

THE CONSTITUTION AS A GUARANTEE OF STATE SOVEREIGNTY IN THE PROCESS OF ECONOMIC PROGRESS

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Abstract: *The economic progress of every state is conditioned by respect for constitutional provisions. This respect guarantees the stability of institutions, the unhindered development of bilateral relations that are of crucial importance for the economic progress of the state, but at the same time the unhindered functioning of the economy of a state. The Constitution of the Republic of Serbia guarantees the right to a free economy, and it is precisely this constitutional provision that is immanent to states with a democratic prefix in terms of their state system. This paper focuses on the importance of constitutionality for the unhindered economic development of a state, as well as on the consequences that may follow if the legal order of a state is not respected. At the same time, the analysis goes in both directions, and this research aims to show the effects of the abuse of political power and thus the use of constitutional norms but in personal interest. Specifically, the research aims to present all forms of use and abuse of sovereignty in the process of economic progress of a society, with a focus on the Republic of Serbia and the Republika Srpska.*

Key words: *constitution, sovereignty, economy, progress, Republic of Serbia, Republika Srpska*

JEL classification: *K10*

1. INTRODUCTION

The constitution is the highest legal act of a country and as such represents the basis for the legal and formal existence and respect for state sovereignty and territorial integrity of every state governed by law. "The character of the constitution is expressed above all in its complex nature, which is reflected in the fact that the constitution, firstly, simultaneously exhibits the

properties of both a general legal act and an ideological and political document, and secondly, that it not only establishes the existing state and social order but also foresees the future." (Jovičić, 2006, p. 187) The sovereignty of a state implies two components, namely: the supremacy of state power and the independence of the state from abroad (from the influence of other states). The supremacy of state power implies that state power is the highest and strongest authority on the territory of a state. The independence of the state from abroad implies that the state is independent in making its decisions in relation to other states. Therefore, the sovereignty of a state is the basic characteristic of that state and is guaranteed by the Constitution, so it can be concluded that without sovereignty, a state practically does not exist. The principle of sovereignty was first proclaimed in the American Declaration of Independence on July 4, 1776. In Serbia, the principle of citizen sovereignty was proclaimed by the Constitution of 1903. The Constitution of the Republic of Serbia of 2006, Article 2, proclaims that sovereignty originates from citizens who exercise it through referendum, popular initiative and through their freely elected representatives. Also, no state body, political organization, group or individual may appropriate sovereignty from citizens, nor establish power beyond the freely expressed will of citizens. The state as a class organization that protects the interests of the ruling class, with the apparatus of coercion of state power at its disposal, is the basis for the spread of legal and formal sovereignty, because every state has three elements, without which it could not exist, namely: population, territory and power. Therefore, the government, as an element of the state elected by the people, is obliged to protect the interests of the same people, who inhabit a certain territory, i.e. the territory of a state, with the apparatus of coercion, both physical

force and legal bases, the Constitution, Law and by-laws. "When it is said that the law is the will of the ruling class, then it should be borne in mind that here the word will is taken in a figurative sense, because the will of the class represents something that is objectively given in society and which is only reflected in the will, i.e. the consciousness of the members of the class." (Lukić, 1995, p. 60) Sovereignty is a legal concept that denotes the right to unlimited exercise of power. Given the principle of effectiveness under international law, this exercise of power must be real or *de facto*, which means that the state authority has control over the borders and has an apparatus of coercion with which it can ensure the legal order. Internal sovereignty means that the state authority is supreme (highest), unlimited and indivisible. That the authority is supreme means that there is no higher authority than the state authority - thus all other authorities are subject to supreme authority. It is the original authority, i.e. it did not arise from any other authority. That the authority is unlimited means that it has the right to unlimited exercise of power. In modern times, there is increasing talk of conditional unlimitedness because it is limited by its own law (to which it is itself subject), international law and constitutional provisions. Therefore, parliament may not exercise its free will, but the sovereign people express their will through a representative body (parliament) that exercises the "will of the people". However, how is it then possible that the authority that passes a law also changes it itself? The classical German theory of the state says that state power cannot be limited and defines sovereignty as *Kompetenz - Kompetenz* (competence about competence), i.e. that the government itself limits its legal boundaries (what it will put under the law and what it will not). This is opposed by the concepts of older legislation that say that the law must be consistent with natural law, morality, religious beliefs and tradition, and the English doctrine that says that "parliament is sovereign", and at the same time speaks of the rule of law ("rule of law") as a meta-legal category. The indivisible power is defined negatively, i.e. that there is no other higher power than the state power on the state territory, i.e. that there cannot be two or more supreme powers. In some cases, the state power is unable to exercise supreme power for a certain time (such as during occupation or international protection), and sovereign rights are exercised by another state. If there is a permanent transfer of sovereignty, sovereignty is lost, i.e. the disappearance of the state. The highest form of sovereignty is the adoption of the constitution and laws, and other state acts, then military service (unless otherwise prescribed by the Constitution), customs, and

symbolic acts that are the empirical expression of the state, such as the anthem, flag, coat of arms, etc. "Constitutionality is first and foremost an expression and legal form of the identity of citizens, people, nation, ethnic groups or social subject, an organizational system of power and decision-making, it is one of the ways for people, ethnic groups, multiculturalism and multi-confessionalism in political organization to find their identity, the meaning of life in peace and tolerance and to find their truth." (Stepanov, 2008, p. 157)

2. STATE SOVEREIGNTY AS A FRAMEWORK FOR THE MOVEMENT OF ECONOMIC PROGRESS

State sovereignty as a theoretical framework for the movement of economic progress represents a key topic in contemporary economic and political theory. This concept explores how states, as bearers of sovereignty, shape and influence economic development in the context of globalization, international integration and economic challenges. State sovereignty traditionally implies the supreme authority of a state over its territory, including the right to make economic policies, regulate trade and control resources. However, in the modern globalized world, this sovereignty is subject to challenges such as globalization, international integration, economic processes (transition). State sovereignty remains a key element in shaping economic progress, but its application must be flexible and adapted to modern challenges. Successful states combine the preservation of sovereignty with active participation in global economic processes, using various political and economic instruments to foster sustainable development. State sovereignty in the Balkans is a dynamic and often controversial concept, shaped by a long historical process that includes struggles for independence, international recognition and modern challenges such as globalization and integration into international organizations. This region was and remains a space where the theory and practice of state sovereignty often encounter political, ethnic and legal challenges. The Balkans were ruled by various empires for centuries, which limited the development of state sovereignty. Developing between two civilizations, on the one hand Byzantium, which was experiencing its peak, and on the other hand Rome, which was slowly returning to its former glory on the ruins of the former Roman Empire, the Serbs reached the highest level of their state development in the 14th century. The Serbian state of that time had in every respect reached, and in certain elements even surpassed, the Western state communities of the time. " (Nicović, 2007, p. 1) Today, state

sovereignty in the Balkans faces new challenges. Processes such as European integration, NATO membership and globalization affect the traditional concept of sovereignty. For example, membership in the European Union implies a certain degree of transfer of competences to European institutions, which may affect national sovereignty. "Political cooperation and acceptance of European values and standards in the field of political and legal organization of the state and society, the development of democracy, the functioning of the legal service and the rule of law, as well as respect for human rights and fundamental freedoms are part of a common tradition accepted by all, or almost all, states of the European continent and represent an extension of the economic integration of the peace project that has been developing on the soil of Europe since 1951 – the combination of economic cooperation, political upgrading and respect for common values made the EU attractive for the accession of new members." (Petrović & Vasilkov, 2021, p. 194-195) "The economic goals of globalization are a single world market, borderless trade, internationalization of production through direct investments of multinational companies, and the construction of a comprehensive system of integrated financial markets." (Simeunović, 2014, p. 131) Also, the issue of Kosovo remains one of the most sensitive aspects of state sovereignty in the region. "Throughout the post-war history, Kosovo and Metohija have enjoyed a special autonomous status, introduced simultaneously with the autonomy of Vojvodina, although the reason for the formation of autonomous units, if this form of territorial organization was already introduced into the system, was also in other republics of the then Yugoslavia, they were constituted only in Serbia – in Vojvodina due to the large mixture of members of several national minorities with the majority Serbian population, in Kosovo and Metohija due to the predominant number of Albanians in this part of southwestern Serbia." (Jovičić, 2006, p. 520) Theoretically, state sovereignty in the Balkans can be viewed as a combination of legal and factual elements. The right of a state to enact laws, conduct foreign policy and control its territories are basic aspects of sovereignty. However, in the modern context, these rights are often influenced by international agreements and organizations. State sovereignty in the Balkans is a complex and multi-layered concept that has developed through historical processes of liberation, nation-building, and contemporary political challenges. "In contemporary political theory, it is usually considered that the legitimizing concepts of the state are the rule of law, the nation-state, the democratic state, and the social state, as well as the welfare state, with the latter two concepts often

being equated, although in addition to similarities, there are also significant differences between them." (Simeunović, 2022, p. 132) Although the states of the region are formally independent and sovereign, their sovereignty is often influenced by international relations and global processes. Understanding these dynamics is key to analyzing the political and legal reality of the Balkans today. "In modern society, the international factor occupies a leading position in the political orientation of the creation of a political system, states are dependent on each other, and it is precisely in this interdependence that the importance of the international position is reflected." (Ljubojević & Petrović, 2019, p. 230) Economic progress is limited, on the one hand, by state (constitutional) regulation, and on the other hand, it is motivated by economic flows and economic interests that determine the financial position of the nation. Economic policy is an essential state instrument for achieving both external and internal sustainability of financial interests, so economic progress is also state progress, and these are all subcategories or constituent factors of state sovereignty. In fact, it is about the same primordial concept of national identity, about factors of state vitality in the economic sense. The Republic of Serbia and the Republika Srpska have the same constellation of economic priorities and economic development strategy, all in the interest of strengthening the national economy and better international positioning in the economic market.

3. ECONOMIC PROGRESS OF THE REPUBLIC OF SERBIA AND THE REPUBLIC OF SRPSKA: USES AND ABUSES OF ECONOMIC SOVEREIGNTY

The economic progress of the Republic of Serbia is a complex and multidimensional process that encompasses various aspects of development, including GDP growth, reducing unemployment, increasing exports, attracting foreign investment, improving infrastructure, technological development, and improving the living standards of citizens. Key indicators of economic progress:

- *GDP growth*: One of the main indicators of economic progress is the growth of gross domestic product (GDP). Serbia has recorded stable GDP growth in recent years, although this growth has been subject to the influence of global economic trends and internal factors. "It is estimated that the total economic activity in the Republic of Serbia in 2024, measured by the real movement of gross domestic product (GDP), recorded a growth of 3.9% compared to 2023." (<https://www.stat.gov.rs/sr-latn/oblasti/nacionalni-racuni/godisnji-nacionalni-racuni/>)

- *Employment:* Reducing unemployment is an important indicator of economic progress. Serbia has managed to reduce the unemployment rate in the last decade, but the problem of long-term unemployment and mismatches between supply and demand in the labor market remains. "According to the Labor Force Survey, in the fourth quarter of 2024, the number of employed persons was 2,894,900, the number of unemployed persons was 273,100, while the number of residents outside the labor force was 2,462,200. Compared to the same quarter of the previous year, the number of employed persons increased by 50,700, the number of unemployed persons decreased by 11,600, and the number of residents outside the labor force decreased by 65,300, so the employment rate increased by 1.1 percentage points (p. p.) and amounted to 51.4%, while the unemployment rate decreased by 0.5 p. p. and amounted to 8.6%, and the rate of the population outside the labor force was 43.7%, which represents a decrease of 1.0 p. p." (<https://www.stat.gov.rs/sr-latn/oblasti/trziste-rada/anketa-o-radnoj-snazi/>)

- *Foreign trade:* Increasing exports and reducing import dependence are key to sustainable economic growth. Serbia has made progress in increasing exports, especially in sectors such as agriculture, the automotive industry and the IT sector.

- *Investment:* Attracting foreign direct investment (FDI) is important for financing economic development, technology transfer and job creation. Serbia has become a more attractive destination for FDI, thanks to its favorable business environment, tax incentives and strategic geographical location.

- *Infrastructure:* Developing infrastructure, including roads, railways, energy grids and telecommunications, is key to supporting economic growth and attracting investment. Serbia is investing significant resources in the modernization of infrastructure, with the support of international financial institutions and funds.

- *Technological development:* Investment in research and development, innovation and digitalization are key to increasing the competitiveness of the economy and creating new jobs. Serbia promotes technological development through various support programs, incubators and startup centers.

- *Living standards:* Increasing the standard of living of citizens, measured by the growth of salaries, pensions and social benefits, is the ultimate goal of economic progress. Serbia strives to improve the standard of living through various economic and social policy measures.

In the Republika Srpska, economic progress follows national policy and is fully in line with legislation, which also implies compliance in this regard with respect for sovereignty, and the Strategy for the Development of Small and Medium-sized Enterprises has been adopted. "The Action Plan for Innovation in Small and Medium-sized Enterprises in the Republika Srpska for the period 2024-2027 is primarily related to the Strategy for the Development of Small and Medium-sized Enterprises in the Republika Srpska for the period 2021-2027, as well as to the Strategy for the Development of Science and Technology, Higher Education and Information Society in the Republika Srpska for the period 2023-2029." (https://vladars.rs/sr-SP-Cyrl/Vlada/Ministarstva/mpp/Documents/Akcioni%20plan%20za%20inovacije%20RS%202024-2027_555047324.pdf)

The Republic of Serbia and the Republika Srpska, in accordance with the unification of political action, both at the national and international levels, point to the coordinated development of national strategies in terms of economic stability and thus reflect a single face of national identity, although they are constitutively two states, share the same values, inherit the same past, religion and culture, which fully determines the thesis that we are talking about one people and one economic policy with a divided territorial sovereigns.

CONCLUSION

The Constitution with all its power reflects the stability and sustainability of the legal and economic order of a state. Its sovereignty in economic terms speaks of the power of the state to carry out financial transactions both on a national and supranational level, and in accordance with positive legislation, which implies that absolute sovereignty is necessary for such a form of existence. "The growing influence of the international community and international organizations, and especially the United Nations, on the politics of each country causes understandable resistance and a desire to preserve and strengthen the independence and sovereignty of each state, against all tendencies to limit them, states want to confirm this independence and sovereignty." (Lukić, 1995, p. 284-285) Sovereignty as a category is inherent in states in which there is a well-established rule of law, which in this specific case is the situation with both the Republic of Serbia and the Republika Srpska. "The important thing that capitalism brought and with which it has influenced political and legal theories to the greatest extent, determining their main content, is the exchange of economic equivalents between owners of individual goods, the exchange being legally free,

based on an equal voluntary contract, without direct extra-economic coercion." (Lukić, 1995, p. 262) In sovereign states, there is no diversity and there are no those who have more or less sovereignty. The legacy of modern law in all democratic systems is precisely the thesis that every person in this world is equal and that there are no differences in the essential sense. "A democratically formed political system implies that the state is successfully organized, the main understanding of society is freedom and justice, democracy does not know war, the principles of justice prevail between groups, and this means that each group with its own characteristics has the freedom to organize its life and interrelations with all other groups, the right to independent development must be nurtured, which is a complement to the duties of each group individually." (Petrović, Ljubojević & Blanuša, 2024, p. 133) Economic progress in times of global transitions is not only a national category. The Republic of Serbia and the Republika Srpska, in addition to all the territorial problems they face, strive to maintain the continuity of economic progress, although this is an extremely strong challenge. The world tendencies towards the creation of a global society, global economy, global institutions and a global consumer mentality, today perhaps the strongest in the 21st century, are experiencing collapse and destabilization. The new economic policy of the USA, the response to such a policy of the People's Republic of China, the attempt to assimilate to the emerging economic processes by the European Union are all segments of the factors of destabilization and economic sovereignty of the Republic of Serbia and the Republika Srpska. "The importance of defending the Constitution and the state, in the structure, organization and size, as established by the act of the highest legal force, is invaluable from the perspective of the Republic of Serbia as a state that has been under the influence of various destabilizing factors for centuries, both internal and external in nature." (Lazić, Petrović & Mladenović, 2024, p. 171) The guarantee of state sovereignty is the basis of the existence of a state, and thus of its economy. "The constitutional framework of the free economy confirms the practice we are witnessing, of which we are contemporaries. An increasing number of domestic economic entities registered with the Business Registers Agency of the Republic of Serbia also testify as a parameter of the free economy guaranteed by the Constitution." (Petrović, 2021, p. 253) In terms of the stability and sustainability of the legal order, the Constitution is the backbone and guarantee of the life of a state, and without a Constitution there is no state, and vice versa. Economic progress is the strategic interest and

goal of every society in the world, and it is necessarily bound by the constitutional content that guarantees it a free economy.

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