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OUTLINE OF THE COMPLEX VIEW AT THE STATUS OF A MANAGER IN THE SPACE OF MATERIAL LAW STATE

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Abstract

The constitutional principle of preservation of the social and environmental values in the economic system of the state portrays and in some sense cultivates the functional operation of a free market economy. The enterprises in service areas of substantive law are subjects, respectively are formed and managed by individuals, applying the economic and social rights to carry out business or other economic activity in the space of market, ecological and social oriented economy of the country which constitutionally promotes and protects competition.

KEY WORKS: manager; law; law; economy; individual; fundamental rights and freedoms.

Introduction

Position of the control managers in the economy of the country is distinctive, starting from the particularities of the roles and responsibilities of the managers on their fulfillment. Since social intelligence is foreseen as a social managerial capacity, it allows conclusions about the possibility of action in social intelligence in the actions of the managers in terms of its neutral charge in relation to morality. The reason is that for achieving of concrete economic outcomes is need to achieve the aim of promotion over the value of the things which means to achieve the objective (profit) used. For the solution of difficult life situations by managers, whether in terms of defining their social intelligence as insitutes a possible neutral charge to the ethics and morality, then the position of general manager for morality accepted as an autonomous morality with anthropocentric tinge, with a priority to achieve the concrete objective regardless of heteronomous norms of legal normative system standed on natural law basis in conection with law and morality (Lajčín, Korn, 2016). On the ipso facto and ipso jure complex phenomenon is affected by the two major historical objective factors as legal, economic and social unification of the European Union and the economic globalization of the world economic space. This would lead to a conflict and overlap of civilization sources and different economies with different social views on interpersonal relations in the economic and subordinate process in the connection with the status of the manager. a.) Status of the manager in economic area of Slova b.) Republic is thus created by significant social turbulence which stem in the transition of the state economy to a market economy after 1989, in the establishment of the independent Slovak Republic in 1993, which is the material law state guaranteeing to each upatňovanie his fundamental rights and freedoms as well as the constitutional definition of independant economy of the

state, in Slovakia accession to European Union in 2004 with the free movement of capital, people, goods and services and thus constitutionally voluntarily waiving the exercise of the rights of the State in the area of independent economic policy of the state in favor of the EU and in the process of global world economy, with the necessary civilization influence of different economies, with different social, ideological, philosophical, historical, economic, legal, religious, sociological and psychological opinions on interpersonal relations in a subordinate process in connection with the status of manager, whereas the relationship is not mechanical between individual and civilization environment. (Gáborová, Porubčanová, 2016). Sources indicated, however objectively present comprehensive system that they actually has a mutual causality as many transformation, where omission of the importance and awareness of even just one of those sources may cause the resultant distortion in social and economic relations, capable of inducing undesirable social outcomes in exposure of people in manager positions (Gabrhel, Hrazdilová Bočková, 2016).

Government's approach to its interference in the sphere of economy

During the current development according to J. Husára, there were formed two approaches of states to interference in the sphere of economy:

liberal economic policy,
interventionist policy.

The liberal concept of economic policy is based on the assumption that the market economic system is heading toward the balance and is able to absorb external impulses mainly through the price mechanism. The market system has the capability of continuous adaptation to changing economic conditions, as a result, are not required intervention by the state, therefore economic state

intervention is not necessary. In this concept there is only small space for concrete economic-political decision and the actions. According to this conception, market system is stable, providing a fair distribution of income and harmonious development of economy. State intervention in the economy are considered in place just in the case of market failure. The interventionist policy is kind of an antithesis of the liberal concept and it is based on the assumption that the private sector is not inherently stable, that is characterized by a tendency for non-equilibrium state, with consequent to market failures, from which then derives the need for complementary functioning market system about public sector in which there undertakes state, respectively, broad terms of interventionism of public authorities now. State or public authorities with their interventionist interventions try to restore its macro-economic balance and promote fairer distribution of the income.

In the term of time, the concept of a liberal economic policy was practically applied till a period of great economic crisis at the turn of the 20's and 30's of the 20th century and after that time until the mid 70s of the 20th century, concept of interventionist economic policy was dominated. In the transforming countries of Central and Eastern Europe, in the early 90s of the 20th century the need of theoretical elaboration of transition from administrative and directive system of the economy into the market economy was created, so the need of elaboration of economic policy transformation of the economic system. The economic political conception of economic transformation were original and social practice unverified in that time. These economic and political concepts were based on the need for macroeconomic stabilization, trade liberalization and privatization. Although the results of realisation of economic policy transformation in the Czech Republic and Slovakia significantly differ from the original ideas and intentions, yet through these concepts achieved of transformation of the economic system in a relatively short period and market system can now be considered to be stabilized. (Husár, 2013). J. Prusák as a lawyer considered in formulating the position of the State in relation to the economy in the model identified as "intervening and social state" about the country which intervenes in the economy, particularly in areas that have a social impact, for example, in the construction of motorways, railways, channels, nuclear energy, space research, to prevent economic recession and crises, in currency stabilization, conservation measures, promotion of banking and other areas that secure its economic and defensive position in the international political broadcasts from the geopolitical and global view (Prusák, 1995).

Four categories of economists approach to defining the role of the state in the economy

Economists approaches to defining the role of the state in the economy according to J. Husára and they can be divided into four categories:

1. Liberal approach, which is based on the fact that the State should be only minimally involved in the economic sphere. This approach is based on strict rules of

bankruptcy law as a result of which there is relatively rapid elimination of ineligible entities in the economic sphere. Minimization of government or other public subsidies, minimalization of redistribution processes and transformation of the state-owned enterprises to corporations in which the state has not the only or decisive factor. In applying of this liberal approach in recent times, it stresses the change of relations between the public and private sectors, while considered optimal for the development of partnerships between the private and public sectors. The need for transparency and openness in decision-making processes in economic sphere, which should guarantee the mutual confidence of economic subjects.

2. The approach is based on that the state should primarily fulfill social functions, starting from the idea that economical development allows the social security became available to everybody in some degree. This approach of the state to the economic sphere, is however criticized in the recent period mainly by the following arguments: staff who have lower incomes are not stimulated enough for improving their performance because they relies on generous welfare system, social policy and its components, mainly social insurance or benefits of unemployment depletes large source of social resources because of that they limit economic growth, a high proportion of social spending to gross domestic product negatively affects productivity of work and competitiveness in world markets. Together with the other factors for example low natural population growth, prolonging of the life expectancy, these facts lead to the need for correcting this policy.

3. Another approach is characterized by a strong developing stimulant of economic, not only the market or coherent action of the state. In addition to these factors act as a development factor and powerful corporations seems as developing factors which create an extensive network.

4. An approach based on the belief that the state has only a certain capacity of options to operate in the economic sphere (Husar, 2013).

The analysis of mentioned economic opinion in prism of existence of fundamental rights and freedoms of a social character of economy

The first approach

Liberal economic approach, denoted in the previous chapter in Section 1, with minimalist effect of state in its economical space is excluded ipso jure by existence of cataloging of basic economic, social and acultural rights and freedoms that are guaranteed to every individual by international agreements and principles of national law of substantive law state. Bearer of fundamental rights and freedoms is every individual and their guarantor and recipient is the State (Bröstl, A., Dobrovičová, G., canaries, I, 2007). Starting from that premise we can conclude that the state as guarantor and recipient of fundamental rights and freedoms is required by its mechanisms of power (adoption of social laws, etc.) to be a counterweight against the liberal efforts of the economy for achieving economic results, regardless of their impact on basic space of the rights and freedoms of individuals,

not only in management subordination, but in terms of overall social impact on all individuals:

- either financial supporting of political parties in the state in the context of political competition, or
- personification of economic oligarchs in the political system of the state, who establish their own political grouping,

trying to promote their own economic interests and the drafting and adoption of laws to the State against individuals in the economic, social and cultural rights are gradually losing its guarantee role in protecting the fundamental rights and freedoms of every individual and become an instrument of economic oligarchy in achieving its economic goals regardless of the constitutionally guaranteed status of the individual in society. Political parties lately become the means of eliminating at least two constitutional institutions and it is the status of the individual in society as a bearer of fundamental rights and freedoms while eliminating social and environmental fixed character of economy of materially law state.

So if R. Dworkin defines the objective law as a system of legal principles and legal norms of political morality (Dworkin, 2001), perhaps the above teleological establish that if political morality in the state is shaped by the economic oligarchy and its Machiavellian morality then the general position of political morality in the objective law of the state is important, it can cause both disregard of the principle of objective law and also receiving these legal rules which are in contrary to the concept of protection of fundamental rights and freedoms of individuals and with the nature of the economy of the state. With liberalism in the economy closely relate ideological liberalism too. The basis of its political philosophy is an individual, a citizen who has the greatest possible freedom. According to liberal conviction the freedom is the basis of society. Classical liberalism is a right-wing ideology, fighting for maximum freedom such as personal, economic, religious and political freedom (Kmetóny Gazdová, 2016).

Political morality as primarily individual substrate of personality, in connection with liberal economic approach, which is based on the fact, that the State should be only minimally involved in the economic sphere and in conjunction with ideological liberalism are the source of the fact that the actions of the individual in today objective reality in achieving the expected goals of the activities of an individual is significantly marked "required" attributes of individuals with specific anticipated features, the opportunistic attitude toward morality and justice, self-anthropocentric view of the objective reality and psychological factors of social intelligence, marked neutral charge for ethics, morality and law as a whole IK subjective natural rights of others. Psychological and sociological highlighting of the autonomy of the individual, his freedom and the searching of moral reality in the very existence of the individual as a subject in the relation to morality and objective law, it finds its reflection and possible justification in the actual ideas of anthropocentric jurisprudence. Postulates of anthropocentric jurisprudence overlap with the ideas of metaetic subjectivism and moral nonrealism of Richard Doublet on which to illustrate metaetic subjectivism and

metacultural nature of anthropocentric legal philosophy. (The action of individual can be morally correct, even though the majority of individuals think otherwise.) According to R. Doublet we will not strive for theoretical consistency, but about the true nature of fidelity (subjective, their own) moral attitudes and they are inconsistent. T. Sobek critically concludes to those thesis: *"Moral attitudes are indeed only subjective attitudes, but these are attitudes that objectively exist as a part of reality"* (Sobek, 2009).

The above there is highlighted is that liberal approach in correlation state and the economy are excluded ipso jure by existence of basic economic, social and cultural rights, the rights and freedoms that are guaranteed to every individual by international treaty agreements and by the principles of national law of material law state. State power by creating a liberal space in economy of the country, with a minimum ingerency of the state, denies a role of uncompromising guarantor of protection of economic, social and cultural rights of the individual.

It is true that the bearer of natural rights and freedoms is the individual - an individual entity. *In the objective reality never did not operate and will not affect only one subject of natural rights and freedoms, but always each individual in correlation with quantitative indefinite number of individuals of the same natural law quality of subjective rights and freedoms.* This fact establishes ipso facto the existence of mutual regulatory action of all individuals in the society, regardless of the quality of subjective selfperception their individual autonomy. The subsequent existence of regulatory action ipso jure by objective standards of law is a manifestation of respect "the individual and the state", where the state guarantees the possibility of the fundamental rights and freedoms of *every individual*, regardless of the quality of individual subjective autonomy of each individual.

The second approach

The second economic approach, which is based on the fact, that the state should primarily fulfill the social functions, can comment on the following: It is verified output of economy that the small and middle enterprises tied in the state the dominant amount of employment, but their economic and legal life is dominated by a few years. In contrast, the state expect the administration of relatively sustained employment binding from the large enterprises. The state can not fulfill its social functions without reliable filling of the revenue component of the state budget, which mainly includes taxes and levies. If the state, in respect of attracting large investors in their economic space, allows these investors „taxes holidays“, it discards of significant regular income to the state budget over a long period, which could redevelop its social functions, nota bene, when the expiration of tax holidays investor leaves, its action is in service areas of law relevant only by virtue of maintaining of employment after some time. The illustration of that fact is the current case of departure of US Steel from Slovakia. From large investors, that its presence in economic area of the state state connect only to the tax holiday period, can not be expected to be involved as an employer to the Social

Agenda as its employees for example as the title of the long-term projected operation carried out in the past in the former Czechoslovakia for example Bata company (construction of housing for employees, education of its employees, loans, cultural and social activities, etc.). Participation of the employer for social programs is in fact constitutionally necessary and state must clearly reflects against the employer from the title of the constitutional status of an individual as a bearer of economic, social and cultural fundamental rights and freedoms and social characteristic of its economy. Legislative activities, relating to dual education in Slovakia, may be the evidence, that the dual training system can use and require only from those employers where are likely long-term presence in economy area of the state, a priori from managers of large enterprises. The real view on social policy already mentioned US Steel Kosice, which is leaving the economic area of Slovakia is such that even though the State Labour Code, whose creator is state itself, limits for a given employer collective redundancies by number of thirty employees per month, the company US Steel Kosice circumvented this law dismissal of 29 employees per month, thus avoiding the obligations imposed on the employer in respect of collective redundancies and secondly to employees in management subordination and also to the state. The law of its positivistic interpretation was not corrupted, but the status of managers was scientifically defined as an autonomous morality of anthropocentric tinge, with a priority to achieve the concrete aim, regardless of the existent heteronomous standards of the legal law normative system stand on natural law base in connection of law and morality. (Natural law concept of substantive law define such a n action as circumvention of the law, law enforcement in fraudem legis which have no legal protection.). The existence of cataloging basic economic, social and cultural rights and freedoms which are guaranteed to every individual intergovernmental agreements and principles of international law of substantive law state and the existence of the constitutional concept of a socially and ecologically oriented market economy of the state, it is impossible to strictly separate the social aspect of national economic policy on the one hand and economic goals of a particular business on the other hand, without requiring of participation in positive social impacts in social environment as well as from employers, ergo managers of enterprises.

The third approach

The third economic approach is characterized by a strong developing stimulant of economy, it is not only the market or coherent action of the state. In addition to these factors as a development factor act also the powerful corporations which have an extensive network. With the facticity of economic globalization, which is a content of that constellation, can be economically agreed from the economic point of view. It should be highlighted the legal dimension of the economic approach. The legal protection of economic, social and cultural rights has in fact its supranational dimension (Cisko, 2012) and is unified by

adopting interstate documents such as the Universal Declaration of Human Rights, Charter of Fundamental Rights and Freedoms and the like, that is not tied only to the territory of a particular state and thus to the territorial scope of the legal standard (Čič, 2012). It can therefore be concluded that the existence of cataloging of basic economic, social and cultural rights, the rights and freedoms in the international treaty can not absolute globalization process only from an economic point of view of a strong multinational corporations, because it is true, that the protection of fundamental rights and freedoms of the individual is in the economic area controlled at interstate (supranational) level.

The fourth approach and conclusion

The fourth economic approach, based on the belief, that the state has only a certain capacity options to operate in the economic sphere, placed in that formulation of few issues from which we can articulate one: "It means, besides other things, that the state has no personal substrate, from which the capacity of the quality and quantity could not grow managers of the state-owned enterprises in the economic area?" Neoliberal economic policy served the thesis for many years, that the state is a bad owner, ergo, that the state is not able to generate fund of managers who are able to manage companies which are important in terms of national interest or the stability and protection of the public good. The state has also the capacity to affect in its economy space, which are declared in the constitution, respectively as politically decided constitutionally established principles to respect and guarantee (level and quality of political culture of a particular political force, which has become the holder of the state power). The Constitution establishes the State implicit, but clear obligation to influence and participate in the broadest sense of the word, the strategic decisions of the management of major companies, in order to guarantee the fundamental freedoms of the citizens, and with the aim to maintain the social and ecological character of the state economy. In the following set of constitutional limits for the state neoliberal hand of the market, has no place and its advocacy on background of material law state of XXI. century is a misunderstanding of the constitutional law realities of correlation "the individual and the state" even in the economic, social and cultural rights of each individual (citizen) and in the area of socially and ecologically oriented economy of the state.

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