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TEORIJSKA KONCEPCIJA SAMOSTALNOSTI CENTRALNE BANKE I PRAVNI STATUS NARODNE BANKE SRBIJE

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Rezime

Savremena teorijska koncepcija samostalnosti centralne banke od ključnog je značaja za formiranje institucionalnih aranžmana koji se odnose na monetarnu vlast. Teorijski je utvrđeno i empirijski verifikovano da centralna banka može da funkcioniše efikasno samo ukoliko je obezbeđena njena institucionalna samostalnost. U prvom delu rada je izložena savremena teorijska koncepcija samostalnosti, dok se u drugom delu rada razmatraju pozitivni pravni propisi kojima je definisan institucionalni okvir i pravni status Narodne banke Srbije. Poređenjem formalnog i faktičkog statusa koji trenutno uživa Narodna banka Srbije sa institucionalnim aranžmanima koji su rezultat praktične primene teorijske koncepcije samostalnosti, autor je zauzeo kritički stav prema domaćem institucionalnom okviru. Adekvatna zakonska rešenja su istaknuta u radu, a istovremeno su predložene i odgovarajuće izmene onih rešenja koja nedvosmisleno narušavaju institucionalnu samostalnost Narodne banke Srbije.

Ključne reči: Narodna banka Srbije, centralna banka, institucionalna samostalnost, monetarna vlast

JEL: E42, E58

THEORETICAL CONCEPT OF CENTRAL BANK INDEPENDENCE AND LEGAL STATUS OF THE NATIONAL BANK OF SERBIA

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Summary

The modern theoretical concept of independence is crucial for the establishment of institutional arrangements relating to monetary authority. It is theoretically demonstrated and empirically verified that a central bank can function effectively only if it is provided with institutional independence. The modern theoretical concept of central bank independence is presented in the first part of the paper, while the second part deals with applicable legislation defining the institutional framework and legal status of the National Bank of Serbia. By juxtaposing the formal and factual status currently afforded to the National Bank of Serbia with institutional arrangements derived from the practical application of the theoretical concept of independence, the author takes a critical position toward the domestic institutional framework. The adequate legal solutions are highlighted in the paper while, at the same time, the appropriate amendments are suggested for the solutions that clearly violate the institutional independence of the National Bank of Serbia.

Keywords: National Bank of Serbia, central bank, institutional independence, monetary authority

JEL: E42, E58

Uvod

Teorijska koncepcija samostalnosti je u velikoj meri oblikovala moderne institucionalne aranžmane koji se odnose na centralnu banku. Zahvaljujući teorijskim i empirijskim istraživanjima, koja ukazuju na značajnu ulogu koju centralna banka ima u razvijenim tržišnim privredama, u velikom broju država usvojena su nova zakonska rešenja koja omogućavaju formiranje boljih institucionalnih okvira. Prema Cukiermanu (1996), samo u periodu od 1989. do 1996. godine, dvadeset pet država suštinski je unapredilo samostalnost sopstvene centralne banke.

Kako bi se u potpunosti razumela savremena teorijska koncepcija samostalnosti centralne banke, neophodno je analizirati njene korene, to jest uz upotrebu znanja iz ekonomske istorije analizirati najbitnije nalaze na osnovu kojih je ova koncepcija nastala. Taj pristup podrazumeva i posebno razmatranje brojnih aspekata institucionalne samostalnosti centralne banke, kao što su: politički, personalni i finansijski aspekt.

Cilj ovog rada je da se utvrdi trenutni status Narodne banke Srbije (NBS), na osnovu savremene teorijske koncepcije samostalnosti centralne banke i pozitivnih zakonskih rešenja koja se odnose na NBS. Ostvarenje postavljenog cilja podrazumeva i razmatranje da li, i u kojoj meri, dolazi do odstupanja između ustanovljene formalne i faktičke samostalnosti. Zaključci izvedeni na kraju rada poslužiće kao osnova za ukazivanje na eventualne nedostatke u pozitivnoj zakonskoj regulativi Republike Srbije i predlaganje odgovarajućih izmena.

Istorijski razvoj teorijske koncepcije samostalnosti centralne banke

Začetak teorijske koncepcije samostalnosti centralne banke uglavnom se vezuje za doprinos literaturi sa početka osamdesetih godina prošlog veka (Barro and Gordon, 1983), koji se u određenoj meri oslanja na ranije radove (Kydland and Prescott, 1977), ali istovremeno uvodi potpuno novu ideju monetarne vlasti koja kontroliše stopu inflacije i maksimizuje društveno blagostanje. Ciljevi takve monetarne vlasti mogu se definisati kroz zaposlenost

(proizvodnju) i inflaciju, dok odstupanja stope zaposlenosti i inflacije od planiranih ciljeva formiraju funkciju gubitka. Barro i Gordon su uočili da se svi subjekti prilagođavaju monetarnoj politici centralne banke i to ne *ex post*, već *ex ante*, predviđajući određene mere centralne banke. Tako *ex ante* optimalna monetarna politika zahteva nultu inflaciju, dok *ex post* isključivo pozitivna stopa inflacije znači maksimizaciju prinosa monetarne vlasti. Zbog toga, već u samom ponašanju centralne banke uočene su jake inflatorne tendencije. Da bi se navedeni problem rešio i izbegla pozitivna stopa inflacije koja sa sobom nosi gubitak društvenog blagostanja, bilo je neophodno konstruisati odgovarajući pravno-ekonomski i politički mehanizam koji bi garantovao sprovođenje stabilne neinflatorne politike od strane monetarnih vlasti.

Jedan takav mehanizam među prvim je predložio Rogoff (1985): on je podrazumevao postavljanje na čelo centralne banke konzervativne osobe, tj. osobe čije su preferencije poznate i bitno se razlikuju od onih koje je do tada iskazivala monetarna vlast. Takva osoba relativno više ceni izbegavanje inflacije u odnosu na izbegavanje nezaposlenosti, što kao posledicu stvara manju stopu inflacije, a sve u skladu sa marginalnim troškovima i koristima koje ta osoba ima od inflacije. Imajući u vidu da su navedene preferencije poznate, ne bi bila manja samo stvarna stopa inflacije u zemlji, već i očekivana. Na prvi pogled optimalno rešenje koje je u ekonomskoj teoriji poznato i pod skraćenim nazivom "konzervativni bankar", moglo bi u velikoj meri da pomogne pri umanjenju inflatornih tendencija centralne banke. Ipak, kako je to i sam Rogoff (1985) istakao, predloženo rešenje ne može biti savršeno u svetu sa brojnim stohastičkim šokovima, jer u realnosti postoje i određena stabilizaciona pravila za vođenje monetarne politike, koja bi u slučaju konzervativnog bankara bila prilično slaba. To znači da željena niža stopa inflacije dolazi zajedno sa većom varijabilnošću proizvodnje, zbog čega je Rogoff smatrao da konzervativni bankar predstavlja drugo najbolje rešenje za navedeni problem kontrole inflacije. On (Rogoff, 1985) prvo i najbolje rešenje vidi u eliminaciji rigidnosti na tržištima rada i proizvoda jer te rigidnosti u

Introduction

The theoretical concept of independence has largely shaped the modern institutional frameworks relating to the central bank. Owing to the theoretical and empirical research, which points out to the important role of the central bank in the developed market economies, a significant number of states adopted the new legislation which allows the formation of better institutional frameworks. According to Cukierman (1996), twenty five states substantially improved the independence of their own central banks only in the period from 1989 to 1996.

In order to fully understand the modern theoretical concept of central bank independence, it is necessary to analyze its roots, i.e. to analyze the most important findings based on which this concept was formed by applying the knowledge of economic history. This approach also includes the specific consideration of the numerous aspects of central bank institutional independence, such as the political, personal and financial aspects.

The aim of this paper is to determine the current status of the National Bank of Serbia (the NBS), based on the modern theoretical concept of central bank independence and applicable legislation relating to the NBS. The fulfillment of the declared aim also includes a consideration of whether, and to what extent, there is a discrepancy between the established formal and *de facto* independence. The conclusions drawn at the end of the paper will serve as a basis for an indication of possible shortcomings in the applicable legislation of the Republic of Serbia and formulation of proposals for the appropriate amendments.

Historical Development of the Theoretical Concept of Central Bank Independence

The inception of the theoretical concept of central bank independence is mainly linked to the contribution to the reference literature from the early 80th of the last century (Barro and Gordon, 1983), which to some extent relies on the previous works (Kydland and Prescott, 1977), but also introduces an entirely new idea

of monetary authority, which controls inflation and maximizes the total social welfare. The objectives of such monetary authority may be defined through the employment (production) and inflation, while the employment and inflation rate variations in comparison to the planned objectives generate the loss function. Barro and Gordon noted that all entities adjust to the monetary policy of the central bank, not *ex post* but *ex ante*, by predicting the certain measures of the central bank. Thus, *ex ante* the optimal monetary policy requires zero inflation, while *ex post* only the positive inflation rate implies the maximization of the monetary authority's income. Therefore, the strong inflationary tendencies have been noted in the sole behavior of the central bank. In order to solve the mentioned problem and avoid the positive inflation rate, which causes the loss of social welfare, it was necessary to establish a suitable legal, economic and political mechanism that would serve as a guarantee for the implementation of a stable non-inflationary policy by the monetary authorities.

Rogoff (1985) was among the first to propose one such mechanism: it implied that a conservative person, i.e. a person whose preferences are publicly known and substantially different from the preferences previously expressed by the monetary authority, is to be appointed as head of the central bank. Such a person somewhat more values the avoidance of inflation in comparison to the avoidance of unemployment, which results in a lower inflation rate, and all in accordance with the marginal costs and benefits from the inflation that this person enjoys. Bearing in mind that these preferences are known, not only the actual inflation rate in a state would be lower, but also the expected one. At the first glance, the optimal solution, which is in the economic theory known under the abbreviated name "conservative banker", could significantly help in reducing the central bank's inflationary tendencies. However, as Rogoff (1985) himself pointed out, the proposed solution may not be perfect in the world with many stochastic shocks, since there are in reality certain stabilization rules for conducting the monetary policy, which would be rather weak in case of the conservative banker. This means that the desired lower inflation rate comes along with

najvećoj meri i stvaraju problem. Naime, kada bi svi faktori proizvodnje bili angažovani, ne bi bilo ni potrebe za dalje podsticanje rasta proizvodnje i zaposlenosti. Međutim, treba istaći i da pojedini autori izražavaju sumnju da uopšte može postojati takav institucionalni okvir koji bi podsticao centralnu banku na vođenje monetarne politike koja podrazumeva nultu stopu inflacije (Blinder, 1999).

Rešenje koje je predložio Rogoff (1985) vremenom je postalo sastavni deo teorijske koncepcije samostalnosti centralne banke, čime su u određenoj meri implicitno izjednačeni termini konzervativnosti i samostalnosti. Međutim, Rogoff je napisao da: „[. . .] društvo može biti u boljem položaju ako na čelo samostalne centralne banke postavi agenta koji je poznat po tome što relativno veći značaj daje stabilizaciji inflacije u odnosu na stabilizaciju nezaposlenosti [. . .]” (1985, str. 1177). Iz navedenog nedvosmisleno proizlazi da samostalnost centralne banke ne mora da podrazumeva i konzervativnost. Ta dva pojma bi trebalo detaljnije razgraničiti, na šta su već ukazali Cukierman (1996) i Hillman (1999).

Razgraničenje je od posebne važnosti za NBS jer se ispostavilo da su negativne posledice izjednačavanja termina samostalnosti i konzervativnosti centralne banke najviše izražene u zemljama trećeg sveta, kao i u zemljama u tranziciji. Tako Hillman (1999) kao primer navodi Centralnu banku Belorusije, koja je posedovala određeni stepen samostalnosti, ali je na kraju guvernera centralne banke ipak smenio ministar finansija, zbog neslaganja politike vlade sa politikom centralne banke. Kroz ovaj primer, Hillman navodi na zaključak da je neophodno obratiti pažnju na praktično funkcionisanje centralne banke, kao i da "konzervativni bankar" bez potpune samostalnosti monetarne u odnosu na izvršnu vlast, nije garant niske stope inflacije. U pojedinim razvijenim državama mogu se naći i drugačiji primeri. Tako Centralna banka Japana konstantno održava nisku stopu inflacije i pored toga što je pod snažnim uticajem Ministarstva finansija. Američki Fed (*Federal Reserve System*) poseduje znatno veću *de facto* samostalnost nego što je to formalno propisano federalnim zakonom (Randall, 2014), a Centralna banka Nemačke formalno uživa samostalnost, dok *de*

facto gotovo uvek deluje u skladu sa politikom savezne vlade (Vaubel, 1997). Već iz nekoliko navedenih primera, postaje očigledno je da su samostalnost i konzervativnost centralne banke u većoj meri komplementarni nego što su pojmovi sa identičnim značenjem. Treba reći i da pojedini autori samostalnost i konzervativnost vide i kao supstitute (Eijffinger and Hoeberichts, 1998). U svakom slučaju, deluje nesporno da su samostalnost i konzervativnost dva različita pojma, kojima ne bi trebalo pripisivati isto ili slično značenje.

U inicijalnoj fazi bilo je od značaja uočiti i definisati ključne probleme, dok dalji istorijski razvoj teorijske koncepcije samostalnosti centralne banke karakteriše razvoj njenih različitih aspekata (politički, personalni i finansijski aspekt). Primetno je i dodatno usložnjavanje ove teorijske koncepcije kroz uključivanja u analizu brojnih varijabli počevši od reputacije centralne banke, preko uticaja raznih interesnih grupa, sve do političke i opšte inflacione kulture, koja bi se mogla definisati kao dominantne preferencije stanovništva prema inflaciji.

Politička samostalnost

Samostalnost centralne banke u političkom smislu podrazumeva suštinsku samostalnost u formulisanju i sprovođenju potrebne politike (Bade and Parkin, 1982). To pre svega znači da je centralna banka u stanju da kreira i sprovodi potrebnu politiku bez pritiska vlade, koja ima podsticaj da utiče na stopu inflacije. Politička samostalnost centralne banke može se predstaviti na jednostavan način pomoću modela principala i agenta, sa racionalnim očekivanjima, u uslovima neizvesnosti (Donato, 2012). Naime, ukoliko se građani posmatraju kao principal koji zahteva optimalno uređenje statusa centralne banke, a vlada kao agent koji treba da ostvari sve naloge koje dobija od principala, može se uočiti izražen agencijski problem. Optimalno uređenje statusa centralne banke, između ostalog, podrazumeva i samostalnost u domenu formulisanja i sprovođenja monetarne politike, što nije u skladu sa užim interesima vlade. Vlada, kao agent, pre svega ima interes da uveća podršku birača, produži sopstveni

the greater variability of production, which is why Rogoff considered the conservative banker only as the second best solution for the inflation tendencies problem. He (Rogoff, 1985) saw the first and the best solution in the elimination of rigidities in the labor and products markets, as the rigidity itself mostly creates the problem. In fact, if all production factors were involved, there would be no need for further boosting the growth in production and employment. However, it should be noted that some authors harbor doubts that such institutional framework, which would encourage the central bank to conduct monetary policy that implies the zero inflation rate, might exist at all (Blinder, 1999).

The solution proposed by Rogoff (1985) has eventually become an integral part of the theoretical concept of central bank independence, by which the terms conservatism and independence have been to some extent implicitly equated. However, Rogoff wrote that: "[...] society can make itself better off by selecting an agent to head the independent central bank who is known to place greater weight on inflation stabilization relative to unemployment stabilization [...]" (1985, p. 1177). The above cited assertion clearly shows that the central bank independence does not have to involve conservatism. These two concepts should be demarcated in more detail, as already pointed out by Cukierman (1996) and Hillman (1999).

This demarcation is of a particular importance for the NBS since it was noticed that the negative consequences of equating the terms independence and conservatism of the central bank are most visible in the third world states, as well as in transition economies. Hillman (1999) used the Central Bank of Belarus, which possessed a certain degree of independence, as an example; however, at the end, the central bank governor was dismissed by the Minister of Finance, due to a disagreement between the Government's policy and the central bank policy. By this example, Hillman concludes that it is necessary to pay attention to the practical functioning of a central bank, as well as that the "conservative banker" is not a guarantee of the low inflation rate without full monetary independence from the executive power. In some developed states, different examples might be found. Thus, the Central Bank of Japan maintains a constantly low inflation rate in

spite of being strongly influenced by the Ministry of Finance. The US Fed (Federal Reserve System) enjoys significantly more *de facto* independence than it is formally prescribed by the federal law (Randall, 2014), and the Central Bank of Germany formally holds independence but *de facto* almost always acts in accordance with the policy of the federal government (Vaubel, 1997). Having in mind the above-listed examples, it becomes obvious that the central bank independence and conservatism are rather complementary concepts than terms with the same meaning. It should be noted that some authors describe the independence and conservatism as substitutes (Eijffinger and Hoeberichts, 1998). In any event, it seems undeniable that the independence and conservatism are two different terms, which should not be attributed the same or similar meaning.

Initially, it was important to detect and define the key issues, while the further historical development of the theoretical concept of central bank independence is characterized by the development of its various aspects (political, personal and financial aspects). The additional complexity of the theoretical concept could be noticed by analyzing the numerous variables, such as the central bank's reputation, the influence of various interest groups, the political and general inflation culture, which could be defined as dominant preferences of the population towards the inflation.

Political Independence

The central bank's independence in a political sense implies the substantial independence in formulating and implementing the required policies (Bade and Parkin, 1982). This primarily means that the central bank is able to create and implement the necessary policy without the pressure of the government, which has an incentive to influence the inflation rate. The political independence of the central bank may be presented in a simple way by using the principal-agent model with the rational expectations in the conditions of uncertainty (Donato, 2012). Namely, if citizens are to be seen as the principal who demands the optimal regulation of the central bank's status, and the government as the agent that needs to meet all

mandat i u krajnjem efektu maksimizuje svoje blagostanje, tj. blagostanje članova vlade. Kao jedan od krajnjih efekata, može se uočiti i razlika između formalne i faktičke političke samostalnosti. Nasuprot jasno definisanoj političkoj samostalnosti u statutima centralnih banaka, kao i u zakonskim propisima, vlada često nalazi način da neformalnim putem utiče na formiranje i sprovođenje monetarne politike u državi. Zbog svega navedenog, deluje da bi vlada trebalo da depolitizuje monetarnu politiku, tako što će monetarnu vlast dodeliti stručnim tehnokratama sa dugim mandatima, koji su izolovani od svakodnevnih političkih zbivanja u svojoj zemlji (Eggertsson and Le Borgn, 2003). Ipak, politička samostalnost je mnogo kompleksnija nego što se to na prvi pogled čini. U kojoj meri je ostvarena politička samostalnost, moguće je ustanoviti samo ako se teorijska koncepcija samostalnosti centralne banke sagleda u celini, uzimajući u obzir njenu kompleksnost i vremensku nekonzistentnost u ponašanju velikog broja relevantnih aktera.

Personalna samostalnost

Pored političke, personalna samostalnost čini jedan od kamena temeljaca jedinstvene teorijske koncepcije samostalnosti, a odnosi se na izbor organa centralne banke, uključujući i guvernera, kao i na procedure donošenja najbitnijih odluka.

Koliko je bitna personalna samostalnost, može se zaključiti iz činjenice da su prilikom formiranja indeksa za merenje samostalnosti centralne banke (Cukierman, Webb and Neyapti, 1992), posebno istaknuti imenovanje, razrešavanje i dužina mandata guvernera centralne banke. Ukoliko se obezbedi politička samostalnost, bez adekvatne personalne samostalnosti, problem inflatornih tendencija koji su ranije opisali Barro i Gordon (1983) neće biti rešen. Jednostavno, ukoliko se ne osujeti mogućnost vlade da imenuje i razrešava guvernera u skladu sa sopstvenim interesima, ne može biti ni govora o samostalnosti centralne banke. Jedno od rešenja za personalnu samostalnost, koje se u praksi pokazalo kao delotvorno, jeste produženje mandata guvernera tako da on traje duže od mandata vlade. Eggerston i Borgne (2003) su

empirijski dokazali da se sa produženjem mandata guvernera smanjuje varijabilitet stope inflacije, kao i nestabilnost proizvodnog jaza. Zbog toga je neophodno stvoriti znatnu razliku (nezavisnost) između mandata članova vlade i mandata guvernera, što podrazumeva i mogućnost reizbora guvernera centralne banke, tako da njegov mandat ukupno traje i duže od 10 godina. Na taj način, bila bi u navećoj meri postignuta personalna samostalnost, što je jedan od ključnih preduslova za institucionalnu samostalnost centralne banke. Uz to, u skladu sa Rogoff-ovim modelom (1985), guverner centralne banke bi trebalo da ima preferencije koje su unapred svima poznate, ali i da bude stručan. Bez stručnog znanja i profesionalnog iskustva u domenu monetarne politike, guverner (iz praktičnih razloga) ne može biti samostalan u svom radu.

Finansijska samostalnost

U finansijskom smislu, samostalnost na prvom mestu podrazumeva potpunu razdvojenost monetarne politike centralne banke od fiskalne politike koju vodi vlada. Drugim rečima, emisiona dobit centralne banke se ne može koristiti pri sprovođenju fiskalne politike, koja između ostalog podrazumeva i pokrivanje budžetskog deficita. To je još jedan od ključnih koraka u razvoju teorijske koncepcije samostalnosti.

Preuzimajući indeks političke samostalnosti, koji su ranije razvili Bade i Parkin (1982), ekonomisti Grilli, Masciandro i Tabellini (1991) dodatno su unapredili koncepciju samostalnosti centralne banke definišući ekonomsku tj. finansijsku samostalnost. Tom prilikom, finansijska samostalnost je suštinski definisana kao mogućnost korišćenja instrumenata monetarne politike bez restrikcija, koje pre svega podrazumevaju obavezu finansiranja državnog deficita. Navedenu koncepciju finansijske samostalnosti kasnije je dodatno usavršio Alberto Alesina (1993), koji je uporedo posmatrao karakteristike više centralnih banaka i zabeležene stope inflacije u više zemalja tokom određenog vremenskog perioda (od 1955. do 1988. godine). Rezultati njegovog istraživanja ukazali su na nedvosmislen zaljučak da samostalnost centralne banke, uz

the orders imposed by the principal, the agency problem might be demonstrated. The optimal arrangement of the central bank's status implies, among other things, independence in the field of monetary policy formulation and implementation, which is not in accordance with the government's narrow interests. The government, as the agent, primarily has the interest to increase the voter's support, extend its own mandate and ultimately maximize its welfare, i.e. the welfare of the government's members. As one of the final effects, the difference between formal and *de facto* political independence could be seen. In contrast to the clearly defined political independence in the central banks' statutes, as well as in legislation, the government often finds a way to informally influence the formation and implementation of monetary policy in the state. Consequently, it seems that the government should depoliticize the monetary policy in a way that the monetary authority be vested in qualified technocrats with long mandates, who are isolated from daily political issues in the state (Eggertsson and Le Borgne, 2003). However, political independence is more complex than it appears at the first glance. It is possible to establish to what extent the political independence is achieved only if the theoretical concept of the central bank independence is seen in its entirety, taking into account its complexity and the time inconsistencies in the behavior of numerous relevant stakeholders.

Personal Independence

In addition to political independence, personal independence constitutes one of the milestones of the unique theoretical concept of independence and refers to the election of the central bank's bodies, including the governor, as well as the crucial decision making procedures.

Considering that the appointment, dismissal, and length of the mandate of the central bank's governor were particularly highlighted during the creation of the index for measuring the central bank independence (Cukierman, Webb and Neyapti, 1992), it may be concluded how important personal autonomy is. If the political independence is provided, without the adequate personal

independence, the problem of inflationary tendencies previously described by Barro and Gordon (1983) will not be solved. Basically, if the ability of a government to appoint and dismiss a governor in accordance with its own interests is not impeded, the central bank independence cannot be provided. One solution for personal independence, which seems to be successful in practice, is the extension of the governor's mandate so that it lasts longer than the one of the government. Eggerston and Borgne (2003) provided empirical evidence that the extension of the governor's mandate reduces the inflation rate variability and instability of the output gap. Therefore, it is necessary to create a significant difference (independence) between the mandate of the government and the governor, including the possibility of re-election of the governor so that its mandate lasts longer than 10 years. In this way, the personal independence would be mostly achieved, which is one of the key preconditions for the central bank institutional independence. In addition, according to the Rogoff's model (1985), the central bank's governor should have preferences that are publicly known in advance but should also be qualified. Without professional knowledge and work experience in the field of monetary policy, the governor (for practical reasons) cannot be independent in his/her work.

Financial Independence

In financial terms, the independence primarily means a complete separation of the central bank's monetary policy and the fiscal policy pursued by the government. In other words, the central bank's seigniorage cannot be used for implementation of fiscal policy, which includes, among others, the financing of the budget deficit. This is another key step in the development of the theoretical concept of independence.

By using the index of political independence that was previously developed by Bade and Parkinson (1982), the economists Grilli, Masciandro and Tabellini (1991) have further improved the concept of central bank independence by defining the economic i.e. financial independence. In this event, the financial independence was essentially

monetarnu disciplinu, umanjuje varijabilnost stope inflacije bez značajnog umanjenja ostvarenih makroekonomskih preformansi. U pomenutoj analizi, Alesina je pokrenuo još jedno pitanje koje je od značaja za finansijsku samostalnost centralne banke, a odnosi se na dilemu izbora između pravila i diskrecionih ovlašćenja monetarne vlasti. Sa jedne strane, transparentna i unapred određena pravila pogoduju predvidivosti i stabilnosti monetarne politike, kao i njenoj razdvojenosti od fiskalne politike vlade, dok sa druge strane, uvođenje diskrecionih ovlašćenja omogućava znatno veći stepen političke i personalne samostalnosti.

U svakom slučaju, deluje nesporno da je finansijska samostalnost centralne banke neophodna kako bi politička i personalna samostalnost imale pozitivno dejstvo na inflatorna kretanja i stabilnost cena u zemlji. Međutim, sam odnos između političke, personalne i finansijske samostalnosti mnogo je složeniji nego što to na prvi pogled može da deluje. Zbog toga je potrebno dodatno razmotriti samostalnost centralne banke kao jedinstvenu koncepciju, koja istovremeno sublimira sve do sada analizirane aspekte institucionalne samostalnosti.

Jedinstvena (savremena) teorijska koncepcija samostalnosti centralne banke

Sve su brojniji autori koji ukazuju na kompleksnost teorijske koncepcije samostalnosti centralne banke, ali i na njene nedostatke. Najoštrije kritike polaze od stava da samostalnost centralne banke nije potreban, niti dovoljan uslov za dostizanje monetarne stabilnosti. Tako se navodi da je samostalnost centralne banke samo jedan od mnogih potencijalno korisnih instrumenata za kreiranje monetarne politike (Bernd and Carsten, 2001). Uz to, opravdano se ukazuje i na endogenost samostalnosti centralne banke, jer ona u svakoj zemlji zavisi od brojnih specifičnih faktora, koji se odnose na konkretne institucionalne okvire. Uzimajući u obzir izraženu endogenost, ovi autori osporavaju da uočena korelacija između samostalnosti centralne banke i relativno niske stope inflacije ne ukazuje na uzročno-posledičnu vezu. Shvaćena u širem kontekstu, teorijska

koncepcija samostalnosti može se povezati sa opštom inflacionom kulturom u određenoj zemlji, kao i sa političkim konsenzusom o monetarnoj stabilnosti u zemljama koje beleže nisku stopu inflacije (Bernd, 1997). Ono što je posebno važno za zemlje u razvoju, kao što je Srbija, jeste da se prilikom analiziranja stope inflacije moraju uzeti u obzir i dodatne varijable koje nisu relevantne u razvijenim zemljama, tako da opšteprihvaćeni indeks samostalnosti centralne banke u velikoj meri gubi na značaju (Sturm and Haan, 2001). Ipak, i pored navedenih kritika, teško da se može osporiti veliki značaj koji samostalna centralna banka ima kada je u pitanju formiranje i sprovođenje monetarne politike. Očigledno je i da vlada ima sopstvene interese koji ne zahtevaju isključivo nisku stopu inflacije i stabilnu monetarnu politiku (Miller, 1998). Zbog navedenog, teorijska koncepcija samostalnosti centralne banke ne samo da je ostala aktuelna u teoriji i praksi, već se pod uticajem brojnih kritika dodatno razvila i to kroz svojevrsnu sintezu političke, personalne i finansijske samostalnosti. Kako izgleda optimalni odnos između svih različitih aspekata institucionalne samostalnosti centralne banke, nije moguće *a priori* ustanoviti. Optimalnost će u velikoj meri zavisiti od konkretnog slučaja, tj. od konkretnog društvenog uređenja.

Pravni status centralne banke u Republici Srbiji

Pravni status NBS definisan je Ustavom Republike Srbije, Zakonom o Narodnoj banci Srbije, kao i drugim pozitivnim zakonskim propisima. Kako bi se utvrdilo u kojoj meri pravni status centralne banke stvara uslove za njenu samostalnost, potrebno je detaljnije razmotriti najbitnije pravne propise u ovoj oblasti, kao i njihovo tumačenje i primenu u praksi.

Osnova pravnog statusa NBS određena je Ustavom RS: „Narodna banka Srbije je centralna banka Republike Srbije, samostalna je i podleže nadzoru Narodne skupštine kojoj i odgovara. Narodnom bankom Srbije rukovodi guverner, koga bira Narodna skupština“. (Ustav RS, Sl. glasnik RS, br. 98/2006, član 95).

Iz prvog stava ovog člana, jasno proizlazi da je NBS samostalna institucija. Međutim,

defined as the ability to use monetary policies' instruments without any restrictions, which primarily implies the obligation of financing the budget deficit. The said concept of financial independence was subsequently further improved by Alberto Alesina (1993), who simultaneously observed the characteristics of several central banks and inflation rates recorded in many states during a defined period of time (from 1955 to 1988). The results derived from his research have pointed out to an indisputable conclusion that the central bank independence, together with monetary discipline, reduces the inflation rate variability without a significant reduction in the achieved macroeconomic performances. In the mentioned analysis, Alesina raised another issue that is significant for the central bank financial independence and that refers to the dilemma of choosing between rules and discretionary powers of the monetary authority. On the one hand, the transparent and predetermined rules serve the predictability and stability of monetary policy, as well as its separation from the government's fiscal policy, whereas, on the other hand, the introduction of discretionary powers provides a much higher degree of political and personal independence.

In any event, it seems undeniable that the central bank financial independence is essential in order that the political and personal independence produce a positive effect on inflation movements and price stability in a state. However, the sole relation between the political, personal and financial independence is much more complex than it may seem at the first glance. Therefore, it is necessary to further consider the central bank independence as the unique concept that simultaneously sublimates all analyzed aspects of institutional independence.

The Unique (Modern) Theoretical Concept of Central Bank Independence

There are numerous authors that highlighted the complexity of the theoretical concept of central bank independence, but also its shortcomings. The severest critics start from the premise that the central bank independence is neither a necessary nor sufficient precondition

for achieving monetary stability. It is stated that the central bank independence is only one of the many potentially useful instruments for the formation of monetary policy (Bernd and Carsten, 2001). In addition, the endogenous nature of the central bank independence is justifiably pointed out, given that it depends on a number of specific factors relating to the particular institutional framework in every state. Taking into account the expressed endogeneity these authors dispute that the observed correlation between the central bank independence and a relatively low inflation rate does not indicate causality. The theoretical concept of independence, as understood in a broader context, can be connected with a general inflation culture in the respective state, as well as the political consensus on monetary stability in the states with low inflation rate (Bernd, 1997). What is particularly important for developing countries, such as Serbia, is that the additional variables that are not relevant in the developed countries must be taken into account when analyzing the inflation rate, so that the generally accepted index of the central bank independence loses its significance to a large degree (Haan and Sturm, 2001). However, despite the noted critics, it is difficult to deny the major importance of central bank independence when it comes to the formation and implementation of monetary policy. It is obvious that the government has its own interests, which do not require only low inflation and stable monetary policy (Miller, 1998). As a result, the theoretical concept of central bank independence not only remained present in theory and practice, but also developed further under the influence of critics and through a synthesis of the political, personal and financial independence. It is not possible to establish *a priori* what the optimal relation between all different aspects of the central bank institutional independence looks like. The optimality will largely depend on a particular case, i.e. a particular social order.

Legal Status of the Central Bank in the Republic of Serbia

The legal status of the NBS is defined by the Constitution of the Republic of Serbia, the

već drugi stav stvara prostor za postojanje određene razlike između formalne i faktičke samostalnosti, što su već uočili domaći autori (Đukić, 2016). Naime, propisano ovlašćenje guvernera da rukovodi Narodnom bankom može se tumačiti na različite načine, posebno ako se ima u vidu da je u materiji ustavnog prava uobičajena reč „upravljanje“ a ne „rukovođenje“. Tako se upravlja javnim poslovima (čl. 53, 77), javnom imovinom (čl. 183, 190), socijalnim i dobrotvornim ustanovama (čl. 44) i slično, dok reč „rukovodi“ ustavotvorac koristi samo na jednom mestu - u citiranom članu 95, kojim se uređuje pravni status NBS. Ova naizgled mala terminološka razlika stvorila je velike probleme u pravnoj i ekonomskoj praksi, kada je, slično trenutno važećem rešenju, Ustav Savezne Republike Jugoslavije predviđao da: „Narodnom bankom Jugoslavije rukovodi i za njen rad odgovara guverner.“ (Sl. list SRJ, br. 1/92, član 114). Naknadno, nakon stupanja Ustava SRJ na pravnu snagu, tadašnjim Zakonom o NBJ uspostavljeni su „organi upravljanja“ NBJ, koje su činili guverner i Savet NBJ. Savet se sastojao od 6 članova sa mandatom od po 5 godina, od kojih su 3 člana imenovana na pisani predlog Savezne vlade (Zakon o NBJ, Sl. list SRJ, br. 32/93, čl. 12 i 13). Ova kreativnost jugoslovenskih pravnika može se objasniti izraženom potrebom vlade SRJ da uspostavi kontrolu nad radom NBJ u uslovima hiperinflacije, koja je u SRJ trajala od aprila 1992. do februara 1993. godine, prema kriterijumima koje je ustanovio Cagan (1956). Tek tri godine nakon okončanja hiperinflacije, 1997. godine, zvanično je pokrenut postupak za ocenu ustavnosti navedenih odredbi Zakona pred tadašnjim Saveznim ustavnim sudom. Odluka suda kojom je konstatovano da sporne odredbe zakona nisu u skladu sa Ustavom SRJ doneta je dve godine kasnije, 22. jula 1999. godine, što se može tumačiti kao veliki pritisak vlade da zadrži neposrednu kontrolu nad NBJ i u uslovima relativno stabilne inflacije u zemlji. (Odluka SUS, IU broj 120/96). Zbog postojanja ovakve prakse, prilikom donošenja novog ustava iz 2006. godine, trebalo je precizirati član 95 i eksplicitno isključiti svaku mogućnost uticaja vlade na institucionalnu (političku, personalnu i finansijsku) samostalnost NBS. Ovu kritiku bi trebalo imati u vidu i prilikom

eventualnih budućih izmena Ustava RS.

Pohvalno je to što je ustavotvorac u posebnom članu predvideo mogućnost NBS da utiče na institucionalno uređenje monetarnog sistema (Ustav RS, Sl. glasnik RS, br. 98/2006, čl. 107). Međutim, mogućnost predlaganja zakona ne znači mnogo ako prethodno nije obezbeđena faktička samostalnost centralne banke.

Pored Ustava kao najvišeg pravnog akta, pravni status NBS u velikoj meri određen je i Zakonom o NBS iz 2003. godine, koji je do danas pretrpeo brojne izmene. (Zakon o NBS, Sl. glasnik RS, br. 72/2003, 55/2004, 85/2005 - dr. zakon, 44/2010, 76/2012, 106/2012, 14/2015 i 40/2015 - odluka US). Bez pretenzije da se Zakon o NBS analizira u celosti, u ovom radu će biti razmotreno nekoliko najbitnijih članova sa stanovišta samostalnosti NBS.

Institucionalna samostalnost NBS u najvećoj meri se jemči članom 2. Zakona, koji predviđa sledeće: „[...] Narodna banka Srbije je samostalna i nezavisna u obavljanju funkcija utvrđenih ovim zakonom [...]. Državni organi i organizacije ne mogu ugrožavati samostalnost i nezavisnost, niti vršiti uticaj na Narodnu banku Srbije, organe Narodne banke Srbije i članove ovih organa u obavljanju njihovih funkcija.“ Na osnovu navedenih odredbi, jasno proizlazi da je Zakonom uspostavljena samostalnost NBS u odnosu na Vladu. Međutim, institucionalna samostalnost NBS je naglašena isključivo pri obavljanju funkcija koje su definisane članom 4 Zakona, pri čemu se ne definišu zabranjeni uticaji, niti se navode konkretni načini na koje bi NBS trebalo da bude zaštićena od tih uticaja. Zbog toga bi bilo preporučljivo detaljnije definisati različite vidove zabranjenog uticaja na NBS i proširiti pravnu zaštitu i na one slučajeve koji se trenutno ne mogu kvalifikovati kao obavljanje funkcije iz člana 4 Zakona. Uz to, kako bi se na odgovarajući način obezbedila institucionalna samostalnost NBS, bilo bi preporučljivo istovremeno sa navedenim izmenama harmonizovati i odredbe kojima se uređuje odnos između NBS, Vlade i Narodne skupštine (članovi 71. i 72. ZNBS).

Na osnovu citiranog člana 2 Zakona, ostaje nejasno da li postoji razlika između nezavisnosti i samostalnosti NBS. Ustavotvorac ispravno koristi isključivo termin samostalnosti, koji ima uže značenje od nezavisnosti i u potpunosti

Law on the National Bank of Serbia, as well as by other applicable laws and regulations. In order to determine the extent to which the legal status of the central bank provides conditions for its independence, it is necessary to examine more closely the most important provisions in this field, as well as its interpretation and application in practice.

The basis for the NBS legal status is determined by the Constitution: "The National Bank of Serbia shall be the central bank of the Republic of Serbia, independent and subject to the supervision by the National Assembly, to which it is responsible. National Bank of Serbia is managed by the governor elected by the National Assembly" (Constitution of the RS, Official Gazette of the RS, no. 98/2006, Article 95).

It is clear from the first paragraph of this Article that the NBS is an independent institution. However, the second paragraph makes room for certain discrepancies between formal and factual independence, as already noted by domestic authors (Đukić, 2016). The prescribed authorization of the governor to manage the National Bank may be interpreted in different ways, especially taking into account that, in constitutional law, the common term in use is "govern" rather than "manage". Thus, one can govern the public affairs (Art. 53.77), public property (Art. 183.190), social and charitable institutions (Art. 44) etc., while the word "manage" is used by the legislator only once - in the cited Article 95, regulating the legal status of the NBS. This seemingly small terminological difference has already created great problems in legal and economic practice, when, similarly to the applicable legal provision, the Constitution of the Federal Republic of Yugoslavia prescribed that: "The governor manages the National Bank of Yugoslavia and is responsible for its work." (Official Gazette of the FRY, no. 1/92, Article 114). Subsequently, upon the entry into force of the FRY Constitution, the former Law on the National Bank of Yugoslavia established "governing bodies" of the NBY, consisting of the governor and the Council of the NBY. The Council was composed of six members with the 5-year mandate, out of which 3 members were appointed on written proposal by the Federal Government (Law on the NBY, Official Gazette of the FRY, no. 32/93, Articles 12 and

13). This creativity of the Yugoslav lawyers might be explained by the need expressed by the FRY Government to establish a control over the NBY during the hyperinflation, which lasted from April 1992 until February 1993 in Yugoslavia, according to the criteria recognized by Cagan (1956). Only three years after the end of the hyperinflation, in 1997, the proceeding for assessment of the constitutionality of those statutory provisions was officially initiated before the former Federal Constitutional Court. The court decision, which declared that the challenged provisions are not in compliance with the FRY Constitution, was rendered two years later on 22 July 1999, which can be interpreted as the strong Government's pressure to retain direct control over the NBY even during the relatively stable inflation in the country (Decision of the FCC, IU no. 120/96). Due to the existence of such practice, when enacting the new Constitution in 2006, the Article 95 should have been specified and any possibility of the Government's interference in the institutional (political, personal and financial) independence of the NBS should have been explicitly excluded. This criticism should also be borne in mind in the case of any potential amendments to the Constitution of the RS.

It is commendable that the legislator prescribed in a separate provision the ability of the NBS to influence the institutional arrangement of the monetary system (Constitution of the RS, Official Gazette of the RS, no. 98/2006, Art. 107). However, the possibility of submitting legislative proposals does not mean a lot if the factual central bank independence has not been provided beforehand.

In addition to the Constitution as the supreme legal act, the legal status of the NBS is largely determined by the Law on the NBS of 2003, which was subject to numerous amendments to date (Law on the NBS, Official Gazette of the RS, nos. 72/2003, 55/2004, 85/2005 – other law, 44/2010, 76/2012, 106/2012, 14/2015 and 40/2015 – decision of the CC). Without any pretension to analyze the Law on the NBS as a whole, this paper will discuss several most important provisions in the context of the NBS independence.

The institutional independence of the NBS is

odgovara institucionalnom ambijentu u kome bi NBS trebalo da funkcioniše. Međutim, Zakon uvodi i termin nezavisnosti, verovatno u nameri da još više istakne značaj samostalnosti, čime bespotrebno stvara nesklad u pravnom sistemu Republike Srbije. Institucionalna samostalnost se može obezbediti samo jasnim i preciznim pravilima, a ne zvučnim rečima koje nemaju zakonom određeno značenje.

Osnovni cilj NBS definisan je članom 3 Zakona i on podrazumeva održavanje stabilnosti cena. Isti član propisuje i da NBS treba da doprinosi očuvanju i jačanju stabilnosti finansijskog sistema, iz čega se može zaključiti da NBS: „[...] pored osnovnog, ima za cilj i očuvanje finansijske stabilnosti što u nekim situacijama, pre svega sa aspekta kratkog roka, može biti u suprotnosti sa ostvarenjem osnovnog cilja, očuvanjem cenovne stabilnosti“. (Milosavljević, 2009, str. 61). Međutim, sve dok je uspostavljena i jasno određena hijerarhija među ciljevima čijem ostvarenju NBS teži, može se osnovano zaključiti da je zakonsko rešenje prikladno. Hijerarhija ciljeva koja jasno daje prioritet održavanju stabilnosti cena potvrđena je i kasnije, prilikom donošenja Statuta NBS (Sl. glasnik RS, br. 12/2013, 18/2015 i 72/2015).

Od posebnog značaja za samostalnost NBS su izmene Zakona koje su usvojene 2012. godine, tj. članovi koji se odnose na personalnu samostalnost. Tako guvernera predlaže predsednik Republike Srbije, a imenuje ga Narodna skupština (čl. 19 Zakona o NBS). Monetarnu i deviznu politiku utvrđuje Izvršni odbor (čl. 14), koga pored guvernera čine i direktor Uprave za nadzor, kao i viceguverneri, pri čemu sve organe u sastavu Izvršnog odbora imenuje Narodna skupština (čl. 21 i 21a). Posebno zanimljiv organ je Savet NBS, koji se sastoji od 5 članova, koje predlaže odbor Narodne skupštine nadležan za poslove finansija i bira Narodna skupština (čl. 22). Savet potom utvrđuje režim kursa dinara, u skladu sa Zakonom, na predlog Izvršnog odbora, a uz saglasnost Vlade (čl. 23, stav 1, tačka 2). Na taj način je ozakonjen i direktan uticaj vlade na određivanje režima kursa dinara, pa time i na sprovođenje devizne i monetarne politike. Na osnovu navedenih članova, očigledno je da je NBS lišena bilo kakve mogućnosti da utiče na izbor sopstvenih organa, kao i da guverner

praktično nema personalnu samostalnost. Uz to, guverneru je drastično umanjen obim nadležnosti kroz drugačije definisanje sastava Izvršnog odbora (čl. 13), koji u skladu sa Zakonom vodi monetarnu i deviznu politiku (čl. 14, stav 1). Funkcija guvernera je (ponovo) svedena na rukovođenje, ovoga puta na rukovođenje poslovanjem NBS i sprovođenje odluka koje donesu Izvršni odbor i Savet (čl. 18, stav 1, tačka 1 i 2). Zbog navedenog je još manje jasna formulacija iz člana 2 Zakona, koja pored samostalnosti NBS ističe i njenu nezavisnost.

Pored formalnih odredbi zakona, potrebno je imati na umu širu teorijsku koncepciju samostalnosti i činjenicu da dobra zakonska rešenja predstavljaju potreban, ali ne i dovoljan uslov za samostalnost i funkcionalnost centralne banke. Očigledan primer koji potkrepljuje ovu tvrdnju jesu zakonske odredbe koje se odnose isključivo na izbor guvernera NBS. Nakon pomenute odluke SUS i brojnih izmena zakona, te odredbe su u velikoj meri usaglašene sa međunarodnom praksom. Međutim, u periodu od 14 godina (2003-2017), ni jedan od pet guvernera nije ostao na toj funkciji 6 godina, tj. ceo zakonom predviđen mandat. Postojanje ove razlike između formalne i faktičke samostalnost NBS, ukazuje na ranije pomenute teorijske kritike na kojima je izrasla savremena teorijska koncepcija samostalnosti centralne banke, a pre svega na postojanje određene političke i inflacione kulture.

Varijabla koja je specifična za Republiku Srbiju i koja stvara preduslove za degradaciju samostalnosti NBS jeste politička kultura tj. parlamentarni višestranački sistem koji u praksi funkcioniše kao jednostranački. Bez sumnje u dobre namere stranke koja ima apsolutnu većinu, očigledno je da jedna (velika) interesna grupa kontroliše imenovanje svih organa NBS. Kao posledica toga, kontrolni institucionalni mehanizmi faktički ne funkcionišu, jer interesna grupa teško može uspostaviti samokontrolu, koja bi bila neophodan uslov za faktičku samostalnost NBS u trenutnim okolnostima.

Kada je u pitanju opšta inflaciona kultura, definisana kao dominantne preferencije koje građani imaju u odnosu na inflaciju, deluje da građani u Republici Srbiji imaju bogato iskustvo ali da su iz tog iskustva izvukli malo pouka, ili da te pouke ne mogu praktično da

mainly guaranteed by the provision of Article 2 of the Law, which envisages the following: "[...] The National Bank of Serbia shall be independent and autonomous in performing its functions as laid down by this law [...]. State authorities and institutions may not threaten the independence and autonomy or seek to influence the National Bank of Serbia, the bodies of the National Bank of Serbia and the members of these bodies in performing their functions." Based on these provisions, it is clear that the independence of the NBS has been established by the Law with regard to the Government. However, the institutional independence of the NBS is emphasized exclusively in performing its functions defined in Article 4 of the Law, while the prohibited influences are not defined and the specific ways in which the NBS should be protected from these influences are not listed. Therefore, it would be advisable to specify the different types of prohibited influences on the NBS in more detail and extend the legal protection to those cases which do not currently qualify as the performance of the functions referred to in Article 4 of the Law. In addition, in order to adequately secure the institutional independence of the NBS, it would be advisable to harmonize the provisions that regulate the relations between the NBS, the Government and the National Assembly simultaneously with the mentioned amendments (Articles 71 and 72 of the Law on the NBS).

Based on the cited Article 2 of the Law, it remains unclear whether there is a difference between the autonomy and independence of the NBS. The legislator properly uses only the term independence, which has a narrower meaning compared to the term autonomy and fully adapts to the institutional environment in which the NBS should function. However, the Law also introduces the term autonomy, probably in order to further emphasize the importance of independence, by which it unnecessarily creates dissonance in the legal system of the Republic of Serbia. The institutional independence can be ensured only by the clear and precise rules and not pompous terms that have no meaning defined by the law.

The primary objective of the NBS is defined by Article 3 of the Law and includes the maintenance of price stability. The same

provision also envisages that the NBS should contribute to maintaining and strengthening the stability of the financial system; as a result, it can be concluded that the NBS: "[...] in addition to its primary objective, has for its aim also the maintenance of the financial stability, which, in some cases and especially in terms of short deadlines, may be contrary to the primary objective – the maintenance of price stability" (Milosavljević, 2009, p. 61). However, as long as the hierarchy of objectives of the NBS is established and clearly defined, it can be reasonably concluded that this legal solution is appropriate. The hierarchy of objectives that clearly gives priority to maintenance of price stability was also confirmed afterwards, upon the adoption of the Statute of the NBS (Official Gazette of the RS, no. 12/2013, 18/2015 and 72/2015).

The amendments to the Law that are adopted in 2012, i.e. the provisions concerning the personal autonomy, are of a particular importance for the independence of the NBS. Thus, the governor is proposed by the President of the Republic of Serbia and appointed by the National Assembly (Art. 19 of the Law on the NBS). Monetary and foreign exchange policies are determined by the Executive Board (Art. 14), which consists of the Governor, Director of the Supervision Department and Vice-Governors, whereas all the bodies in the composition of the Executive Board are appointed by the National Assembly (Art. 21 and 21a). The Council of the NBS is a particularly interesting body, which consists of five members proposed by the National Assembly Committee in charge of finance and appointed by the National Assembly (Art. 22). The Council then determines the exchange rate regime for the dinar, in accordance with the Law, upon the proposal of the Executive Board and with the Government's consent (Art. 23 paragraph 1, point 2). Thus, the direct Government's impact on the determination of the exchange rate regime for the dinar, as well as the implementation of the foreign exchange and monetary policy, is legalized. Based on these provisions, it is obvious that the NBS is deprived of any possibility to influence the election of its own bodies and that the Governor has virtually no personal independence.

primene. Posmatrajući širi institucionalni aranžman, inflaciona kultura bi trebala da bude sastavni deo kontrolnog mehanizma, koji bi primoravao NBS da vodi stabilnu monetarnu politiku i odoleva inflatornim tendencijama. Međutim, i ovaj kontrolni mehanizam je zakočen usled odsustva više interesnih grupa, kroz koje bi uticaj na NBS bio kanalisano tako da jasno iskazuje dominantne preferencije građana prema inflaciji, istovremeno ne ugrožavajući ni formalnu ni faktičku samostalnost NBS.

Izgleda da je trenutno zakazao veći broj formalnih i neformalnih pojedinačnih pravila, koja bi trebalo da budu garant institucionalne samostalnosti NBS. Zbog toga je neophodno zauzeti potpuno drugačiji pristup koji ne podrazumeva proklamaciju nezavisnosti NBS, već konstantan rad na stvaranju njene formalne i faktičke institucionalne samostalnosti. Takav pristup zahteva i stvaranje povoljnije institucionalne klime, koja se ogleda u harmonizaciji dejstava različitih grupa, kroz nesmetanu artikulaciju njihovih interesa, putem određenih i vremenski konzistentnih zakonskih normi. Na taj način, moguće je formirati samostalnu instituciju u pravom smislu te reči, onako kako je to definisao nobelovac North (1991), kao: „skup ograničenja koja su stvorili ljudi, radi oblikovanja političke, ekonomske i socijalne interakcije“. Prvi praktičan korak u pravcu stvaranja pomenute institucionalne klime jeste izmena formalnih (zakonskih) pravila koja su u očiglednom neskladu sa slovom i duhom Ustava RS, kao što je to slučaj sa članom 14, stav 1; članom 18, stav 1, tačka 2; i članom 23, stav 1, tačka 2 ZNBS. Sledeći korak, koji je i dosta zahtevniji, podrazumeva dalju depolitizaciju monetarne politike i dalji razvoj opšte političke kulture kroz afirmaciju odgovarajućih neformalnih pravila.

Zaključna razmatranja

Analizirajući istorijski razvoj teorijske koncepcije samostalnosti centralne banke, može se zaključiti da je u ovoj oblasti došlo do ubrzanog razvoja u relativno kratkom vremenskom periodu. Razvoj ekonomske nauke doprineo je boljem razumevanju monetarnog sistema kao celine i samim tim, stvaranju novih institucionalnih rešenja u praksi. Ipak, i pored relativno usaglašenih teorijskih shvatanja i burnog razvoja koncepcije samostalnosti, u stvarnosti se procesi institucionalne evolucije centralnih banaka odvijaju različitim tempom. Upravo ta činjenica ide u prilog jedinstvenom shvatanju koncepcije samostalnosti, koja u sebi istovremeno sublimira političku, personalnu i finansijsku samostalnost, kao i određene dodatne varijable, koje su karakteristične za datu zemlju i njen monetarni sistem. Sledi da i pored jedinstvene teorijske koncepcije samostalnosti, nema univerzalnog rešenja koje bi svaka od zainteresovanih država mogla da implementira u svoj pravni i/ili ekonomski sistem i tako „preko noći“ stvori samostalnu centralnu banku.

U slučaju Republike Srbije, zakonska regulativa koja se odnosi na uređenje NBS u određenoj meri odgovara međunarodno priznatim standardima u ovoj oblasti. Međutim, kada je u pitanju izbor guvernera (ili organa upravljanja) NBS a posebno kada je u pitanju njihova smena, pokazalo se da faktička samostalnost znatno odstupa od formalne, koja je uspostavljena Ustavom RS i Zakonom o NBS.

Može se zaključiti da je pored usklađivanja zakonskih propisa sa međunarodnim standardima u ovoj oblasti, neophodno preduzeti konkretne korake ka očuvanju i daljem poboljšanju političke i opšte inflacione kulture. Na taj način može doći do nestanka uočene diskrepance između formalne i faktičke samostalnosti NBS, što je *condicio sine qua non* efikasnog institucionalnog mehanizma i razvijene tržišne privrede.

In addition, the scope of the Governor's competencies has been drastically reduced by a different definition of the composition of the Executive Board (Art. 13), which, in accordance with the Law, determines the monetary and foreign exchange policies (Art. 14, paragraph 1). The function of the Governor has (again) been reduced to management, but this time to the management of the NBS operations and implementation of decisions rendered by the Executive Board and the Council (Art. 18, paragraph 1, points 1 and 2). Therefore, the wording of Article 2 of the Law, which in addition to the NBS independence points out to its autonomy, is even less clear.

In addition to the formal statutory provisions, it is crucial to bear in mind the general theoretical concept of independence and the fact that good legal solutions are a necessary, but not sufficient condition for the central bank's independence and functioning. Legal provisions relating solely to the appointment of the NBS Governor are the obvious example which supports the above statement. Following the mentioned decision of the FCC and numerous amendments to the law, these provisions have been largely aligned with international practice. However, over a period of 14 years (2003-2017), none of the five governors remained in that position for six years, i.e. the whole mandate prescribed by the law. The existence of this discrepancy between the formal and factual independence of the NBS points out to the previously mentioned theoretical criticism, based on which a modern theoretical concept of the central bank independence has been introduced, and in particular to the existence of the specific political and inflation culture.

The variable specific for the Republic of Serbia which creates the conditions for the degradation of the NBS independence is the political culture i.e. the parliamentary multi-party system, which operates as a single-party system in practice. Without a shadow of a doubt in the good intentions of the party with the absolute majority, it is obvious that a (large) interest group controls the appointment of all NBS bodies. As a result, the institutional control mechanisms do not operate effectively, given that the interest group can hardly establish self-control, which would be a necessary condition

for the factual independence of the NBS under the current circumstances.

When it comes to the general inflation culture, which is defined as a dominant preference that the citizens have with regard to inflation, it seems that the population in the Republic of Serbia despite its considerable experience has not drawn many lessons from that experience, or is unable to apply these lessons in practice. Considering the broader institutional arrangement, the inflation culture should be an integral part of the control mechanism that would force the NBS to determine a stable monetary policy and resist the inflationary tendencies. However, even this control mechanism is jammed due to the absence of several interest groups, which would direct the influence on the NBS, so as to clearly demonstrate the dominant preferences of the citizens with regard to inflation, without compromising on either formal or factual independence of the NBS at the same time.

It seems that a large number of formal and informal individual rules, which should guarantee the institutional independence of the NBS, have failed. Therefore, it is necessary to adopt a completely different approach that does not involve the proclamation of autonomy of the NBS, but the constant work on creating its formal and factual institutional independence. Such approach also requires a creation of the favorable institutional environment, which is reflected in the harmonization of various groups' actions, by the smooth articulation of their interests and by means of the defined and time-consistent legal provisions. In this way, it is possible to establish an independent institution in the true sense of the word, as defined by the Nobel Laureate North (1991): "humanly devised constraints that structure political, economic and social interactions." The first practical step in creating the mentioned institutional environment is the amendments to the formal (statutory) norms which are obviously not in compliance with the letter and spirit of the Constitution of the RS, such as Article 14 Paragraph 1; Article 18 Paragraph 1 Item 2; and Article 23 Paragraph 1 Item 2 of the Law on the NBS. The next step, which is rather more challenging, implies the further depoliticization of monetary policy and the further

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development of the general political culture by the promotion of appropriate informal rules.

Concluding Remarks

By analyzing the historical development of the theoretical concept of central bank independence, it can be concluded that a rapid development occurred in a relatively short period of time in this area. The development of economics has contributed to a better understanding of the monetary system as a whole, and thus, to the creation of new institutional arrangements in practice. However, despite the theoretical findings that are harmonized to a great extent and the rapid development of the concept of central bank independence, in reality, the process of institutional evolution of central banks is carried out at a different pace. This fact supports the unique approach to the concept of independence, which simultaneously sublimates in itself the political, personal and financial independence, as well as certain additional variables that are typical for each state and its monetary system. It follows that, despite the unique theoretical concept of independence, there is no universal

solution that each of the states concerned could implement in its own legal and/or economic system, thus creating an independent central bank "overnight".

In the case of the Republic of Serbia, the legislation relating to the organization of the NBS corresponds to a certain degree to the internationally recognized standards in this area. However, when it comes to the selection of the governor (or governing bodies) of the NBS and especially when it comes to their replacements, it has been shown that the factual independence significantly deviates from the formal one, established by the Constitution and the Law on the NBS.

It can be concluded that, in addition to the harmonization of legislation with the international standards in this field, it is necessary to take concrete steps towards maintaining and further improving the political and general inflation culture. Thus, the observed discrepancy between the formal and *de facto* independence of the NBS might disappear, which is the *condicio sine qua non* for an effective institutional mechanism and a developed market economy.