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## ***Globalization, Economy and Law\****

### **I Introduction**

The world has significantly changed and transformed in the last half a century. On the global plan there has been a decline of social constitutionality and statehood. The world is changing from bipolar to unipolar. Capitalism that was declining in the first half of the twentieth century, has seen sudden recovery and is becoming a leading ideology again. The world is entering a new stage of capitalism in multi-significant transformations. All those transformations are closely related and represent a process of globalisation. All aspects of life in contemporary society assume a new dimension of planetary significance. Although primarily concerning political and economic flows, globalisation starts affecting the level of human spirituality, culture as well as scientific and artistic creation, and as such, assumes its own ethical code and new values.

The concept of globalisation, as well as related concepts „globalism” and „mondialism” appeared in academic debates at the end of the eighties and the beginning of the nineties of the last century, to denote a phenomenon of growing integrative changes of the modern world that have a universal dimension. This concept has its economic, legal, political, cultural and many other facets.

Economy and law will be placed in focus of our interest, as two strong levers of this process. We will leave the original backbone of globalisation, i. e. military and ideological for some other debates. Because, by addressing the aspects of economy and law we clearly direct our interest towards the culture of peace, rather than toward a non-culture of force.

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\* The paper is printed as submitted.

## II Globalisation

Human aspect of globalisation is nowadays denoted as unification and approaching of civilisations on planet Earth, and, rather than their conflict or mutual annihilation, their co-existence. The political aspect of globalisation is referred to as a new world order. The initiators of the new era of the development of the world maintained that, with the fall of the Soviet constitutionality and statehood as well as of other East-European countries, and the fall of the Berlin Wall, and intense strengthening of the military force and the rise of non-stoppable multinational economic companies, it was the right time that unipolarity, as a new world order, replaced bipolarity. In the circles of the then politics of North America and its ideologist of the time, the shrewd Zbigniew Brzezinski, in his book „Between Two Ages”, globalisation was clearly defined, as a new world order and as a „world ordered by the USA as the only remaining super power in the world”.

It is obvious that regardless of in which part of the world globalisation takes place, it denotes the presence of international dimension in almost all facts and activities relevant to life and affirmation of men. It is not about any chance or coincidence any more, but the reality in its concrete manifestation. Globalisation indicates that human issues are developing toward a universal model.

Discussion on globalisation has been increasingly present during the last few decades in political and scientific debates, so that this concept has become a primary problem of majority of social sciences.

That new reforms and transformations should appear in the society and that a weakened and faded model should be replaced by a new one is nothing unusual. However, in the current creation of the new world order or globalisation, there is a big stake of national cultures and state-like entities, with prevailing uncertainty. That is why many questions have been asked so far about the effects of globalisation and the destiny of humanity, which still await answers.

Some of those questions are the following:

- Can we rely on globalisation that leaves the world on atomic volcanoes?
- Can we rely on globalisation that is moving the world closer to ecological catastrophe?
- Can we rely on globalisation that deepens the gap between the rich and the poor?

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- Can we rely on globalisation that boosts local wars by arms dealing and trade of oil?
  - Can we rely on globalisation that ruins economies of small or technically disadvantageous countries?
  - Can we rely on globalisation which covers up the poverty of people, suppresses the cultural progress by promoting comfort, by political propaganda and mass oblivion?

And so on and on, we could as many more serious questions.

In such a heterogeneous discourse and uncertain answers and consequences, three different concepts have emerged, namely: *sceptics*, globalists, and antiglobalists.

When asked an essential question whether globalisation is a realistic and present process, that is to say, whether this is a social phenomenon, the sceptics mainly answer negatively, believing that globalisation and mondialism are a fiction and an imposed model. Namely, they maintain that it is the reality that the world economy, international relations and national cultural features remain in essence unchanged, i. e. that they have continuity with regards to the previous historical period. They believe that the current social changes are a stage of development of the existing national countries, i. e. that the development of social relations on the planetary level continues to move in the same direction like before globalisation. As a confirmation of such positions they point out that for majority of countries foreign trade is not done worldwide, but between the regions: as an example they state the countries of the European Union that mainly do trading between themselves.

The other group of scholars, who accept the existence of globalisation as a social phenomenon, are denoted as *globalists*, or even as hyperglobalists. They believe that globalisation is an objective planetary process, i. e. a current stage in the development of human society, and hence a historical necessity. Thus, according to this point of view, globalisation is a process that is not a matter of will or choice, but a legacy of civilisation accomplished equally in all social spheres.

The third group consists of anti-globalists, who are only focusing on negative aspects of globalisation, advocating the direction of expansion from 'bottoms up', i. e. from territorial entities of self-conscious individuals and informal groups, committed only to humanist values. These authors point out at alarming statistical data according to which there is an increasingly pronounced

discrepancy in income, share in cultural production, ownership of communications means between the poorest and the richest countries and nations, and invoke the examples of armed interventions of great powers against small nations without an approval of international organisations.

With such divided and diversified viewpoints and practical approach to globalisation a question was raised both before and today, whether it is necessary and whether it is possible to stop globalisation?

The answer was given by prof. Miroslav Pecujlic who wrote about globalisation in the light of dependence. His answer is that it is simply impossible to stop globalisation. I quote: „Powerful objective force of four globalisation riders”:

- Technical and Information Technologies revolution,
- Global economy,
- Global culture and
- Trans-national political regimes, are riding on the planet connecting the world into a single global order-the world system”.

However, it is our opinion that an objective approach to the given phenomenon is the only approach that is scientifically acceptable, showing a realistic state of affairs and a balanced viewpoint, i. e. a picture of globalisation as a process that has its many causes with its reflections in all social areas. Globalisation, as an objectively formed and present process which encompasses various fields of economic and non-economic activity of individuals, groups and communities has visible positive and also negative effects.

Something that is shared by all these approaches is a realisation that globalisation implies intensification of social and economic relations outside of and beyond borders of individual countries, and that one of the main characteristics of globalised society is an intercultural ambiance in which the globalisation processes take place.

### **III Globalisation and Economy**

It is in economic and financial spheres that the whims and the laws of the globalisation process are most prominently reflected. Discrepancy between the justice and the law of the small ones: local and regional subjects, nations and countries on the one hand and the world trans-national subjects on the other hand are most striking in that field.

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Dominant political and theoretical doctrines forming the process of globalisation include the doctrines in the field of liberalism, free market, free trade, deregulation and denationalisation. In that context, there is a significant strengthening of the role, authorities and position of international institutions such as the World Bank, International Monetary Fund and World Trade Organisation. There are also certain inter-government trans-national companies, as well as trans-national corporations dominated by private capital. There are also various informal groups such as G8, G7, G20 and many others.

Actually, an increasingly thick network of economic connections and inter-relations is created, with the dominancy of three united forces, i. e. trans-national financial capital, corporations and the international monetary fund.

It is nothing unusual or new that these powers should rule the economic arena, what is new is their gigantic mass of trans-national financial capital and international banking market.

The developed countries are estimated to increase their wealth by 500-700 dollars per second. A huge gap, incredibly unjust, is being created. The richest fifth of the world's population receive 84% of the world income. The poorest fifth receives barely 1.4%.

At the end of the nineties of 20<sup>th</sup> century, two hundred richest people in the world doubled the value of their property in only a few years. This type of becoming hyper-rich has been unthinkable of in the past.

In that sense, the United Nations established fighting the poverty as one of the main activities of this universal organisation for 21<sup>st</sup> century. Cutting the number of the poor who are suffering and dieing of hunger and starvation were determined as a concrete objective, with joint mobilisation and acting in concert on this plan that have to be accomplished.

Opening of market, removing customs barriers and trade liberalisation should have been benefited by all. However, the current tendencies and effects of these measures and policies show that they are beneficial only to the big and the rich ones at the expense of the small and poor ones. It is a paradox that the growth of integration, one of the driving forces behind globalisation should be to a very little avail to those who significantly contribute to the creation of the goods and the wealth, those who create a new value.

Besides the increased gap between the rich and the poor, liberalisation of trade has produced a number of significant consequences. Inequality between the regions, the countries and within the countries themselves increased. The degree of vulnerability of people was increased due to international criminal groups and the growing social insecurity and unsafety.

But besides these, *prima facie*, negative consequences, there are some positive ones, such as improving the quality of life for many.

#### **IV Globalisation and Law**

The globalisation process, as a general social process, inevitably incorporates the process of globalisation of law, i. e. transformation of modern system of law established in developed countries in 19<sup>th</sup> century. A debate going on both in scholarly circles, and in the public, about the notion and the character of globalisation, has moved to the legal theory and practice.

As an objective order of norms governing certain social relations, law is under the influence of economic, political and cultural forces which create the new world order; in this context the task of law is to regulate and form globalised trans-national and trans-cultural relations. Law is simply an integral part of globalisation process.

In order to be able to correctly understand transformation of law in the process of globalisation, this process should be looked upon in its integrity, i. e. one should take into account an indubitably growing integrative process reflected both in international law and in national legislations. On the other hand one should accept the reality that sovereign states are still, to a large degree, subjects of international law and carriers of legal system in their state territory, and that, in that sense, they are subjects of globalisation of law.

In the field of international law, globalisation process resulted in constant development of this branch of law. Namely, the second half of 20<sup>th</sup> century saw a sudden increase in number of adopted international documents (resolutions, conventions, decisions, etc.), primarily within the UN – it was the UN that proclaimed this very period 1990-1999 as the „decade of international law”. Besides, two new courts were established: the International Tribunal for War Crimes (for former Yugoslavia and Rwanda) and the International Criminal

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Court in Rome, and there was a significant increase in the number of international arbitrations too.

The process of globalisation of law, followed by the so-called internationalisation of internal law, is also accompanied by a phenomenon of regionalisation of law.

The best illustration for occurrence of regionalisation of law is the process of European integrations which assumes its normative expression through arising, development and application of the widely-known *acquis communautaire*, as a treasury of the European legal legacy.

During the period of intensive globalisation, a clear limit between the international law and national law is erased, because harmonisation of law happens by incorporation of the elements of national laws in the corpus of international law.

Namely, the European Union law, by the way it was created (through international treaties) is a supra-national international law of member countries. However, with transformation of this organisation to a political community, with the introduction of parliament, of the president, executive bodies and other state-like characteristics, as well as with limited and defined territory, the elements appeared of national legislation, so that the European Union law increasingly assumes its own identity.

## V Final Consideration

Globalisation, as a world process, is irreversible and inevitable. Therefore, extreme concepts „pro” and „against” must be „alleviated”; on the other hand everything must be done to ensure that globalization is controlled, as much as possible, so that it produces significantly bigger positive effects than negative ones.

Nowadays we live in countries that are undergoing transition. Transition from one to another system of social-economic and political order is carried out on the ‘wings’ of change. At the same time, we have adamantly set off along the European road and we gradually carry out adjusting of our legal, economic and political systems with the requirements of the European integrations, and according to the standards of *acquis communautaire* – Europe’s legal legacy.

In such a social milieu, the modern political globalisation as well as globalisation of free market is one of the factors leading to dramatic increase in economic and social inequalities, both within the country itself and on the international plan.

Nevertheless, globalisation, provided it is controlled and guided in a conscientious and responsible manner, on the principle of solidarity and human rights, both collective and individual, has a potential of being a quality process within which general-civilisation growth and growth of the overall human kind may be accomplished.

In that sense, the countries cannot derogate legally assumed international obligations. A transparent, unconditional and real protection before international instances and forums must be ensured, to the end of effectively protecting the rights of individuals and collectivities. In that domain, human rights must be accepted and affirmed as a universal principle.

Therefore, with interaction of political and economic instruments and with appropriate legal regulations, through the existing international institutions, the process of globalisation, as an inevitable phenomenon in modern relations, may be controlled and guided to lead to a universal benefit of mankind and the international community on the whole.