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POSITIVE EFFECTS OF IMPROVEMENTS IN THE FIELDS OF ENFORCEMENT AND TAX POLICIES IN SERBIA

Nagy Attila

LLM International Business Law, International Business College Mitrovica, Kosovska Mitrovica, Kosovo,
Serbia, E mail: a.nagy@ibcmitrovica.eu

Summary: *In this work we are dealing with the possible and more likely development ideas and opportunities which could happen in Serbia. These ideas are based on the Governmental policies and even more on the need of the Serbian economy and its citizens. For a long period of time the economy was struggling and every small step towards development is noticeable. Apart from having the same idea of joining the EU different governments in the past and now claim that they will lead Serbia on the shortest and most efficient path to the EU. Their political ideas differ somehow but certainly the decisions they are making are just following one pattern. Everyday citizens and businesses just experience the same as in any other country which has its economy in transition. Much depends on the determination to make a certain step towards economic development. Sometimes it looks like the steps were made with a big delay and that everyone except the government was ready to certain changes. Some big structural changes are not properly done and there is not enough care taken of parallel practices of states in transition. The new procedure of debt collection in Serbia is done with an intention to make debtors pay more easily. Unfortunately on the end we see that the system does not work perfectly since the state itself has some problems of getting its tax money collected. In every aspect of life we see a big influence of politics to the economy, some would say that there is no economy without being involved in politics. This unfortunate situation is following Serbia and many Western Balkan countries for a long period of time. It is hard to expect economic development with such a bad attitude which is somehow always proved in practice. The redistribution of wealth is also problematic, having in mind that the tax policy serves only as a tool to fill the budget which is anyway not just in the sense of just redistribution. The budget of Serbia has many loopholes and certainly the current economic development is not ready to support it. There is a clear need to adjust politics to economy and make the state treat better the hand which is feeding it.*

Key words: *Tax Policy, Tax Redistribution, Private and Public Debt, Debt Collection*

JEL classification: *K22, K23, K34, K42*

INTRODUCTION

Western Balkan is one of the most different and divided places on the European continent, it has many different nations, cultures, languages and even though having the same political goal to join the European Union, it is still very different and has specific stages of development and understandings of the right way. Even by following the unique Copenhagen criteria, Western Balkan countries end up in the EU on a lower stage of economic development than other Member states. The period of transition is most probably hiding the answer to this problem of unsatisfactory economic development. Usually the answer is very obvious and spiced with corruption, nepotism and devastating wars.

Democratic political systems guarantee a certain level of legal protection, but the final legal outcome of such a democratic order is somewhat disturbed with influences such as culture, moral and people expectations. Similarly citizens as consumers have different attitudes towards the same things and some specific characteristics are not treated properly from the state perspective and multinational companies. To understand people and be able to satisfy all their needs is not always possible, but states and companies as well have to do their best and that way get the most out of every possible situation to be successful and profitable.

Big and successful economical systems of modern ages place big efforts in ensuring legal order. Law is a complex system of rules where different aspects such as political or the moral standards of people play an important role. Accordingly we can't expect the same results by applying the same rules or standards. We will focus in this work on the specific needs and possibilities for the Republic of Serbia in Western Balkans.

As an example we can take the culturally different European Union, where the same rules guarantee the same outcomes in states which have different cultural, moral and often economical stage of development. The EU Directives guarantee us the same outcomes in every Member State (MS). It is very important that every MS can achieve and guarantee the same level of protection by having slightly different laws which respect the cultural, legal and other national elements. On the end a just decision is always guaranteed and this way the legal order is

sustained, this is very important for economic development. By applying this approach we come to the solutions which can solve our legal problems in Serbia and the region.

Enforcement is a stage of business transactions where by legal means a business partner enforces a legal claim and that way ensures that a certain obligation is satisfied. It has to be outlined that business transactions don't last for a long period of time, a certain connection can last for years but a sole transaction on which a company makes its living should have a fast overturn, as faster it happens and finishes the better the business is running. An important role is given to enforcement in the final step, following clear rules it balances the system and makes an outcome which is just and predictable for both sides. In Serbia and Western Balkan this stage is problematic and does not act as a solution but more as a burden of chains for both parties.

Since the new Law on Enforcement Procedure and Securities (Zakon o Izvršenju i Obezbeđenju) is introduced a new profession is introduced, namely Private Enforcement Officers. This solution is based on the trend that private enterprises should take over some public and state duties in order to serve the purpose of enforcement better. By the sole fact that enforcement is now possible by more persons/enterprises the interest of the parties will be respected more and they will have the possibility to choose the best person/way of enforcement and that way save time and money. Unfortunately the system lacks one more very important solution from this field. When it comes to enforcement in companies it is very frequent that it ends with the bankruptcy procedure. This procedure is still not up to date in Serbia and causes visible harm to private and public enterprises as well.

Also we will try to focus on one other issue related to economic development and that is tax policy. Since by collecting taxes state is redistributing wealth, accordingly the richer the society is it will spend more and by that pay more taxes, so there will be more money to redistribute. But what happens if wealth is redistributed in a manner that it sustains a system which is not just. In turn we will focus on the territory of the Kosovo where big amounts of money are being redistributed by harming citizens outside of this territory and not making clear the criteria and political issues. Also we will focus on the state administration which is overpriced and does not support economical activity. It serves as a burden to economic development by putting obstacles in front of it and delaying economic activities.

In short this work will focus on the policies made by the Serbian government and their application by laws and regulations which should produce a certain benefit in Economy and that way have some positive effect on a short and long term economic development.

THE THRESHOLD OF ECONOMIC PROSPERITY

Economy is a very live science and it is changing very often, apart from changing its goals it changes the means how to get certain standards as well. All this is influenced by many factors so it is hard to predict who, when and how to reach the level of development. For the purpose of this work we will take the EU and other developed western European countries as a threshold of development. States such as Switzerland and Norway are not in EU but still their economies are stable and more developed than some EU member states. To explain why this is so and why Western Balkan countries are not following these patterns is not relevant for this work since government policies clearly outline the ultimate goal, which is to join EU. We will not devote much time to states outside of EU but just shortly explain its relevance. These countries focus their economic activities on some products which can be better exploited on the global and not the EU marketplace, so the EU membership would be just a burden to the state, people social care and the economy. Not to preclude other activities some of the biggest revenue making businesses in Norway is the exploitation of petroleum and in Switzerland banking and finance. This activities/products could be obviously be better used outside of EU economy on the anyway liberalized world market.

One other important tool of balancing economic activity is the ECHR (European Court of Human Rights) which is deciding cases in regard Property rights and the failure of a state and its courts to guarantee this basic human right. (ECHR, 2013) From the statistics of the ECHR it is visible that Serbia has many cases in comparison with other states, it is good that we have this mechanism of protection but the main solution is still far ahead. Court is not balancing and judging parties from economic activities but it is punishing states and courts for not respecting rights, in our case right to property. States are punished and have to comply but the main actors hidden in the big court and bureaucratic apparatus are not affected and continue to disregard such rights.

The state bureaucracy is harmed and strongly influenced by corruption and nepotism so it is very hard to make complete and absolute justice even after the ruling of ECHR. Earlier the courts were responsible to enforce debts and con-

fiscate property, unfortunately this system showed that it is not fit to serve the business activities and world trends. As in many other countries, according to a well known and tested formula, a new efficient system had to be introduced. This new and innovative step includes a new Serbian law on Enforcement and Securities (Zakon o Izvršenju i Obezbeđenju-ZIO) and system of debt collection where one stage of the property confiscation is given to private enforcement officers (art. 312 ZIO) according to very strict rules of law which have to be respected. (Securities, 2011)

Accordingly as everything else in the Western Balkan (WB) region and in Republic of Serbia (RS) a once state responsibility is now becoming a private business. Private in this sense means liberalization of the profession, boosting efficiency and on the end giving the choice to businesses. Entrepreneurs are much better able and fit to serve economic transactions and needs.

GDP AS A THRESHOLD OF ECONOMIC PROSPERITY

To measure Economic prosperity we have some tools commonly used worldwide. Gross Domestic Product (GDP) is one of these tools, it has also been noticed that some factors which are not included to GDP measurements do affect economic activities. (Investopedia, 2013) So GDP is fine as a measurement but only as long as it is evenly spread on all citizens, so everyone gets a fair share or has a fair share. Unfortunately in WB region and broader after the fall of the Iron Curtain and Socialism the system of sharing and equally spreading wealth to all citizens does not function any longer. As was the case before in Western countries now in WB the trend of having monopolies and capital accumulation of some chosen ones is present. Many business persons are not able to proof the origin of their capital and many of them are connected or active in the politics. A notable case is Bogoljub Karić a mobile operator service owner who fled from Serbia, Miroslav Misković who is active in more business fields than the state itself and Miodrag Kostić the unofficial king of sugar who even as being a successful businessman bought Sugar factories for pennies. Obviously encouraging and just until some extent punishing these persons is on the other hand not encouraging people to engage in business ventures. On such a small market as Serbia it is very hard to compete and invest since the risk is big and the competition is not fair.

Having big profits and not sharing it with citizens via tax payments we end up with GDP calculation and threshold as meaningless. In a situation that state has many debtors which are not paying taxes and that way sharing the wealth of the

nation with everyone we have poor countries with big monopolies. This is the “Hacienda” style of economy, where business people are called “Tajkun” and the state/politicians are protecting them for something in exchange. Whenever state is not able to give an equal share of business, trade and production to people but keeps it with some predetermined people, we can't expect economic development. In order to develop, invent and create, people need freedom as long as they don't feel free and live under pressure of some kind of democracy there is no real development possible. Development has to include everyone, all people need to advance and be able to plan their future, as long as this is not possible and people can't advance development is not possible and stagnation will rule the economy.

EU AND THE THRESHOLD OF ECONOMIC PROSPERITY

The Government of The Republic of Serbia same as its neighbors has a plan to join the European Union (EU) in the near future. For this reason we will take the EU criteria in regard economy and development as a threshold for Serbia and its development. Copenhagen criteria is used to measure the level of development and ability of a certain state to join EU. (Commission, 2013)

1. The political criteria is democracy and rule of law, in RS it is influenced by the EU and controlled as well. A very important aspect of this is the reform of the Court system, it was not well done and the EU criticized it. Now since such a big reform failed and a lot of time and knowledge was wasted it is hard to predict how will the RS guarantee and achieve a new and just decision. Political influence on the court reform was and is still very big to achieve just and legal outcomes.

2. Economic criteria is another burden on a highly monopolized market, competition is made more like a separation of markets between politicians and their supporters. Citizens are not getting the benefits of competition since monopolies are made and held for many products and services. Apart from state monopolies many private entrepreneurs have big concerns and have the power to influence market conditions and prices.

3. Institutional criteria is again a big task and has to cover state institutions which have a very politicized structure, influence from political structures and have a big number of unnecessary employees. Government of RS plans to apply a so called “Regulatory guillotine” and cut all unnecessary administrative burdens and regulations which are blocking the establishments and improvements of businesses. (Serbia, November 2012)

To acquire all the benefits of EU a very strict and disciplined state system has to be established where every citizen understands and approves the changes from which the nation will benefit. EU influences many aspects of life and some of them might even be negatively affecting people but the final result should be positive and serve the majority as is the case in every democratic country and decisions should be made in a democratic way. Even more a candidate country has to accept *Acquis Communautaire* as a common law and standard, it serves the whole EU as a big family and benefits everyone in the same way.

A notable example of how the same rules can be misinterpreted can be found in the European Union. Even by having the same law, *Acquis Communautaire*, the EU is still divided and the outcomes in similar cases could be very different. The European Court of Justice is working hard but by having more and more regulations in EU the number of cases is also rising and flooding the court. After we have seen the difference and divisions in EU and its national characteristics of Law in all EU states, we can clearly conclude that the many different national characteristics influence these phenomena and that every state has to deal with its own problems and application of law. Also this is the main argument and proof of the fact why the transition period in Serbia has been stuck in one place for a long period of time with many problems, be it legal, political or economical.

Apart from rules and their application there is a notable problem in EU which considers small and medium enterprises (SME) and agricultural producers (farmers). Agriculture is a very important field where EU invests a lot of efforts to keep it running and help it grow in a sustainable manner. This way it is also a factor which helps economic development and helps improve the living conditions of farmers. Another key of development is the system of small and medium sized businesses which is highly encouraged by the EU as the engine of development and sustainability. (Comission, 2013) This branch of economy and business form makes people get employment and invent and advance business opportunities. These small businesses serve as mini labs for improvements and inventions of new business possibilities and employment. Small businesses can grow to multinational ones and that way boost economy, threat to this is the system of market economy which works on a basis of frequent mergers and acquisitions. Good and profitable ideas of small entrepreneurs quickly become part of big concerns. EU is because of these regulations helping SME enterprises which are also encouraged in the WB region and RS as an engine for economic development. (Serbia, November 2012)

ENFORCEMENT AS A KEY TO ECONOMIC DEVELOPMENT

Following world trends, EU laws and needs of the economy the RS Government has changed some previous practices and introduced novelties into laws which regulate economic activities. In 2011 a new Law on Enforcement Procedure and Securities was adopted. (Securities, 2011) Since then enough time has passed to get some impressions on how this law improves the system of debt collection and improves economic activities. Also as we know a new specialized profession was created for lawyers with an intention to make debt collection more just, legal and efficient, namely Private Debt Collection Officers or Private Enforcement Officers (Privatni Izvršitelj). (Securities, 2011) With this improvement a task mainly dealt with by courts now has become a private “business”. As many other state tasks this one is also given into hands of private entrepreneurs with an intention to make it quicker and serve the economy better.

Courts are not functioning on economic grounds and with an intention to make profit but with a task to rule and decide in cases where a legal misunderstanding exists. For economic transactions regulated by law, having a long practice and clear laws it is not any more necessary to have the court decide always. Strict rules apply and Private Enforcement Officers work in a way as their colleagues Attorneys at law. Still with the new solution a right of choice is left to people to choose between the new Private Enforcement Officers or stick to the old way of using Court Enforcement Officers.

With this new system state does not think only about the right of choice but about some specific companies which are mostly public and state owned in Serbia. These companies are the providers of services such as utilities, Communal companies (Komunalna preduzeća), which are usually owned by the state/municipalities. Obviously the state wants to get people work on getting its money back and this is why it gives all the cases ready for enforcement to Private officers, and this is also mandatory by law (Law on Enforcement and Securities, art.252). Now having in mind that Communal companies will have more money and that way more ready to serve people and their needs we come to facts such as their debts towards the state for non paid taxes.

When we enter this circle of unpaid taxes we certainly have to deal with politics and interest groups. Communal companies sometimes have a strong support in local municipalities, but still sometimes they are left alone with the market conditions. Apart from having some kind of monopoly in municipalities these companies still have debt towards the state. (Uprava, Poreska Uprava Srbije, 2013)

So even by having the support of the new Law on Enforcement some companies have accumulated huge debts, one of the questions is also who is responsible for spending this money or making wrong management decisions. This issue starts again the debate between political parties and probably as always citizens will suffer.

The government had some reasons for protecting certain tax debtors in the past. Namely Simpo, a furniture producer from Vranje and Galenika a Belgrade based company which produces medicines and drugs had some special treatment by the government. (Uprava, PU Srbije, 2013) Obviously the government had some reasons to temporarily protect these companies, unfortunately such a behavior discourages economic development and enterprises which are treated very strictly when they have such debts. This behavior of the government might have some social incentives but from the aspect of market economy and fair play it certainly has to be abandoned.

With such an attitude of the Serbian government other tax debtors also try to find as many possibilities for tax evasions as possible. (Information, 2013) On fairs where people rush, stay in cues and drink and eat in a more relaxed way many forget to pay taxes. It is of course not because people don't want to pay taxes but simply the cashiers are told by their bosses to "save as many fiscal bills as possible". This means that there is no fiscal debt and the consumer actually pays a higher price for the product. The policy introduced by the ministry of finance for such cases is that without a fiscal bill the consumer does not have to pay at all. This is not an easy solution but can easily affect some companies which are saving on their tax payments.

Economy is played by strict rules written in laws, disrespect of these rules causes conflicts and boycotts by subjects which are being overplayed by some factors, be it government or other political body. Only the strict application of rules guarantees that everyone will cooperate and be able to predict and plan its development on a solid fundament build by law and guaranteed by the state. In RS the Ministry for Finance has also outlined this (Finansija M. , 2013). From the previous practice we see that some companies were not playing according to the rules, now with the term of "zero tolerance" the Ministry will start applying the same rules to everyone, probably the previous practice of privileged ones will be abandoned. (Finansija M. , Ministarstvo Finansija, 2013) As the state policy changes some companies will also have to change their way of doing business, some might be in trouble and unable to continue but obviously the ones which

have potential will survive and adapt to the new circumstances (Finansija M. , Min. Finansija, 2013)

Also, transparency and a big safety belt had been made for business in a sense that each and every company which has had its bank accounts and payments blocked, has this fact registered with the Serbian National Bank (Narodna Banka Srbije). (Narodna Banka Srbije, 2010) This way before every transaction businesses can get an insight into their partner's financial situation and ability to pay. This information encourages trade since the partners will have more trust and control over its counter partner situation. (Srbije, 2013)

TAX ISSUES AS A GUARANTEE FOR ECONOMIC DEVELOPMENT

It has to be outlined that the Serbian Government has no sustainable and long term policy for any development outside of the framework of cooperating with the EU and one day maybe joining it. With different aids and support the EU is helping Serbia to overcome difficulties and by now the state is very much dependant on these aids. To apply the EU standards and requests Government has to obey different standards and rules (Serbia, November 2012).

A very important thing is that wages in public and private companies have to go hand in hand and the public ones have to follow the economic development, on the top of this the public sector has to follow the private with the number of employees since it should serve as its service and not a burden.

The recent idea to play with the VAT and rising it is not very efficient, since the black market is way too developed in Serbia and every possibility to earn money and sell products without VAT is welcomed by the grey market. It is not a surprise since the state which maintains a low tax collection policy automatically encourages the tax evasion. A positive example can be taken from tax reduction, where by reducing tax the price is reduced as well and this way consumer is more ready to buy. On a long run every purchase has an effect of boosting economy.

The Budget of Republic of Serbia has always some extraordinary benefit from selling public companies, such as NIS. Unfortunately this money is immediately spent on a short term basis to cover expenses and fill in loopholes such as the pension budget which is always empty. Pension system is a big burden and the Government can't really fix this problem for a long period of time. Knowing this we also have a problem with debts such as the compensation for confiscated land

in WW2 and other reparations which were done previously and have to be fixed today or in the near future.

The number of state owned companies is still very big and many of them receive a big contribution from the budget. On the other hand they are not profitable so they have a very low return in taxes. This way the state is not encouraging economic activities and the privatization process has to be faster and more efficient.

The Automobile industry was harmed during the world crisis in 2008 in every country which makes cars. Companies had many solutions to recover and many of them did. Still the industry is not that popular and car manufacturers still have to be very careful when making decisions, also some states were very concerned about their car industries and applied different kinds of help and support to manufacturers. Car manufacturers employ a lot of people and also make a remarkable portion of every car making country GDP. In Serbia car manufacturers such as Zastava company has a very big debt towards the state. (Uprava, Poreska Uprava, 2013) Even with that debt state is protecting the manufacturer and keeps high import taxes for cars. Serbian citizens have not much interest for buying new cars, be it domestic Zastava made or any imported new car. The low standard in Serbia only allows citizens to buy used cars imported from Western Europe, unfortunately the state has high taxes. The solution could be the same as for immovable property, sales rise where taxes were lowered and that way business transactions encouraged. Obviously state has found an interest in this solution since the market is running and taxes are collected as well.

“Regulatory guillotine” (Serbia, November 2012) is a phrase which represents the big bureaucratic machinery of the state which is a big burden to economic activities. Procedures have to be shorter and administration more efficient without putting administrative barriers to entrepreneurs, business opportunities, new ideas and other activities which could enhance economic activities. For foreign investments this obstacle is very important since the investors want to do business in the simplest way and as quick as possible. So when they have to apply for different licenses and wait for many approvals it delays the start of the business and wastes time and money.

Kosovo is another obstacle for the good and balanced functioning of the Serbian fiscal system. On the territory of Kosovo some parallel institutions still exist and apart from financing them the Serbian state is paying for some pensions, health insurance and similar activities which are usually financed by state. Because of

a complicated status of this territory Serbia is not able to collect taxes and this causes a big in-balance in the budget and injustice in the system of redistributing wealth in Serbia. Knowing that Serbia takes special care about Kosovo and that its status is not fixed in legal terms and according to the Serbian constitution, we can predict that in the future it will be a burden and additional expense to the budget.

CONCLUSION

It can be easily seen and understood that the Government of Serbia is able to make changes and adjust the system to serve and fit the economy much better. Also the quick changes and adjustments is the best way of making new rules and this is the way of usual decision making by the authorities. These new rules look like they fit the system perfectly and that all the improvements have been awaited from economic actors for the long period of time. For international companies and investors all the novelties are usual everyday way of doing business and accordingly they make them like the Serbian business environment much better.

Lack of enforcement and determination to abolish the debts from some companies is still making some injustices in the system and accordingly harms the economy, mainly harming the small and not so influential businesses. The previous Socialist way of economy of big companies covering many similar business fields is now mainly changed to private ones doing the same. Private companies might be owned by local or international business people, all very well connected and having some political promises, deals and connections. The small individual entrepreneurs have never got a real chance, many of them were just crushed by bigger competitors or left their business when they saw that they have no chances on a longer term.

Practices such as “Zero tolerance” have to be avoided and all companies have to be equal treated by tax authorities and the state. State has a legal, moral and political duty to respect law and clear its debts towards citizens and legal subjects. Also knowing that the state plays an important role in economy by still owning some big companies it has to serve as a shiny example. Otherwise its behavior will influence others and every change in the system will be seen either as tool to improve the market position of some particular companies or a mirror of the past where private business were not welcome. In fact this mirror should be broken and crushed into pieces from where we won't see the past and any of its remains which still don't let the sunshine of the economic prosperity shine in our Western Balkan region.

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