

DEMOCRATIZATION OF PROPERTY RELATIONS

ABSTRACT: The process of democratization of property relations has affected, first of all, the European area, and then the other parts of the world. Having been established with a clear economic and social content, without the ideological burden, the employees shareholding and participation have the conditions to expand, strengthen their power and become one of the important factors in the structure of the modern society. In our area, the process of the transformation of social ownership began with the employees shareholding. Company employees were given the right to buy internal shares under privileged conditions. That was the main form of transformation. There was trust in the company to initiate, organize and manage the process of transformation in its own interest. The funds obtained through the issuance of shares, selling a part of the company or the whole company, according to the express provisions of the law, belong to the company or its complex form. Later, already during 90s, ideological properties were unjustifiably attributed to the employees shareholding and participation, which led to their complete exclusion from the economic and legal system. By subsequent regulations, privatization was almost exclusively reduced to selling, thus excluding all other possible different forms of privatization. This approach lost the sight of the basic economic objectives of privatization: there was no acquiring of new capital or new investment cycle; there were neither new

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business entities capable of receiving and fertilizing the capital emerged, nor the privatization represented an incentive for dynamic development of economy and employment. Economic enterprises were extinguished, and unemployment increased. And now, in a much less favorable economic and social climate, it is reasonable to raise the issue of whether there are still conditions to engage the inner forces that would take upon themselves the responsibility for getting out of the crisis, by introducing the employees shareholding and privatization. A prerequisite for this is certainly the creation of a legal framework for the establishment and development of the employees shareholding and participation. This would simultaneously bring us closer to the legal system of the European Union and its member states, in which the employees shareholding and participation are widely established and legally regulated institutions.

Keywords: *the employees shareholding, participation, consultation, co-determination, transition.*

1. Introduction

The second half of the 20th and the first decades of the 21st century are characterized, more than anything else, by technological advancement in all areas, to levels that seemed unattainable not long ago. Among breaking news, almost every day, those which are about great progress and extraordinary achievements have had a place of honor. The conclusion that could be drawn from this seems simple and absolutely clear – human society is making great strides in all areas. The ability of an individual and of community to create and produce more and in better ways (higher quality) is increasing enormously day by day. The total amount of wealth is increasing to unimaginable proportions. This kind of progress is the result, first of all, of accumulated and organized knowledge that keeps giving evidence of its ability to reliably guarantee the continuity and durability of this process. In other words, scientific and technological capacities, and thus the production of various goods to meet the needs of individuals and their communities, will increase on a daily basis.

The abovementioned, indisputable statement should reliably lead to optimism based on real and proven possibilities. However, when the conditions and relations in modern society are taken into account, without special analysis, we can ascertain that optimistic assessments about the further development of society are not based on the actual state of affairs. On the contrary, it is not difficult to see that contradictions are building up day

by day, and the state of insecurity and uncertainty can be marked as a general characteristic of the current state of affairs and relations; of course, in different ways in different social structures and different parts of the world. There are indeed numerous reasons for this assumption.

The contradiction is clearly expressed: on the one hand, there is extraordinary technological advancement in all areas, and on the other, the escalation of the crisis in the relations between people and their organized communities, states. Specifically: “poverty, loneliness, dissatisfaction, inequality and insecurity of an increasing number of people is a trend, same as technological growth and development” (Veljković & Kranjc, 2009).

Therefore, technological development is linked to the escalation of crisis, so answers are sought to the questions of whether and why technological development generates a crisis. The answers cannot go in the direction of stopping the technological process, but in the direction of establishing a different organization that will democratize the achieved results and make them available to a growing number of members of society. By following this approach, we arrive, once again, at the relationship between labor and capital, at the way wealth is created and distributed.

2. Remarks on globalization

Changes in the structure of property relations have always had and still have a special significance. Therefore, there is a reason to point out one aspect that is, in our opinion, significant. An issue of theoretical and practical significance arises: whether these processes, which take place within the structure of property relations, affect the very content of property as an economic category and legal institution; whether the fundamental, historical, inviolable right to property has already been exhausted and whether it has lost its ability to drive and guarantee economic prosperity while also being the basis of human freedom; whether this right has become just an external framework for the process of globalization, which actively and fundamentally changes all the essential characteristics of civil society, including the very foundation on which that society is based, which is private property and the right to property (Gams, 1987, p. 86).

In this part, we arrive at questions which, at a first glance, would not be justified: whether in modern conditions, viewed on a global scale, free competition and a free market exist at all, whether they function, whether they still remain an essential characteristic of economic relations which are the basis of the economic system on a national, regional and global scale.

The justification of this question mostly derives from the analysis of the creation and operation of large, global, transnational corporations that have become a dominant feature of modern economic relations. The emergence of large transnational corporations presents an apparent contradiction. They emerged as a result of free competition on the free market, and then they certainly and openly became its negation. A free market does not reliably ensure that their interests are met. They seek to preserve only the external characteristics of free competition and the free market, but at the same time they try and succeed in placing it under their control in order to achieve their own long-term, economic goals. In this way, free competition gradually turns into monopoly, and freedom into servitude. Large, transnational corporations very successfully overcome the borders of national states, do not accept territorial restrictions and operate in all areas where they can expect a favorable economic outcome. They become conglomerates, which simultaneously operate in various areas of the economy, and demonstrate self-sufficiency, the ability to move capital around within themselves depending on the current driving force of certain economic branches or areas. At the same time, in the area where they operate, they appear as “big vacuum pumps” for capital, successfully collect funds from all entities regardless of the form of property, including state capital, and thus create conditions for long-term dominance in the economic as well as in every other aspect. Their superiority is not just reflected in their financial power or in their ability to handle enormous financial resources, but also in their monopoly in the field of science and technology. Most of the big discoveries, especially in the field of technology (military industry) are the result of the work of scientific teams of large corporations. Thus, large corporations control capital, sources and resources, manage exchange and consumption, and are gradually but surely becoming a decisive factor in economic development on a national, regional and global scale (Dušanić, 2015, p. 39).

Free private initiative, under the conditions of the operation of large transnational systems, objectively, has been left a narrow space, mainly in activities for which large corporations have not expressed interest, if such areas still exist. Everywhere, private initiative is in the “embrace” of large corporations. The reach of entrepreneurs is very limited. The moment their development touches and meets the corporations’ plans, they must accept the rules of those corporations or simply disappear from the market.

At the same time, the position of the modern nation-state is definitely changing. In history, there have never been greater guarantees for its independence and sovereignty, but simultaneously a greater collapse and

removal of these very characteristics. “The power of globalism, through trade agreements, deregulation and privatization, will seriously weaken the ability of nation-states to act with any political independence. The resulting power vacuum will be filled by an obvious contemporary alternative - a multinational company” (Stol, 2011, pp. 102–103).

3. On free market

A democratic civil state, among other things, guarantees equality. The law is the same for everyone, whether it protects or punishes. It is the way to ensure human freedom. “Freedom is the right to do everything that the laws allow. If a citizen could do what is forbidden, there would be no more freedom, because others would have the same right” (Smajlagić, 1970, p. 273).

On those foundations, back in the first phase of civil state development, liberal capitalism established a reliable concept: private property, free market, free competition and, based on that, the freedom of an individual, citizen, in an orderly democratic society. The role of the state is limited by the protection of these values. It does not interfere in economic relations; it only creates and ensures the environment and conditions for the free competition in the free market to be established and function on the basis of private property. In this way, a reliable mechanism is created: “The consumer is protected from coercion by the supplier by the presence of other suppliers with whom they can do business. The supplier is protected from coercion by the consumer by having other consumers to whom they can sell. The employee is protected from coercion by the employer by having other employers for whom they can work” (Fridman, 2016).

The mechanism established in this manner is able to deal with occasional disturbances with its own power (the invisible hand of the market) and thus continuously ensure economic prosperity. Liberal capitalism is built upon those foundations, and likewise theories about its irreplaceability, because it is only on those foundations, i.e. on the foundations of private property, free competition and the free market, that it is possible to achieve and reliably guarantee human freedom in all its most important aspects.

It really seemed that way, especially in the second half of the 19th century and at the beginning of the 20th. However, the “golden age” of liberalism has passed. Over time, monopolies legally emerged from free competition. Every concentration and centralization of economic power, with its reverse effect, destroys the foundation on which it rests; it disrupts

and ruins the free market and free competition: “the contradictory nature of transnational companies manifests itself in the fact that, in terms of time, they are the result of free competition, that is, of trade laws that led to the concentration and centralization of capital, and at the same time represent the negation of competition, a substitute of the market” (Svetličić, 1986, p. 57).

There is a growing number of arguments that the time of great, “free” entrepreneurs, who marked the period of the first phase of developed capitalism, has passed and belongs to history. “The assumptions about capitalism as a society of free entrepreneurship, based on private property, therefore a society of free competition in a free market, have long since belonged among outdated theories. Not only do such assumptions have no basis in reality, but they are also not approved by economists except for a nostalgic and romantic minority” (Galbraith, 1978, p. 25).

Therefore, there is no dispute about the value of free competition and a free market, but rather about whether these values, in the present time, in the time of globalization, with the existence of an enormous centralized economic power in the form of global transnational systems, have survived at all, whether they exist at all, and whether there are conditions for them to be renewed, reaffirmed and re-established, as well as to what extent that can be done.

4. Employee shareholding and participation

The process of democratization of property relations affected, first of all, the European area, and then other parts of the world. It has long ceased to be only a subject of theoretical discussions. It has become one of the essential characteristics of the current conditions and relations in a large number of economically developed countries.¹

The number and variety of forms of broad employee participation in management (practically in all parts of the world) has been continuously increasing. Christopher Eaton Gunn (1986) *points to the large number and variety of forms of employee participation in management*, noting that these forms are present to a greater or lesser extent in practically all parts of the world while, at one point, emphasizing the experience of Yugoslav self-management. It was this variety of forms that was good for the unexpectedly

¹ It would not be justified if we attributed this process to the experiences and influence of Yugoslav self-government, but it would also not be fair if, in the approach itself, we removed any influence it had on the contemporary trends of democratization of property relations.

rapid development of employee shareholding and participation, especially in the European area. This process, on a larger scale, began in France. During the Fifth Republic, on the initiative of General De Gaulle, contracts of association and employee participation in management were introduced as early as 1959. By the end of 1994, 17.5 thousand companies in France, with 4.7 million employees, had signed agreements on employee participation in profit. In Germany, this process started after the Social Democratic Party came to power, during the time of William Brandt. In 1969, different models of employee participation and co-determination were introduced, and it is commonly believed that this contributed to the rapid progress and expansion of the German economy (Republika - Glasilo građanskog samooslobođanja, 2016).

The analysis of individual forms is not the focus of this topic. For the purposes of the topic, it is enough to say that certain forms of employee participation in decision-making in different parts of the world, including the USA, have some support, but only in accordance with the specifics and economic opportunities, depending on the overall conditions in the country where they are implemented.

5. Employee shareholding

In the USA, back in the 1960s, the “Employee Share Owners plan” was launched, being the brainchild of Louis Kelso, professor of economics and financial law, so that “today, over 10 million Americans have the status of an employee, co-owner of the company” (Peščanik - Suvlasnici sopstvene egzistencije, 2016). The plan is simple: if the company gets into a difficult economic situation due to certain circumstances, instead of bankruptcy, increasing unemployment and costs of unemployment, the state would offer the employees the factory they work in for purchase under favorable conditions.

The plan led to unexpected results precisely because it was based on convincing economic arguments and free from any kind of ideological approach. In the altered economic circumstances, under the pressure of large-scale cheap goods imports from Asia, certain companies were threatened with collapse and bankruptcy. This would result in many employees being dismissed and the number of social issues increasing. The creator of the plan, Louis Kelso, professor of economics and financial law, developed an idea according to which instead of collapse and bankruptcy, workers-employees are offered to accept ownership and risk, to take the factory into their own

hands and thus avoid losing their jobs. This approach was beneficial for the state: instead of compensating the unemployed, the state would direct the money to subsidized interest, for buying employee shares. At the same time, in order to generate interest and reduce employee risk, the state exempted the employee-shareholders from a large part of the tax. Under such favorable conditions, most workers accepted the risk and saved their companies. This approach very quickly lost the characteristics of an experiment and, with surprising success, grew into a movement. In January 2014, new regulations came into force in Great Britain, which practically doubled the tax benefits for those who owned shares in their own company. The shares are offered to employees under very privileged terms: no capital gains tax, no contributions for pension and health insurance, payment in installments. Certain conditions were also set: employees cannot invest in shares less than £2,000, with the maximum non-taxable portion amounting to £80,000. However, all these benefits remained permanent for small and medium-sized companies, and were mostly annulled in large corporations.

This gave good results, so that an accelerated increase in employee share ownership in the European Union was recorded: “the capital owned by employees/shareholders in the EU amounts to 266 billion euros” (Peščanik - Suvlasnici sopstvene egzistencije, 2016), which is a very impressive sum. This sum may not be large if compared to the total volume-amount of capital on the market, but it is certainly a reliable indicator that employee share ownership has grown from an initial experiment into a broad-based, organized and legally regulated form of managing economic activities. This form of management has its advantages both in periods of dynamic economic development and in periods of crisis. That’s why, established like that, with a clear economic and social content and without ideological burdens, employee share ownership has the conditions to further strengthen its power, expand and become one of the significant factors in the structure of modern society. As we have already stated, worker share ownership is no longer an ideological issue, but a matter of rational social behavior.

Therefore, it is important to highlight that, in 2003, the European Union adopted the Action Plan for Stimulating Employee Share Ownership (ESO) and introduced a monitoring instrument (EOI – Employee Share Owners Index). In this way, employee share ownership was institutionalized and became part of the economic system at the level of the entire European Union. This also indicates the direction in which the European Union is developing and in which it wants to develop: not as a union of concerns, but as a union of social justice.

6. Participation

Participation in European countries does not take place according to a predetermined model. In contrast, there are many different forms of organizing, which basically have a common content - decision-making or employee participation in decision-making. In France, 51% of companies have certain forms of participation, and in 36% of companies there are works councils. Employee participation in various forms of consultation and co-determination in European countries, and especially at the EU level, is widely established, regulated by law and institutionalized. Thus, it became an integral part of the economic, political and legal systems of the European Union:

- a.) On March 11, 2002, the European Parliament and the Council of the European Union adopted Directive no. 2002/14/EC establishing a general framework for consulting and informing employees in the European community. The Directive is binding for all members of the community. According to the Directive, member states are obliged to prescribe appropriate measures in the event that the employers or employee representatives “do not comply with the provisions of this Directive.” Likewise, the Directive obliges members to provide for appropriate “effective, proportionate and dissuasive sanctions” in the event that employers or employee representatives violate the provisions of the Directive. The directive (Article 1) defines the purpose of its adoption: to establish minimum requirements regarding employee rights, regarding the right to information and consultation in companies or business units. It is therefore a matter of a minimum binding framework where each of the member states has the right to establish employee information and consultation by national laws beyond the scope of the minimum framework contained in the Directive.
- b.) Along with the emergence of European Companies, there was a need to organize certain forms of employee participation in management within the framework of a *Societas Europaea* (“European Society” or “European Company”) which operates on the territory of two or more European Union countries, at least to the extent that they existed in the companies that are part of a, now expanded, European Company. That is why, in October 2001, the Council of Europe adopted Directive no. 2001/86/EC supplementing the Statute for a European company. This Directive is a companion document to the Statute for a European company (SE), and it refers to the

involvement of employees. It is important to note the simultaneity. Simultaneously with the formation of the European Company, discussions on finding suitable forms of employee consultation and co-determination should begin. It is important to emphasize that the established concept of co-determination legally and factually encompasses all economic entities, including the largest corporations. This is especially significant if we take into account the characteristics of large corporations, which have been discussed. It is evident that a balance is necessary. On the one hand, corporations should not be limited in their growth, size and financial power, but at the same time, they should comply with the EU rules and consistently respect the principles on which the EU was founded.

United Europe is a unique project of solidarity and peace. Solidarity and peace are not to be taken for granted. They must be achieved. Economic efficiency and results can and should be primary, because the realization of the entire project depends on them. However, if all aspects of life are subordinated to this goal of always achieving the best possible economic results, almost regardless of the ways in which that is done, those very economic results will become their opposite, a source of increased tension and possible conflicts followed by consequences that are difficult to predict. "I am convinced that internal peace can last only if there is social justice, which is the basis for the internal stability and solidarity of society" (Blatnik, 2014). So, not a Europe of concerns, but a Europe of social justice.

7. Employee shareholding and participation in Serbia – conclusions

As for the situation regarding employee shareholding in Serbia, during the unjustifiably long, contradictory and economically unsuccessful process of property transformation, there were examples that, in terms of their origin and content, indicated the justification for trying this type of privatization. The number of companies that ended up in a difficult economic situation was not small. In a large number of these economic entities, it was clear that improvement cannot be expected based on already established, existing legal and economic instruments: "acquiring" a strategic partner; restructuring; reorganization in bankruptcy, etc. as a rule, at very low prices until the sale of the company's assets and finally bankruptcy; and numerous employees lost their jobs. Unemployment and social tensions grew. There have also been cases

where employees propose, ask, demand (beg) to be given certain benefits for buying a share and then for the company to be left in their hands so they can manage it, accepting the risks, with the belief that those who know the company best will, thanks to their own experience and hard work, enable the company to successfully operate again. However, there was no response and they were not given such an opportunity. For example, the employees of “a.d. Vršački vinogradi”, after the failed privatization, addressed a letter to the President of the Republic and the Minister of Economy and Regional Development, and asked to take measures for the legal and economically justified recovery of the company. Among other things, the employee shareholding model was offered “as a way of democratizing property and forms of internal control”, as well as creating conditions for certain forms of employee participation in management and profit. The letter was sent in 2009, but they never got a response and “Vršački vinogradi” went bankrupt.

The whole process, if it were to be carried out successfully, could be powerful enough to diminish the increasingly pronounced particularistic tendencies. However, the conditions in which the transition process began were significantly altered. Real political power was already concentrated at the level of the republics, which, among other things, completely took on the legislative role. The disintegration of the legal system was becoming more intense and the legal security for economic entities and citizens was greatly harmed. The fragmentation of the market was established and then legalized. Capital flows came to a stop, the idea of creating a capital market on the Yugoslav territory was killed, the payment system collapsed, the monetary system collapsed; and in particular, all business systems that operated on the territory of two or more republics broke down. Independent political structures, in such a situation, in conditions of open mutual conflict, needed a “reliable” pillar of support. In the absence of other means, irrational nationalism, including its extreme forms, was instrumentalized. This approach is based upon the thesis: The major, most significant causes of crisis escalation, including its extreme forms, are in the area of economic relations. That which is national and religious are only their secondary expressions.

Thus, the state that, in the period from 1950 to 1989, was the only one in the world to build economic and political relations on the basis of self-governance, ceased to exist. Now it is common go briefly over that period with only a few observations, without delving into its real characteristics. Self-management is commonly labelled as an economically unsuccessful system. There is data that tells a different story. The total debt of the countries created on the territory of the former Yugoslavia is 9 times greater than the

indebtedness of Yugoslavia at the time of its disintegration; Analyst Phil Butler states that before the breakup, Yugoslavia occupied the 24th place in the world in terms of GDP, which none of its successor states can reach in the foreseeable future; the average growth rate in the period from 1956 to 1965, i.e. in the period of already developed self-management, was 9.4%, while in the period from 1957 to 1960, it was as much as 11.3 %, so according to that criterion it was among the countries with the highest GDP growth in the world. The fact remains that there was considerable foreign aid in that period, but this factor is far less important than the ability of the system to create, accept, and then successfully invest financial resources in development programs (Peščanik - Suvlasnici sopstvene egzistencije, 2016). According to all valid criteria, at the time of its disintegration, Yugoslavia belonged to developing European countries. The economic crisis was not specific to Yugoslavia, other countries also had it, and, viewed from the economic aspect, Yugoslavia had the potential to successfully overcome that crisis. However, it did not manage to resist particularistic interests.

As far as participation is concerned, for now, it is quite evident that Serbia (along with Macedonia and Montenegro) is one of the few countries in Europe that is completely removed from these, now widely represented, general trends of employee involvement in certain forms of information, consultation and decision-making. The absence of initiatives in that direction is particularly characteristic.

Possible activities towards initiating certain forms of co-determination have no basis in the existing legal system; they cannot rely on certain norms of the applicable law. Evidently, it is not a question of a gap in the law, but of an assessment that there is no reason, at least for now, for this area to be regulated by law. In this respect, we are certainly different from European countries and especially from all EU member countries, where the process of legal regulation of various forms of worker-employee participation in information, consultation and decision-making, is very intensive.

Democratic processes, when real, inevitably include the sphere of economic relations, since without that, a very significant segment of social relations remains outside democratic currents. Therefore, it makes sense to directly connect the establishment and development of certain forms of information, consultation and co-determination with issues of economic and legal security. by accepting participation in certain forms of decision-making, employees simultaneously assume a part of the responsibility for the successful realization of certain goals. Issues of economic and legal security simply cannot remain outside that scope. This approach would lead to the

engagement of a larger number of entities, with justified expectations that could lead to change in this important area.

Finally, it should be emphasized that discussions on this topic have practical significance. The existing, already developed practice of European and other countries, and then our experiences, which, as has been said, also have a certain general importance, can represent an incentive and support for legal regulation, followed by implementation of certain forms of employee shareholding, information, consultation and co-determination in Serbia.

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DEMOKRATIZACIJA SVOJINSKIH ODNOSA

REZIME: Proces demokratizacije svojinskih odnosa, zahvatio je, pre svega, Evropski prostor, a zatim i druge delove sveta. Postavljeni su jasnim ekonomskim i socijalnim sadržajem, a bez ideoloških opterećenja, radničko akcionarstvo i participacija imaju uslova da se prošire, ojačaju i postanu jedan od značajnih činilaca u strukturi savremenog društva. Proces transformacije društvene svojine, na našem prostoru, otpočeo je radničkim akcionarstvom. Radnicima zaposlenim u preduzeću, dato je pravo na kupovinu internih deonica, pod privilegovanim uslovima. To je bio osnovni oblik transformacije. Pošlo se od poverenja u preduzeće da otpočne, organizuje i vodi proces transformacije u sopstvenom interesu. Sredstva pribavljena putem izdavanja akcija, prodajom dela preduzeća ili preduzeća, prema izričitim odredbama zakona, pripadaju preduzeću ili njegovom složenom obliku. Kasnije, već 90-ih godina, radničkom akcionarstvu i participaciji neopravdano su pripisana ideološka svojstva, pa je došlo do njihovog potpunog izostavljanja iz ekonomskog i pravnog sistema. Privatizacija je skoro isključivo svedena na prodaju, izostavljajući i isključujući, sve druge moguće, različite oblike privatizacije. Takvim

pristupom izgubljeni su iz vida osnovni ekonomski ciljevi privatizacije: nije došlo do pribavljanja novog kapitala, niti novog investicionog ciklusa; nisu nastali novi privredni subjekti sposobni da prime i oplode kapital, niti je privatizacija bila podsticaj za dinamičan razvoj privrede i zapošljavanja. Privredna preduzeća su se gasila, a nezaposlenost povećavala. I sada, u znatno nepovoljnijoj ekonomskoj i socijalnoj klimi, opravdano je otvoriti pitanje da li još uvek ima uslova da se uvođenjem radničkog akcionarstva i privatizacije aktiviraju unutrašnje snage koje bi na sebe preuzele deo odgovornosti za izlazak iz krize. Prethodni uslov za to, svakako je stvaranje pravnog okvira za uspostavljanje i razvoj radničkog akcionarstva i participacije. Time bi se istovremeno približili pravnom sistemu Evropske unije i njenim članicama, u kome su radničko akcionarstvo i participacija široko postavljeni i pravom uređeni instituti.

Ključne reči: *radničko akcionarstvo, participacija, konsultovanje, saodlučivanje, tranzicija.*

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