
DEVELOPMENT OF INSTITUTIONS, RULE OF LAW AND EUROPEAN INTEGRATION

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Abstract: In less-developed society, as a rule, it is presented high unemployment rate, low rate of economic growth and development, and reform of that society and economy is noticeable. Thus, many institutional and structural changes are needed. Institutional changes highlight the reform of economic, political and social institutions, which should lead to the rule of law, economic stability and economic development. The paper will research inclusive (good) institutions that promote the rule of law, maximize efficiency and social welfare, but also extractive (bad) institutions that extract wealth from the majority of citizens and redistribute it to the minority. An efficient institutional framework supports sustainable economic growth, as evidenced by numerous studies confirming that countries with the rule of law achieve three times higher rates of economic growth. The development of good institutions is also important for the protection of natural resources and the limitation of their consumption. These institutions generally indicate what is allowed and what is forbidden in one society. They protect private property, ensure the equality of the contracting parties in the economic process and provide legal security to citizens. The paper will analyze the EU requirements that Serbia needs to fulfill, with special reference to the chapters related to the rule of law and competition. Recommendations for achieving the stability of the institutions that are a condition for EU accession will be presented. This is important because the interdependence of modern states and societies was pointed out in the domestic literature at the beginning of the eighth decade of the 20th century, and Serbia should not remain outside the course of that interdependence. Also, the great changes that followed at the end of the 20th century, but also those that are constantly happening, are the reason why Serbia needs to change and improve its economic performance, in order to be able to adapt to those changes. The fact is that the world is polarized to the developed north and the less-developed south, and the dominance of developed countries over undeveloped ones can become visible, as well as the dominance of multinational companies from developed countries. In this context, the right question is how much less developed countries themselves contribute to their own backwardness with outdated legal frameworks and weak institutions that become a limiting factor. In globalized and liberalized world, the role of the state has seemingly been shaken, but it is still very important. The importance is reflected in securing the best possible international economic position, stabilizing political power, but also playing an active role in the economic process. The impression was gained that at the beginning of the 21st century the state was re-sovereignty, it still survived. The state is the bearer of legal protection, directly responsible for economic growth, scientific and technological development, development of education and society.

Keywords: rule of law, inclusive institutions, EU integration, globalization, the role of the state

1. INTRODUCTION

At the beginning of the eighth decade of the 20th century, the domestic literature pointed to the interdependence of modern states and societies, thus pointing out the great changes that would follow, but also referring to the term "globalization" (Šuvaković, 2017). Globalization, after all, like its related notion of liberalization, are old and complex notions. Globalization itself, has more faces and requires adjustment, its third phase began with the fall of the Berlin Wall in 1989 and was called turboglobalism. It is so named because a "new speed" has been noticed, an increased number of multinational companies, production and trade are the most developed, and the economic connection of the world is present through large American, European and Japanese companies. "In short, globalization can be seen as expanding, intensifying, accelerating and growing the impact of global connectivity. Today, it is mostly the globalization of corporate and financial capital, ie the market, not the state. It indicates that the state must continue to implement its public policies, but with new means "(Maksimović and Petrović, 2017; Pečujlić, 2002). What certainly characterizes today's phase of globalization is that it is the last stage of internationalization, which includes the concept of regionalization and wide expansion. This makes it more specific in relation to the earlier phases (Pečujlić, 2002: 50-51). It is necessary to point out that today interdependence and connection (of the world) appear as a need and necessity. Expressed interdependence can also lead to the dominance of certain economic and political, information and military areas at the international level. But the most important thing is to point out that no one has the exclusive right to dominance and the question of how much the countries

themselves contribute to their lagging behind by underdeveloped laws and weak institutions is justified (Maksimović & Petrović, 2017: 213).

2. METHODS AND DISCUSSION

In this research, a comparative and descriptive method was used, as a way of presenting the results. The discussion is based on the facts obtained on the basis of the collected and processed literature.

Significance of Institutions for Economic Development - With the rapid acceleration of globalization, there has been a challenge to the sovereignty of the state. However, without the role of the state as the bearer of legal protection, the bearer of a number of other inclusive institutions, it is not possible to survive. At the beginning of the 21st century, there is a process of resovereignization of the state, due to the confrontation with reality and the tenacity of the survival of the nation state (Simeunović, 2017: 800). The role of the state in a globalized and liberal world is very important, through securing its own best economic position, stabilizing its own political power, through playing an active role in the economic process (Fukuyama, 1997: 23). The state is directly responsible for economic growth, especially since many economists such as Nouriel Roubin, Paul Krugman and Joseph Stiglitz have openly expressed fears of a new global crisis and a slowdown in economic growth. Thus, Roubin believes that high public debts, unemployment and insufficient investment activity "suffocate" developed Western countries, but also those countries that have accelerated economic growth. Stiglitz was also cautious when it came to economic growth and stressed fears of a new global recession. Krugman, on the other hand, believes that the accelerated economic recovery can be stimulated by technological improvement of production and the application of robots (Economic growth - optimistic institutions, pessimistic economists, 2019). The period between 2000 and 2008 represents the only phase of significant growth of the Serbian economy, which was interrupted by the recession (Nikolić & Petrović, 2018: 7).

In this context, institutions play a significant role. It is clear to each individual what potential benefits compliance with certain "rules of the game" brings, but he is also aware of the potential sanctions and costs that non-compliance with the rules brings. The use of the term "institution" has become widespread in the social sciences in recent years (Douglas, 2003: 13). Today, institutions are so important for economic development and economic growth, that they are even the cause of progress or poverty. Where the average income is higher, longer life expectancy, lower crime and corruption, health and roads are better, the population is richer. The reason for that are developed political and economic institutions. These institutions are laws, rules, but also customs that motivate people to work dedicatedly, become productive and thus enrich themselves and their country. In addition, the protection of private property, compliance with contracts, new investments and inflation control also benefit the economic development of companies. The task of these institutions would be to reduce the gap between rich and poor and improve the lives of the poor (Acemoglu & Robinson, 2012: 53-55).

Thus, countries tend to develop good institutions. The reason for this is the smart spending of natural resources. As an example, one of the most developed countries, such as Norway, can be mentioned. It is an oil producer, and with wise investment and stable institutions, it has avoided the uncontrolled consumption of that national treasure. On the other hand, countries like Nigeria and Congo, they are poor and possess diamonds, oil and minerals, consume national treasures uncontrollably, often have civil wars, corruption, inflation and neglect of education. The state of the environment is cited as another element of the country's wealth and power. Countries that spend their renewable resources excessively, impoverish them, and have higher costs of destroying the environment. However, in poor and sparsely populated colonies such as Costa Rica and Australia, European settlers had to work for themselves and by doing so, they developed "incentive institutions". These colonies, after liberation, inherited established inclusive institutions that further accelerated their economic development (Why Countries Are Rich or Poor, 2019). Thus, institutions have an impact on whether nations will have prosperous economies or poor ones, therefore, whether a policy of well-being or poverty will be pursued (Acemoglu & Robinson, 2012: 57).

As Cvejić (2016) points out, without the construction of institutions that encourage economic activity, broad political participation and some form of social justice, there are no conditions for sustainable development (Cvejić, 2016: 222). "Institutional model, unlike neoliberal, is far more complex, because it includes: a) institutions as structural variables and b) distribution of political and social power, and in this complex network there is a market economy which is no less flexible." Jaksic, 2004: 66-68). Thus, economic prosperity is influenced by the geographical paradigm and the institutional paradigm that encourages investment in human capital (investing in education, skills development and increasing knowledge) and physical capital (reducing the consumption of natural resources), technology (investing in research and development [R&D]). and encourages overall development. The characteristics of good (inclusive) institutions are to protect established property rights in society, to limit any attempt by elites to use other people's profits or property, and to provide equal opportunities for the broadest sections of society in terms of employment, social security and human rights (Acemoglu & Robinson, 2016). Good

institutions are created by the states themselves, thus protecting the interests of all their citizens, and not just individual elites.

Unlike inclusive institutions that promote the rule of law, there are also extractive institutions, also called bad institutions. In those countries where they are dominant, development is slow or almost non-existent. Namely, with extractive institutions, there is an abuse of power, appropriation of other people's property and the establishment of a monopoly. On that occasion, the legal order is destroyed, and there is economic stagnation or even a decline in economic activities. Even if economic growth occurs, it is not sustainable under extractive institutions (Leković, 2016: 56). Extractive institutions provide access to political power only to a privileged circle of people, while inclusive institutions provide a chance for more people to participate in political life or economic process and to have access to political power and economic wealth (Acemoglu & Robinson, 2010: 4-7). However, institutions can influence the economic development of a nation in different ways, through their different modalities: 1) emerging market institutions establish and protect property rights, because without them there is no market; 2) market regulatory institutions deal with regulation, economies of scale, imperfect information; 3) market stabilizing institutions work to reduce macroeconomic instability and financial crises and 4) market legitimate institutions provide social, health and pension insurance. At the same time, respect for the institutional environment is very important. The fact is that institutions are very important, that institutions change, sometimes slower than the real economy requires, but that there are no quick and "easy" solutions that can stabilize the economy overnight (Jakšić, 2004: 69). In order for the economic environment to become dynamic, adaptable and prosperous, an institutional framework is needed, as well as a progressive economic policy. This also removes any dilemma about the state's influence on the economy, because throughout history it has become clear that its role is inevitable and necessary, that the role has evolved over time and that it has become inseparable from markets and economic processes. "The basic role of the modern state in the economy is to provide a favorable business environment, so that economic activities within it run smoothly" (Tmušić, 2014: 142-143). It is important to point out what affects the quality of institutions, namely: 1) predictability of rules, 2) political stability, 3) protection of property rights, 4) reliability in the judicial system, and 5) absence of corruption (Tmušić, 2014: 152.) . Mentioning the types of institutions such as political and social institutions, Sokić (2013) starts from the economic system and from specific economic forms that are based on a set of movements of "pulsating capital" and economic policy that is realized in the form of a series of measures and goals of economic movement. are in the form of intertwined projections, plans, decisions, regulations and behaviors that guide the practice (of economic institutions).

As an example of the aforementioned, market reforms in China are cited, which included high market protection, a small volume of privatization in the initial phase and a directed industrial policy. They have managed to achieve deeper reforms at a faster pace, as well as the most dynamic rates of economic growth. China has adopted a set of policy measures to open its financial sector, to attract foreign direct investment, to protect the interests of foreign investors, and to develop the domestic financial system (Nikolić, Petrović, 2020: 232). In contrast, in those countries where "greed and greed" for capital without control existed, as well as unregulated financial markets, the economic situation deteriorated (Leković, 2016: 46-48).

Institutions, rule of law and European integration - As Fukuyama points out, state-building is based on strengthening existing and creating completely new state institutions. It is the institutions that determine how stable and economically developed countries are and represent a key development variable (Fukuyama, 2007: 7). In fact, the stability of institutions can be seen as a kind of indicator of the maturity of a society. The representation of inclusive institutions in one country greatly facilitates EU accession.

The Lisbon Treaty, which revises the provisions of the Treaty establishing the EU, as well as the Treaty on the Functioning of the Union, emphasizes the importance of the Union's external activities in the field of diplomacy, security, trade and development. Namely, the focus is on identifying organizational measures that encourage development in the Member States, especially from the aspect of institutional development with the aim of coordinating economic and social activities at the level of the entire Union (Seters & Klavert, 2011: 4-5). EU membership requires the fulfillment of the assumption that the candidate country has achieved the stability of institutions that guarantee the existence of democracy, the rule of law, the rule of law, respect for and protection of human and minority rights. It also requires the existence of a functioning and competitive market economy, as well as the ability of the candidate country to cope with competitive pressures and market forces within the Union. Membership presupposes the candidate's ability to assume rights and obligations from the EU *acquis* (*Acquis communautaire* - EU law), as well as compliance with the political objectives of the Union, and economic and monetary union (European Council in Copenhagen, 1993).

Taking into account the above, Serbia is expected to prove during its accession that it is capable of applying the *acquis communautaire* on its territory from the date of accession in the same way as the member states. Therefore, Serbia must, in the accession period, first harmonize its legislation with the *Acquis*, and then prove that it is capable

of its full implementation. Institutions have a key role to play in this process. Of particular importance are judicial institutions that need to be reformed so as to effectively implement harmonized regulations in an efficient and impartial manner. The reform of judicial institutions is one of the most complex and demanding processes, which is why Chapter 23, which covers its reform, in the case of Serbia, was among the first to open. Thus, the ability to apply EU law on the territory of Serbia is a condition for membership, not its consequence.

The first phase of accession negotiations for each chapter begins with a meeting of the candidate country's negotiating team for the chapter with an EU expert group where EU experts present the EU *acquis* in this area (explanatory screening). The purpose of this meeting is to clearly present to the negotiating team what institutional and regulatory framework they need to establish in the area in order to be fully aligned with that in the EU. This is followed by a bilateral screening in which the representatives of the negotiating team for the given chapter present to the EU experts the existing institutional and regulatory framework. Based on the information obtained, EU experts compile a Screening Report document. If EU experts assess that the level of development of institutions and regulations in the country enables the opening of negotiations, they recommend opening negotiations for a given chapter without setting preconditions, ie benchmarks. Otherwise, if there are significant weaknesses in institutions or regulations, the EU sets new benchmarks that the state must first meet. The Screening Report for Chapter 23 clearly sets out the standards and criteria that the Serbian judiciary must meet in order to close the negotiating chapter. Expert teams of the European Commission check, for example, what status judicial bodies have, how much independence they have in their work, as well as whether they have adequate capacities for work. In addition, the work of these institutions on selected cases is checked, on the basis of which a conclusion is drawn whether the rights and obligations are respected in practice or they exist only "on paper". Chapter 23 consists of three subchapters: 1) the judiciary, 2) the fight against corruption and 3) fundamental rights. The judiciary assesses the extent to which the work of judicial bodies ensures the realization of the following principles: independence, impartiality, responsibility, professionalism, expertise and efficiency.

The Report of the European Commission on the Progress of Serbia in 2019 estimates that, in the field of justice, the recommendations of the European Commission from the previous report have only been partially implemented. It is stated that the system for the election to judicial positions and the evaluation of the work of judges and prosecutors should be thoroughly revised "in order to enable the election to judicial positions and careers in the judiciary on the basis of merit. The scale of political influence continues to be a cause for concern" (Republic of Serbia: Report for 2019). Based on that, key recommendations for further improvement in this area were defined: a) strengthening the independence of the judiciary and the independence of the prosecution through changes in constitutional and legal provisions for selection, career management and disciplinary proceedings for judges and prosecutors, b) ensuring that the High Judicial Council and the State prosecutors' councils can fully assume their role and achieve an independent and efficient judicial administration in line with European standards.

The challenge facing Serbia is certainly solving the problem of corruption, which is widespread. The fight against corruption encompasses several aspects, but with an efficient judicial system and an effective fight against corruption, Serbia becomes a country with a stable legal system and a reliable country that thus becomes attractive for investment (Ostojić, Petrović, Jovanović, 2019: 125-129). This is supported by the statement that the violation of private property and contractual rights, ie. their expropriation inevitably leads to a decrease in real, and thus expected returns, which leads to a weakening of incentives for owners of production factors to invest them (Begović, 2011: 176). The anti-corruption sub-chapter, Chapter 23 of the 2019 Progress Report states that "limited progress and no measurable impact of reforms in the field of corruption prevention". It also points out that law enforcement and judicial authorities have not yet established credible records of high-level prosecutions and completed corruption cases. It is further concluded that "in general, corruption is prevalent in many areas, and continues to be a cause for concern" (Begović, 2011: 176).

From the point of view of the quality of institutions, it is very important to look at Chapter 8, which is called Competition Policy. This chapter is one of the most demanding and complex chapters and consists of three parts: competition policy in the narrow sense (fight against monopolies and concentrations), state aid control policy and liberalization of certain sectors of the economy. It includes rules and procedures for combating the monopolistic behavior of companies (abuse of a dominant position), for examining mergers and for preventing the approval of state aid that distorts or may distort competition in the internal market (Why We Negotiate, 2019). According to the 2019 Progress Report, "EU rules protect free competition and they include antitrust rules against restrictive agreements between companies and abuse of a dominant position, and also include rules on company concentrations that would significantly impede competition" (Republic of Serbia: Report on 2019). The European Commission has found that Serbia is moderately prepared in the area of competition and that no progress has been made in aligning legislation and implementing state aid rules. The recommendations emphasize the need to: a) align state aid legislation with the obligations of the Stabilization and Association Agreement (SAA).

Regarding the institutional framework, the Commission for Protection of Competition (KPC) is the main institution responsible for implementing the legal framework. According to Art. 20. from Part IV of the Law on Protection of Competition, the Commission has the status of a legal entity. The Commission is an independent organization that is responsible for its work and submits an annual report to the National Assembly (Law on Protection of Competition, Official Gazette of RS, No. 51/2009 and 95/2013). The Commission is a regulatory body, but the Commission is also responsible for resolving the rights and obligations of market participants (Law on Protection of Competition, Official Gazette of RS, No. 51/2009 and 95/2013, Article 21, paragraph 1). It cooperates with state bodies, bodies of territorial autonomy and local self-government (Law on Protection of Competition, Official Gazette of RS, No. 51/2009 and 95/2013, Article 21, paragraph 10). It should also cooperate with other regulatory agencies at the international level in order to meet European recommendations on institutional development and facilitate EU accession.

High state competitiveness leads to sustainable economic development, high employment rates and social cohesion. The EU has defined how to achieve competitiveness in the member states and improve the living standard of the population by setting goals and instruments for their realization (Katić, Ćosić, Raletić, Vidicki, 2011: 1-4). The Lisbon Strategy has been the EU's main strategic framework for economic development for the past ten years. The strategy identified the need to increase the competitiveness of the EU economy through increased productivity growth as a key challenge, including measures to improve the regulatory environment for businesses (Europe 2020 Strategy Guide, 2019).

3. CONCLUSIONS

Analyzing the above, the importance of the role of the state, the role of inclusive institutions and the role of the rule of law is clear. This ensures economic growth, introduces "order" in the way the state functions, and every citizen is worthy of respect. One of the basic values of the EU is the rule of law. It can be concluded that in Serbia the weaknesses for opening the chapter on the rule of law have not yet been overcome, which confirms the preoccupation with fulfilling formal goals, such as passing laws, strategies, action plans and other acts, without paying attention to their implementation. Representation of a well-functioning judicial system, but also an effective fight against corruption and respect for fundamental rights in legislation and practice are of paramount importance. The next conclusion is that the reform of the judiciary includes the necessity for it to become independent, impartial, efficient, responsible and professional, and Serbia is expected to strengthen the overall efficiency of the judicial system in the coming period. It is important to conclude that the inclusion of inclusive institutions that contribute to economic activities, productivity growth and economic progress is important for EU accession. Such institutions enable the security of private property, an impartial legal system and public services that enable equality in exchange and contracting, as well as the participation of citizens in economic activities. Greater representation of these institutions contributes to EU integration, as well as achieving higher rates of economic growth. Also, the next conclusion is that in the future we should increase the trust of citizens in the judicial system and institutions, enable the attraction and retention of foreign investments in Serbia through understandable regulations that are effectively applied, which guarantees effective protection of their legitimate interests and legal certainty. Without good institutions, there is no economic or social prosperity.

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