

Economic Aspects in the Service Management on the European Union's Market from Perspectives of Human Rights

Wiesław Brenski

Abstract

An enterprise is an economic unit running own activity in order to achieve material benefits (profits) and taking a risk and responsibility pursuant to legal regulations and market relations. Such a comprehension has more economic-legal character contrary to an entity whose determination is more like technology and engineering. A popular determination of an entity is a company as well which is of trade character.

Key words: *economy, services, market, the European Union, macro-economic policy, human rights*

Introduction

Undertaking and performing an economic activity is free for everybody on equal rights preserving the conditions determined by legal regulations. The notion of freedom of economy is equal in the doctrine with the notion of freedom connected with economic activity which is expressed in the following freedoms: undertaking an economic activity, conducting an economic activity, choice of legal and organizational form of conducting an economic activity, competing with other entities, selling own goods and services, shaping prices, deciding on the time of employment, deciding on the way of capital engagement, deciding on the way of conducting an economic activity, change of its profiles, time of duration, etc. [Cioch, (2007), p. 106]. Economic factors contribute to legitimization in the legal systems of the states of a state involvement in the market and social processes. It is

expressed in the constitutional norms of those states referring to the economic and social issues. They shape an economic system of a given state as well as the range of its tasks and intervention connected with it [Sitek, (2006), p. 111].

Economic effectiveness of an economic activity

Conducting an economic activity should be considered in the context of economic effectiveness which each economic entity acting on the market should generate. An enterprise's economic effectiveness may be claimed in the context of effectiveness and purpose measurement of the conducted economic activity. In this way, the undertaken economic actions by a company's management or its owners may be evaluated. An economic effectiveness is a relation of the gained effect values to a circulation of factors used to gaining them. Low economic effectiveness leads to the growth of prices and increasing the need for energy, materials and production space without increasing production results. And high economic effectiveness creates opportunities to lower costs of manufacturing, increases production results and profit which enables investment or growth of individual remuneration [Dziworska, (2000), p. 48].

Economic effectiveness of an entity is depends on an attitude of those creating a company and their common willingness to build an enterprise's position on the market. An enterprise needs a harmonious, skilled and consequent team which shall be responsible for the effects of the conducted activity by the company and an economic situation directly influences the financial situation of those employed since all the employed contribute to generating income in order to maintain a high position of an entity on the market. Each entity needs skilled manager staff with the knowledge of an entity functioning in the conditions of the market competition [Tracy, (2009), p. 57].

Entities aiming at reaching maximum economic effectiveness should actively use information concerning financial results in particular years. The main assumption of the model is optimization of the planned activity results due to its opportunities. Funds should be spent on the level of real maximum with the assumption of full realization of a planned task which is set as an amount of funds necessary to realization of assumed amounts which are planned on the basis of costs of the contemporary tasks corrected by an amount change of a planned result, value of external and motivation factors [Kosikowski, (2006), p. 56].

Significant aspects of an entity financing model are monetary funds destined to remuneration and motivation bonuses for the employees. A company's owner should be aware that the employees are a human capital for a company which is often compared to an investment. Competent and skilled personnel directly influences the quality of services performed by a company or realized process of

selling goods as well as it is an indicator of high quality and professionalism of an entity as a whole, it build an image of an entity in an environment and creates its image [Bogaczyk, Krupski, Lubińska, Małecki, Wiczorek, (2005), p. 43].

The influence of the macro-economic policy on an enterprise functioning on the example of small and medium enterprises

Economic effectiveness of functioning of the small and medium enterprises in Poland is particularly dependent on the principles of a state's macro-economic policy. The policy stability is an effectiveness determinant of small enterprises especially through the tax and financial system in the country. Small enterprises are particularly exposed to tax instrument, tax rates instability and other dues which decrease their developmental potential. It is especially noticeable in the first years of an entity functioning [Strużycki, (2002), p. 20].

The Polish law still lacks liberalization and harmonization of regulations. There are also no principles of honest competition which would be respected in practice not only function as a theoretical notice. High taxes and internal contradictions in regulations as well as little precise terminology which effectively prevent from an entrepreneur's rational strategic planning on the long run and causes that many small enterprises search for the opportunity to omit legal regulations [Piasecki, (2001), pp.77-105].

Significant barriers of small enterprises development cause that many entrepreneurs are characterized by poor financial flow which significantly limits realization of developmental processes. High taxes especially during the first years of conducting an activity cause that many small entrepreneurs decide to quit conducting their activity just after one or two years since its start [Piasecki, (2001), p.30]. Thus, the role of authorities and government is so important in creating policy rules favoring the development of micro, small and medium enterprises. Legal regulations should be simple and the tax system should be more individual as for an entrepreneur's opportunities. The access of micro and small entrepreneurs to external financial sources should be actively supported as well, thanks to which it will be possible not only to undertake investment decisions but also using professional trainings by employees increasing their skills and entrepreneurs shall increase their human capital value.

The Model of a Company's Management Improvement

For more effective management of an enterprise, there was a Model of a Company's Management Improvement worked out whose structure and principles of activity

may be referred to any entity acting on the market regardless an organizational form. The model has been worked out by the European Foundation for Quality Management (EFQM) which is a member non-profit organization established in 1998 by 14 biggest enterprises acting in Europe. The main mission of the non-profit organization is to support and stimulate actions aiming at reaching perfection in Europe. The EFQM associates organizations from different branches and European countries. It deals with promoting the idea of partnership with organizations of a similar functioning profile. The actions always lead to dissemination of constant perfection in functioning of the European organizations [Belker, Topchik, (2009), s. 88]. The EFQM Model was worked out in 1992 and makes an instrument serving to improvement of organizations in a complex way in a general comprehension. It is commonly used by nearly 30 thousand organizations throughout the world. It is so perfect because the best European companies created it in close co-operation with the EFQM specialists. The companies applying for a quality award implement the system within the conducted activity. The model is first of all based on the principles of the Total Quality Management (TQM) commonly described in Poland as management via quality [The EFQM Perfection Model].

PICTURE 1. The EFQM Model



Source: own work based on the EFQM Perfection Model as the instrument of management perfectionism, Umbrella – The Consultants' Association, 14 September 2001, p. 5

The model treats an organization as a whole and goes through the most significant functional areas of an entity. The specifics of the Model is certain freedom of activity and making decisions, it does not impose ready solutions but creates frames to their achievement. The model has a dynamic character, via learning and preserving innovativeness there is a potential growth which results

in achieving positive outcomes by an organization in the longer perspective [The EFQM model of Perfectionism, p. 12].

The leadership of the Perfection Model leads mainly to working out a professional management strategy P including the vision and target a given organization aims at. The role of a leader does not mean only management and coordination of a team, a leader actively participates in realization of all processes. Leaders are also involved in the contacts with clients and maintaining the best possible relations with environment. Simultaneously, they may not forget their role as a leader of a team who appreciates human work in a group and properly motivates them to their further actions. Indeed, leadership is certain motor for formulating strategies and policy as well as staff management, partnership and processes in a company [Lisiecka, No 3/1998, p. 6].

Freedom of providing services in the European Union

There is a principle of equal treatment of national entities and those coming from other EU's countries within the freedom of providing services. There are certain limits within the treaty regulation as regards financial services. The freedom of providing services belongs to those spheres of the legal EU's activity which do not refer the principle of direct use in legal orders of particular member states in full. The exceptions from the rule of direct effectiveness of liberalization provisions overwhelmed, pursuant to art. 58 of the TFEU, the sphere of transport, insurance and banking services. This included the necessity to liberalization of secondary legislative acts together with depending its pace from liberalization of the freedom of capital flow (in relation to insurances and banking) [Góral, (2011), pp. 33-35].

Since passing the Lisbon Strategy, the EU expressed its support for the declared aims to lower the costs of establishing new economic entities and removing bureaucracy barriers which make the development of entrepreneurship more difficult, especially those small and medium companies. Consequently, it was also agreed to removing any limits of free flow of persons, goods, services and capital within the EU. The attempts aiming at increasing competitiveness of the EU's economies and liberalization of the areas which had remained under strong state's influence (energy, transport, mailing) were also supported and decreasing public funds and facilitating tax systems (with simultaneous tax lowering). The social pillar of the Lisbon Strategy has been and still is treated differently. The vision of economy functioning included in the document contains too many elements of a state of wealth and ecological accents, which means too many regulations, protectionism, donation and directives in practice, which would rather decrease not increase competitiveness of a given state economy, and later the competitiveness

of the whole EU [Budny, (2008), p. 178]. Due to direct realization of service providing freedom is strongly connected with the content of the remaining freedoms, including the freedom of undertaking an economic activity, they were particularized in the secondary law norms, i.e. the directives regulating the activity in certain categories of the entities on the financial market providing services in the area of its particular segments. In practice, the freedom of providing services is often put next to the freedom of entrepreneurship. Meanwhile, the freedom of entrepreneurship and the freedom of providing services exclude each other. A particular behavior may not be simultaneously classified as undertaking the freedom of entrepreneurship and the freedom of providing services which means that it may not be protected together by the regulations referring to the both freedoms. Similar behaviors may be qualified differently when there is a wider context of their use.

While distinguishing the freedom of entrepreneurship from the freedom of providing services it is highlighted that the first one characterizes "the stability of activity" whereas, the other one is "temporary character of a service". The requirement of "activity stability" does not result directly from art. 43 of the TEU in the Polish language version. The Court of justice referred many times that element characterizing the freedom of entrepreneurship, *précising* simultaneously the range of the notion. It claimed that when the activity has a constant character or when its character indicated the lack of the presumed end of the duration, it is not included in the regulations treating services but there the provisions on the freedom of entrepreneurship may be used. A contemporary character of activity should be evaluated with regards not only to the duration time but also its frequency, regular repeatidly and continuity. Temporary character of services does not exclude the fact that a service provider, pursuant to the TEU, may equip constant infrastructure in an adopting member state (including offices, traineeship space and legal offices) as long as such an infrastructure is necessary to provide services. However, if a member state's citizen conducts a professional activity in a stable and constant way in another member state within which there is a contact from the seat with citizens is the subject to the regulations of the chapter "the law of entrepreneurship", not "the law of services" [The CJ verdict from November 30th, 1995].

While writing about the relation between the freedom of entrepreneurship and the freedom of providing services, it is necessary to mention about directive 2006/123/WE adopted on December 12th, 2006 concerning services on an external market [Directive 2006/123/WE of the European Parliament and the Council from December 12th, 2006] whose regulations should have been implemented in the member states until December 28th, 2009. What is important, the act aims at removing barriers not only in the free flow of the services between the member

states but also the freedom of entrepreneurship for service receivers in the member states. According to the creators of the directive, the barriers may not be removed only on the basis of the direct using art. 43 and 49 of the TEU because, on the one hand undertaking actions in particular cases on the basis of the procedure of infringement of regulations by the member states would be very complicated from the point of view of the national and the EU's institutions, on the other hand, abolishing many barriers demands previous coordination of legal systems, including establishing administrative cooperation [(2010), p. 317].

Thus, it was necessary to adopt directive 2006/123/WE which would guarantee service receivers and service providers legal certainty required to realize in practice two basic freedoms written in the treaty. The interpretation of the act significantly influenced the comprehension of the freedom of entrepreneurship and the freedom of providing services as well as mutual relations between them [Cejmer, Napierała, Sójka, (2008), p. 38].

The competitiveness of the service market in the light of the EU's regulations

Honest and undisturbed competition is the basis of a free market functioning and benefits for consumers. The antimonopoly law is a foundation of the economic policy protecting it against infringement, nevertheless legal regulations in that matter may be found in the directive regulations 2006/112/WE concerning a completely different matter, namely the principles of taxation of transactions/actions with a the added value tax. The market economy states protect competition by creating proper legislation in the matter.

The competition law is an overall of regulations protecting market turnover against disturbances. It is also adopted that the competition law is a group of norms established in order to protect free equal and honest competition between participants of a market game included in numerous various legal acts. It first of all consists of: the law serving to fighting dishonest competition, the law of public assistance, the law of competition security, the anti-monopoly law and the tax law [Feldo, (2011), p. 66].

Competition is a perfect name which is used to mark those processes occurring in the free market system where a degree of the market mechanisms untied degree agreed.

A perfect competition occurs when four fundamental symptoms are included:

- there are many entities on the market selling goods or services and many buyers;

- a product or service has a unanimous character;
- there are no limits in the range of access to the market and leaving it (conducting an economic activity of a given type);
- the market remains totally transparent [Chałubińska-Jentkiewicz, (2011), p. 169].

The more characteristic phenomenon is so called movable competition (working) which assumes proper functioning of the market in situations of competition disturbances resulting from its imperfection. The disturbances are related with market forces which disturb natural and untied competition mechanisms. Within the system, the monopoly system is one of such disturbances. One entity acting on the market has a dominant position and disturbs market mechanisms [Chałubińska-Jentkiewicz, (2011), p. 169].

Summary

To sum up, market is a main and the most effective economically mechanism regulating economies. It is not, however, a totally perfect system. It has disabilities which demands correctness. An entity which may partially improve or complete the market mechanisms is a state. The reason of such actions of a state is providing goods the market may not provide itself or correctness of national income division. The bases of intervention are the symptoms of an economic or social character. The market and state are complementary regulations systems of multi-aspect economy whose price is one of the most important factors in an international exchange [Biernat, Wasilewski, (2000), p. 178].

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Il Diritto alla Pace come Diritto Umano e La Diplomazia del Dialogo

Gaetano Dammacco

Abstract

La pace è un diritto proclamato, oggetto di numerose dichiarazioni internazionali, ma non è un bene adeguatamente protetto. Distanza di più di sessanta anni dall’adozione dell’articolo 28 della Dichiarazione universale dei diritti umani da parte delle Nazioni Unite (10 dicembre 1948), in cui si riconosce il diritto umano “a vivere in un ordine sociale e internazionale” in cui attuare pienamente i diritti enunciati nella Dichiarazione, si deve constatare che i progressi per rendere effettivo questa previsione sono stati molto pochi. In effetti, non è difficile capire che la difficoltà di un pieno riconoscimento della pace come un diritto umano fondamentale deriva dal fatto che, se così fosse la guerra e ogni sorta di violazione dei diritti umani dovrebbero essere limitati ab initio.

Keywords: *Diritto umano, il diritto alla pace, diplomazia, libertà.*

La pace è un diritto. Il diritto umano alla pace

Il mondo vive una attuale contraddizione che consiste nel fatto che gli uomini e le nazioni cercano la pace da un lato, ma d’altra parte nel mondo proliferano conflitti violenti, guerre e varie forme di violazione dei diritti della persona umana. Soprattutto nelle sedi internazionali, la pace è sempre stata affermata sempre più come un bene necessario, ma gli strumenti giuridici e politici, adatti a considerare la pace come diritto vero, sono molto deboli. La pace è un diritto proclamato, oggetto di numerose dichiarazioni internazionali, ma non è un bene adeguatamente protetto. In effetti, la pace non è contenuta in alcun catalogo dei diritti umani fondamentali di qualsiasi generazione. Se consideriamo alcune delle affermazioni più importanti nella scena internazionale (ad esempio, la dichiarazione delle Nazioni Unite sui diritti della società a vivere in pace del 1981, quella circa il diritto