 on contracts between telecommunication intermediaries, Government Regulation 20/1999 on timesharing, and amendments were made to the powers of the Consumer Inspectorate and the Regional Inspectorates (Fazekas 2015).

With the transposition of the EU directives on consumer contracts, new contract rules were introduced into Hungarian civil law that were previously unknown in Hungarian law. The legislative harmonization process, hence, required significant amendments in the Civil Code. In 1997, the rules on unfair contract terms, and in 2002, rules on warranties and guarantees were amended. In 2005, the most significant legislative achievement was the adoption of Act CLXIV on trade, the amendment of Act IV of 1959 on the Civil Code and Act III of 2006 amending certain acts for the purpose of harmonization in the field of consumer protection.

In 2008, the Unfair Commercial Practices Directive was implemented by Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers (Balogh and Cseres 2013; Cseres 2016). In 2012, the Hungarian Fundamental Law (Fundamental Law of Hungary, 25 April, 2011) that conceded the Constitution of 1989 introduced constitutional protection for consumers. In its Article M (2), the Fundamental Law states that "Hungary shall ensure the conditions of fair economic competition, act against the abuse of a dominant economic position and protect the rights of consumers." While many have welcomed the constitutional anchoring of consumer rights in the new Constitution, others have argued that by laying down fundamental social and economic rights (rights to education, information and legal protection and access to justice and social security), the previous Constitution, in fact, significantly endorsed the protection of consumer rights (Veres 2012).

In 2013, the new Hungarian Civil code entered into force. One of the objectives underlying the recodification of the Civil Code was to integrate consumer law into the Code. The new Code adopted by Law V of 2013 only partially met this objective. It was based on the idea that only the permanent core of EU directives from consumer contract law should be incorporated thematically into the Code. Those rules following outside of this core, are to be placed in separate legislation, in particular in the Consumer Protection Act. On this basis, the new Civil Code only integrated the core of EU directives that fall within the scope of EU private consumer law (Fazekas 2015). The Hungarian approach for preserving the unity of private law without creating a separate consumer law can still be seen today in the way EU Directives are implemented in the Hungarian legal system. Nevertheless, besides the Consumer Protection Act, legislation on consumer protection is still dispersed among many separate acts, and administrative and financial regulations making consumer law rather incoherent and its application sometimes difficult and confusing (Fazekas 2015).

10.4 Institutional Framework for Energy and Consumer Law

The institutional framework for energy governance is highly fragmented in Hungary.

Influence over policy and market developments is divided between multiple ministries and private actors. The Ministry of Innovation and Technology has been responsible for energy policy, strategy for energy and climate issues since 2018, but competences are split with other ministries, while prime minister's office has the final word in all decisions (Szabó, Weiner and Deák 2021, 10–11). The Hungarian Energy and Public Utility Regulatory Authority was established in its current form in 2013. Its scope of competences was broadened to the supervision of waste, water and district heating sectors. It engages in standard regulatory activities such as licensing, supervision and statistical data collection as well as consumer protection. However,, its most important task has been tariff-setting and keeping the administratively managed pricing system in the household sector under the government's firm control (Szabó, Weiner and Deák 2021, 12).

A few independent civil society organizations can also be mentioned, such as Energiaklub, National Society of Conservationists – Friends of the Earth Hungary or Greenpeace Hungary; however, they all function with limited capacity and can hardly influence policy. The institutions of consumer protection were rather underdeveloped at the beginning of the 1990s. In particular, the civil organizations for consumer protection were weak because of the lack of legal recognition and financial support and also as a result of generally being unknown to the public. The central administrative body of consumer protection, the General Inspectorate for Consumer Protection (hereinafter GICP), was created in 1991. As the GICP was set up on the basis of the professional experience of the former General Commercial Authority for Market Surveillance, it had long experience in the field of market surveillance and was present all over the country through its regional inspectorates. The regional inspectorates are present in every county of Hungary. Earlier, they were integrated into the local city council; today they are integrated into the municipality. The regional inspectorates perform regulatory tasks and they operate under the professional guidance of the GICP. The GICP was a state administrative body, with tasks including supervising the enforcement of consumer protection laws, market surveillance activities, drafting consumer policy and organizing coordination as well as cooperation with other state and civil organs (Consumer Protection Act

Sections 42 and 43.). The GICP was under the supervision and control of the Minister of Economic Affairs.

In 2007, the Consumer Protection Authority (CPA) was established by Government Decree No. 225/2007. The NCPA was given broad competences, among others, to enforce the Act of Unfair Commercial Practices when the EU Directive was implemented in Hungary (Balogh and Cseres, 2013). From 2015, the CPA was operating as a central office under the control of the Ministry of National Development. At the beginning of 2017, Government Decree No. 387/2016 dissolved the CPA, and consumer policy was transferred as a shared competence to the Ministry of National Development on one hand, and the Government Office of Pest County and the 197 district authorities (local level government offices) on the other hand. This reform aimed at the decentralization of the enforcement activities in the field of consumer policy–related market surveillance in Hungary. Except where provided otherwise, the consumer protection departments of the district authorities now have now general competence in the field of consumer protection. In situations when the case before the district authority also concerns the infringement of rules prohibiting unfair commercial practices, the district authority will be in charge of conducting the administrative procedure. In 2019, when the Ministry of Innovation and Technology was set up, consumer protection policy was attributed to this new ministry, although decentralized enforcement of consumer protection remained in place. The 2017 abolition of the NCPA went largely unnoticed in Hungary, and its competences were taken over by the Ministry of Innovation and Technology and by local government offices. Bringing consumer law and energy under one ministry could, in fact, facilitate the integration of these policies and create important synergies. The previously broad competences were accordingly allocated to these new mainly government-controlled public bodies, including a broad and strong competence for the enforcement of the Act of Unfair Commercial Practices. Most importantly, the government has appointed the Government Office to perform the tasks of the consumer protection authority. This led to a fundamental backsliding of the redress system of consumer protection authority proceedings, given that the decision of the Government Office cannot be appealed on the basis of the General Administrative Procedure Act CL of 2016. The law excludes appeals, so administrative litigation is the only remedy available to clients (Bencsik 2021). Overall, the reorganization has prepared for a "simplification" of the redress system to ensure prompt and effective redress. At the same time, this development shows the shift of consumer law enforcement to direct and strong political control under the Ministries.

Before moving on to analyze recent developments concerning energy consumers in Hungary, the next section provides a brief overview of Hungary's political economy and its embeddedness in European and global relations in the past decade, which has crucially shaped how energy law and governance evolved in the country in the same period.

10.5 Hungarian Energy Law and Governance in Light of the Hungarian Variety of Capitalism

By the mid-2000s, Hungary had become a functioning market economy with similar economic issues as other developed market economies: dealing with long-term macro-economic stability, including the development of more sustainable solutions for healthcare and social security; and injecting more competition into previously closed sectors such as postal, energy and rail transport (Kovàcs, Reindl 2013). However, while Hungary's policy agenda continued to be shaped primarily by EU policies, the nature of EU influence changed, as Hungary's eagerness to implement EU policies was decreasing (Börzel and Schimmelfennig 2017). As elsewhere, the reform fatigue meant that EU-related considerations became less powerful in Hungarian policy-making, Hungarian governments of the 2000s favored interventionist policies (Mihályi 2015) and Hungarian politicians started questioning the dominant neo-liberal economic thinking well before the financial crisis in Hungary (Szanyi 2017). The Hungarian economy evolved into a two-speed economy from the end of the 1990s and this asymmetrical structure has been maintained throughout the 2000s (OECD 2004). The economy was characterized on the one hand by a highly competitive and technologically advanced export sector, largely foreign-owned and run; on the other hand, it had a large number of relatively small-scale, low productivity domestically owned manufacturing and service industries that have been less exposed to competition in the course of the transition process. This mixed market economy involved considerable state intervention in certain segments of the national economy, and it continued to suffer from significant structural asymmetries (OECD 2004).

The financial crisis hit Hungary especially hard. After the crisis of 2008, many CEE governments including Hungary increased state intervention even when the crisis measures were already eased (Voszka 2018). The policy direction adopted after the financial crisis and particularly after the 2010 elections maintained, and in certain respects deepened, the structural asymmetry of the Hungarian economy. The expansion of public ownership after 2008 occurred in many European countries as a crisis-management tool; however, in Hungary, ownership changes and nationalization were particularly due to their embeddedness in a complex system of political and economic changes rather than being aimed at short-term crisis management (Voszka 2018).

Without the use of outright protectionist measures, the Hungarian government had been using various regulatory tools that positively discriminated in favor of domestic players and used liberalization measures selectively (Clift 2012; Papp and Varjú 2019). Political attacks on selected branches of the economy or even individual firms have often been implemented through selective regulations and sector-specific taxes and fees (Szanyi 2017). Firms in the telecommunications, media and energy sector were pressured by disadvantageous selective regulations and sector-specific taxes. In sum, regulation and law were intentionally used to restructure markets and to override market mechanisms. The preparation and application of regulation used in these processes often ignored even the most fundamental limitations posed by the rule of law (Chronowski and Varjú 2016). The regulatory framework became unstable, and regulatory changes were frequent and unpredictable (European Commission 2015). Regulatory processes continue to be characterized by low transparency and reduced access for stakeholders to the process and limited accountability of public administration (European Commission 2018). Consequently, in certain sectors, the scope of competition has been reduced, and the efforts of liberalization are often withheld or even reversed.

10.6 Developments after 2010: Locked-in Energy Consumers in Hungary

An extension of varieties of capitalism literature (Hall and Soskice2001) has been applied concerning energy transition (Kern and Markard 2016), showing that economic production and interest bargaining systems play an important role in explaining how renewable energy systems develop. This stream of literature labels Hungary with the common feature of its dependence on foreign capital. As a 'Dependent Market Economiy' (DME) (Nölke and Vliegenthart 2009), Hungary has low state capacities and a fast-changing regulatory environment which makes complex and long-term planning processes as the one required for energy transitions difficult to attain (Ćetković and Buzogány 2016). Such regulatory instability and non-transparent administrative procedures have been major hindrances to sustainable renewable energy growth (Ćetković and Buzogány 2016).

The price of energy has been a key political issue of Hungarian energy policy for decades. Hungarian governments, since the communist era, have continuously taken a paternalist approach by ensuring low prices and subsidizing prices to build political capital from this policy (Szabó, Weiner, Deák 2021, 13). Low energy prices have been directly connected to energy security, requiring the ability of both the public and private sectors to secure access to inexpensive energy resources. This has also warranted the state's objective to consolidate domestic ownership of energy assets that underpinned low prices and secure supplies (Szabó, Weiner, Deák 2021). Controlling prices was a historical legacy of all Hungarian governments, and political parties avoided raising energy prices by all means. Hence, a policy advocating competitive markets and benefiting consumers did not materialize (Böcskei 2015). In fact, the sector of public utilities and public services has gone through a complete reversal of national policy by the Hungarian state, which has practically re-nationalized entire public utilities markets (Isaacs and Molnar 2017).

After 2010, the energy sector became a strategically key branch of the Hungarian economy, where state ownership was dominant, and it was closely and centrally managed at the highest political level (Szabó, Weiner, Deák, 2021, 13).

Increasing state involvement and cuts in energy prices for household consumers resulted in slow energy transition and lagging behind on climate change policy. From 2010 on, by referring to a "cost-of-living crisis", the government introduced regulated compulsory price cuts or froze end-user electricity and gas prices (*Rezsicsökkentés*), or through legislating, guaranteed the "not-for-profit" nature of certain economic activities. These changes were initiated in the interest of consumers and based on considerations such as security of energy supply, or the protection of vulnerable consumers.

As a result of these measures, all foreign investors left the Hungarian electricity and gas sectors. Limiting utility costs through price decreases led firms to sell their loss-producing assets. The unfavorable changes in market regulations or excessive taxes resulted in many of the utility firms being sold to centralized or local public bodies (Szanyi 2017). Regulated end-user electricity and gas prices have for several years not been fully cost reflective, resulting in financial losses in the regulated business segment of energy utilities. In Hungary, sector-specific levies, taxes and other incurred costs are not allowed to be fully passed down in the final regulated prices paid by household consumers (Guenette 2020; Szőke, Hortay, Farkas 2021).

The fact that below-cost regulated prices have pressed energy retailers to return their universal supply licenses for household customers, and the service has been increasingly taken over by state-owned companies, has reduced consumer choice and the quality of energy services (EU Commission 2018, 37). The reduced profitability in the sector made a negative impact on investments in energy transmission and distribution, which decreased by around 30% between 2008 and 2016. The state-owned National Public Utility Company has taken over the universal service segment for households in the natural gas sector, resulting in a *de facto* public monopoly. This led to a lack of consumer choice and competition. Below-cost prices do not subsidize only the vulnerable households, but also all the wealthier customers (OECD 2016).

The actual impact of these changes in Hungarian public services markets on the legal and economic position of consumers has not yet been investigated. In fact, it seems that actual consumer rights and interests played a secondary role in these highly politicized markets and that the reintroduction of strong state involvement has not led to benefits directly relevant for consumers, but was rather instrumentalized as part of a broader populist economic policy serving political goals.

The policy of cutting energy prices for household consumers and limiting utility costs formed a relevant part of the Fidesz party's 2010 election campaign and the Hungarian government's elections campaigns in 2014, 2018 and 2021. In November 2021, the government even capped motor fuel prices for three months, and in December 2021, it allowed small and medium-sized enterprises to opt for regulated electricity and gas tariffs for half a year (Weiner and Szép 2022). The "fight for utility prices" not only shaped prices but also allowed the state to nationalize energy assets, concentrating ownership in public companies (Mihályi 2018).

At the same time, Hungarian electricity and gas consumption were gradually increasing, as saving electricity and gas when the price was capped seemed irrational. Commentators emphasized the disastrous effects of such measures. For example, capping the price of these utilities in HUF, while Hungary is a major importer of both electricity and gas, and hence, both are sold in euros. Further, Hungary's electricity distribution system was in need of investments to accommodate RES producers. The price caps discouraged investors from spending money on upgrading the Hungarian distribution network (Balogh 2022).

In the summer of 2022, this year-long arrangement was doomed to fail as a result of raising euro commodity prices, together with a collapsing HUF-EUR exchange rate. The government then reduced domestic electricity prices, but increased the use of system charges for all users. An irresponsible policy measure during the energy crisis, as such it needed to give way to the next measure limiting the number of consumers who were entitled to reduced-price electricity and gas (Balogh 2022).

To understand the implications for consumers, it needs to be clear that retail energy markets have inelastic demand and are characterized by regulatory intervention and a politicized nature in the light of their importance for consumers. Energy is an essential service due to its importance to consumers' daily lives. Being a homogenous but essential product, it must be priced at affordable levels (Pront van Bommel 2016). However, regulating prices has negative unintended consequences that make markets less competitive, and as a result of a price cap, consumers will have less incentive to switch providers as fewer savings can be achieved through switching. It has been argued that energy price caps are a paradigmatic example of a consumer protection measure implemented through state intervention in retail price setting (Ioannidou, Mantzari 2019).

As it forms a radical departure from the core ideas of market liberalization and energy market regulation, the Court of Justice of the European Union (CJEU) set strict conditions for such retail price regulation, and argued that state intervention in retail price setting should be justified in the general economic interest and comply with the principle of proportionality (C-265/08 Federutility, 18-19.).

In light of these considerations, Hungarian consumers were, in fact, being harmed by the populist measures taken by the Hungarian government, which was driven by goals of building political capital and winning elections. By misleadingly claiming to protect consumers, these measures denied market opportunities as offered by competitive markets for consumers. At the same time, current and future consumers' rights to a clean environment have also been damaged. With below-cost regulated prices, the government reduced incentives for investments in energy saving and prevented the necessary investments in the sector in order to improve energy efficiency and thus address climate change goals (International Energy Agency, Hungary, Review, 2017).

10.7 Energy Transition and Consumers: A Paternalist Approach

In the shift that globally has to take place, a decentralized energy system relying on more distributed generation, energy storage, and a more active involvement of consumers forms a crucial component of renewable energy solutions. The move from a highly-centralized to a more decentralized power system involves an increasing amount of small-scale (intermittent) generation from renewable energy which is located closer to the point of final consumption. Consequently, consumers have an essential role to play in achieving the flexibility necessary to adapt the electricity system to variable and distributed sustainable electricity generation and, hence, mitigate climate change (Cseres 2018).

In an attempt to steer consumption towards sustainability, national governments and supranational organizations have adopted policies and corresponding legislation that address individual consumers as rational and active choice-makers who make socially responsible choices when they receive the "right" amount of information (Heiskanen, Laakso 2019). Accordingly, legislators and policymakers have placed the responsibility for the energy transition on consumers (Mont 2019). The European Commission's Clean Energy Package (Directive (EU) 2019/944) places consumers at the center of the EU's energy policy and implements a broad range of initiatives to make consumers an active part of the clean energy transition (COM(2020) 696 final). Similarly, EU Member States have also been drafting and implementing ambitious energy transition and climate change laws and policies.

However, an important finding of sociological research on sustainable consumption is that individual consumers' decision making is influenced by various institutional factors such as social institutions, consumer culture or collective behavior (Shove 2010). Consumption is socially embedded and is shaped by existing (unsustainable) institutional settings and infrastructures (Heiskanen, Laakso 2019). Due to legal, social and market boundaries, consumers are often "locked in by circumstances" and unable to engage in more sustainable consumption practices even if they want to (Sanne 2002). Hungarian consumers are "locked-in" by various political, economic and social circumstances.

First, the Hungarian legal and political setting stands in contrast with the core idea of the decentralized renewable energy-based system, which aims at incentivizing and coordinating the demand-side as a flexible part of the electricity supply chain (Diestelmeier 2019).

Hungary is poor in fuel resources; hence its dependence on external fossil fuel and non-renewable energy sources runs contrary to climate policy objectives in the EU and elsewhere. Hungary's climate policy and energy transition commitments are taken under external pressure: the primary drivers of Hungary's energy transition are energy security and pressure from Western institutions (Szabó, Weiner, Deák 2021). Hungary has frequently been named as one of the laggards in terms of of climate policies (Antal 2019).

Moreover, the fact that the government explicitly chose an energy ownership regime based on state-owned, centralized infrastructure as the main means for the provision of energy for the household sector forms another challenge to RES. The household sector is one of the largest final energy user sectors with 31%, followed by the transportation (22%) and industrial (21%) sectors (MEKH 2017).

Despite the legal transplants on consumer rights and possibilities, Hungary is lagging behind other European countries in terms of both renewable energy utilization and community energy, as well as supporting the transition to a prosumer culture, all of which would require a more flexible and less centralized energy system (Vadovics 2019) and consumer and prosumer awareness. Energy community plans are also hindered by negative social attitudes towards public or joint ownership schemes as a large part of society (about 35%) live under "subsistence" levels and 21% live in fuel poverty. In the EU, Hungary has one of the highest rates of housing deprivation. Thus, the affordability of energy is a major issue and the popular policy of the government is to regulate the price of energy. Of all homes, 27% have inadequate walls and roofs, and 9% of the population are unable to keep their homes warm (Vadovics 2019, 85; Eurostat in HBS–FoE Hungary 2018). As for the use of energy, the level of consciousness is low. The majority of households do not follow their energy consumption data, and the household appliances stock is inefficient on a large scale. On the other hand, in surveys the Hungarian population express willingness and interest in energy-efficient home improvements (Fülöp and Kun 2014), but, on the whole, households lack the financial resources to act on this interest.

While in 2020, the government created a legal regulatory framework for prosumers, energy communities and aggregators through an amendment to the 2007 Electricity Law (Act No. CLXXVI of 2020 amending Act LXXXVI of 2007 on Electricity) and Government Decree No. 721/2020 (XII.31) implementing Directive 2019/944/EU, the government continues to ensure affordability and shields consumers from increased energy costs.

Thesehese amendments, among others, introduced the notion of active consumer Article 17a of the Electricity Act, but in this regulatory setting and infrastructure, it remains a dead letter.

The National Energy Strategy 2030 has already called for the review of the price regulation in support of Hungary's energy transition, and Hungary should reform its regulation to include options of dynamic pricing. Such actions can engage consumers and improve the signals for investment in comprehensive energy efficiency improvements in the residential sector.

The recovery funding offers a unique opportunity to support consumers' investment in a way that can reduce energy costs. In turn, this will contribute to the financial health of utilities, support energy efficiency and facilitate Hungary's ability to meet the energy and climate targets to which it is legally committed (International Energy Agency, Hungary Energy Policy 2022). Even though Hungary plans to implement demand-side measures to control electricity consumption, including installing 1 million smart meters by 2030, their active use of demand response through smart meters couldbe hindered by the current regulated end-user electricity prices, which are also an obstacle for investments in energy efficiency in residential buildings. Different tariffs for different periods of the day and/or the introduction of dynamic retail pricing could incentivize consumers to install smart meters and shift their electricity consumption away from peak load periods.

10.8 Conclusions

The trnasfer of Hungary's political economy to authoritarian neoliberalism undermines core institutions of the market economy, including consumer and energy law and policy. As Hungary shifts from neoliberal economic policies towards more inward-looking policies of economic patriotism, the emerging economic governance framework increases state ownership and favors local business interests and domestic market participants over foreign-owned economic operators, but at the same time it leaves consumers without meaningful protection and support.

This paper analyzed the strongly politicized role of energy law and policy and its intersection with consumer law that clearly undermines the legally protected goal of society for its own citizens.

While intensive price regulation and the reinstating of public ownership were often connected to guaranteeing security of energy supply and the protection of vulnerable consumers, they neither provided adequate legal/economic protection nor the necessary empowerment consumers need to become active participants in the energy transition. Hungary's case is an illustration of how transplanting EU rules by simple copy-pasting becomes dysfunctional in a socio-economic environment that is built and fueled by opposing political goals and sentiments. Hungary's case also demonstrates the multi-faceted nature of energy transition, which is more comprehensive than just a change in the law. It touches upon current societies' socio-economic structures and requires fundamental changes in the existing energy systems' institutions and formal and informal rules, and a more complex understanding of the concerned consumer, taking into account social interactions and environmental and other institutional frameworks, including top-down action by governments.

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