REGULATORY POLICY OF THE EU MARKET

Aleksandar Miljković, FORKUP, Novi Sad
Ljubomir Miljković, FORKUP, Novi Sad

Abstract: *The modern studies of public policy are three basic types of economic policy: regulatory policies, spending policies and macroeconomic policy. There are three types of policies in the EU: this document discuss the regulations mainly on the EU market, and analyzes the macroeconomic issues related to economic and monetary union. European Union, with an increasing delegation of powers to the European level of economic, social, environmental and regulatory policies, is described as "regulatory state" or "regulatory entity". This section analyzes the regulation issued by the EU, the way this act is made, and why EU regulates some areas more than others do.*

Keywords: *politics, markets, EU*

THEORY OF THE REGULATION

Economic policies have two possible effects: redistribution and efficiency. The difference between these effects is shown in Figure 1.

In this hypothetical society, there are two citizens, A and B, and current government policy, X, produces benefits AX and BX for these citizens. The government is considering two possible political changes: Y and Z. Trend towards policy Y would have a "redistributive" effect, making bigger welfare for the citizen A (according to AY-AX) or less for a citizen B (according to BY-BX). Indeed, any political change along the line that passes through the X and Y mean to transfer benefits from one citizen to another. In contrary, the movement towards politics Z would bring benefits to both citizens (according to AZ-AX and BX-BZ). In fact, any change in policy from X to darken area would make that citizen feel better, while other would still be good, without worsening the situation.
This is known as "Pareto efficiency" (by Pareto Vilfredo Italian sociologist).[55]

[55] HIks S. Politički sistem EU, Službeni glasnik, 2007.

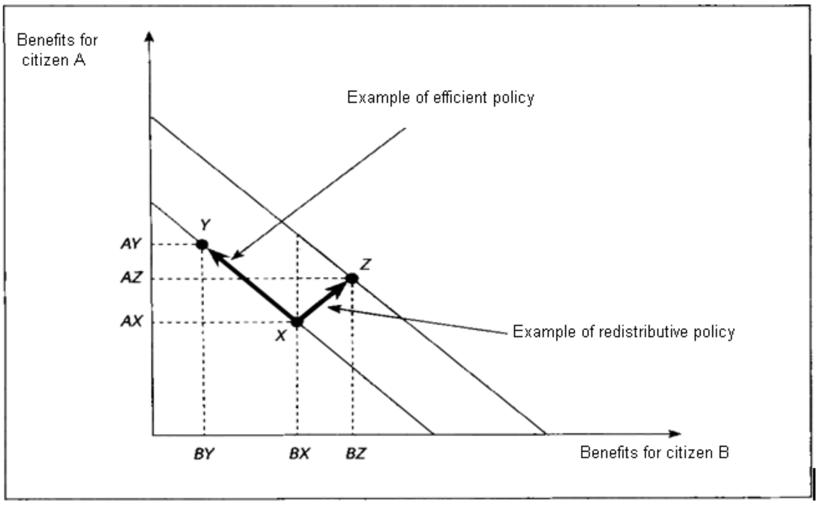

Fig.1 The difference between the redistributive and efficient policy
Image taken from the EU Political System book by Simon Hicks

Creating a result that is in the interests of all parties; - in the "public interest"- is the traditional goal of regulatory policy (Mitnick, 1980; Sunstein, 1990). In neoclassical economic theory, free markets are naturally Pareto efficient, but in the real world, there are several “market disorders”.

Structure can be used to correct these disorders:

• *Technical standards and standards to protect consumers* enable consumers to acquire information about product quality to which the public normally cannot access;
• *Health and safety standards and standards in the field of environmental protection* reduce adverse effects (negative external effects) of market transactions to individuals who do not participate in these transactions;
• *Competition policies* prevent the emergence of monopoly on the market, disruptions in the market (through government subsidies) and anti-competitive behavior (such as a price formation for a purpose);
• *Industrial regulators*, through instruments such as price controls, ensure that natural monopolies operate in accordance with market regulations.

However, if economic policies create democratic, majoritarian institutions such as Parliament or the government, they will tend to be redistributive rather than efficient. Assembly and government control political parties, which will attempt to achieve political outcomes using their supporters. Therefore, democratic government strives toward policies that transferred funds of the minority that is in a losing position to winning majority in the certain electoral contest. For example, in the case of consumer policy, mostly leftist governments raise taxes for the wealthiest layers of society and increase public spending on social contributions, while right-wing governments tend to reduce taxes and fees.
If the Democratic majority is allowed to manage the regulatory policies, there will be redistributive similar results: for example, the Left will use regulation that would

improve workers' rights and protect the environment, raising the costs to the business community, and the right wing will do the opposite.

Accordingly, a key argument in the literature dealing with regulatory policy is: if regulatory policies need only to correct market distortions, with Pareto effect rather than redistribution, they have to be consisted of "non-majoritarian", i.e. independent institutions (Majone, 1996). During the 1980s in 19th century, the U.S. government has established an independent agency to regulate the U.S. market (Skovvronek, 1982), and European governments have begun to apply similar measures during 1980s in 20th century (Majone, 1994). At domestic level in Europe, independent agencies were established to regulate industries that were previously public, and at the EU level, commission's task was to regulate the single market.

This traditional justification for regulating the "public interest" is essentially normative. Modern political science is also analyzing the results of public policies using positive theories, which try to explain the political outcomes in deductive way. The first positive approach to regulation was Stigler's (Stigler, 1971) „The theory of economic regulation" in which structure is required by private interests and provides politicians. On the other hand, applying the Olson theory of organization of interest groups (1965), some interest groups are able to influence regulatory entities. For example, the cost of price control is big for one monopoly company (selective), while the benefits to the individual consumer or the taxpayer are small (loose). Accordingly, groups of producers (the interests of the business community) are more able to influence the regulatory entities rather than representatives of diffuse nature of interest, such as consumers, taxpayers, fighters for environmental protection and employee.

This positive theory leads to opposite conclusions from the traditional normative approach. It is unlikely that an independent regulatory entity is going to create Pareto efficient policy, and they are prone to lobbying by the democratic majority of institutions such as Parliament or elected governments. Nevertheless, the reality is somewhere between these two extremes (Peltzman, 1989). In practice, manufacturer, industry or profession is not able to fully include regulatory entity by lobbying and take all the benefits of lobbying for them, and the proposed regulations generally provide at least some benefits to consumers and other representatives of diffuse interests.
Hence, it is possible to conclude that, in parallel with increasing loss of consumers, their incentive to reduce the influence of representatives of other interests in the regulatory entities increase.

Normative theory of regulation also does not take into account the role of institutions in shaping the way in which regulators act. Regulation is made in a complex institutional environment, which includes legislators, courts, executors and regulators at various levels of government. For example, in the multilayered political system as is the case in the U.S. and EU legislation is created on multiple levels (Kelemen, 2000). When you have the power of choice, producers would prefer to opt for market regulation to be performed at the highest level of government. In the first place, because the organization at a higher level is more expensive it will be harder for diffuse interest to mobilize and confront the producers at that level. Second, at the higher level competition may arise between different local regulatory regimes, which would allow free capital to choose the least regulated region, and force the government to introduce deregulatory policies to attract capital (Scharpf, 1997). Discretion authorization in the work of regulatory agencies can be limited using institutional control. The legislator may use various institutional mechanisms to prevent that a regulator design and implement public policies that are beneficial only to certain categories of producers. For example, assembly may determine the criteria of public interest in the contract with the regulatory entity, to elect a new director of the agency every couple of years, and require that the regulator consults different interests and reports to parliamentary committee and media (Moe, 1987; Horn, 1995). However, if the regulatory agency is under the control of the parliamentary majority in focus, we return to the beginning: the parliamentary majority use regulation as a means of distribution rather for elected majority than the society as a whole.

In general, the creation of regulatory policy is a struggle. Normative analysis shows the following: if regulatory policies are to be effective (in an effort to overcome the irregularities of the market), they should be entrusted to non-majoritarian institutions such as the European Commission. Positive theory, however, shows that once delegated regulatory powers, subject to regulation (groups of producers) are likely to be able to influence the regulators than the public interest. In addition, the business community will have an interest in the institutional configuration that would make them to "encompass" regulator, such as the regulatory agency at the highest political level. Faced with this situation, politicians are able to introduce mechanisms that would limit regulatory discretion.

UNITED MARKET

At the intergovernmental conference held in Luxembourg between February 26-27, 1986 the text of the Single European Act (SEA), which came into force in 1987, was signed. It was the first significant revision of the Treaties of the European Communities and the introduction of institutional changes, but without substantial transformation of the Community and how it was conceived by Spinelli's project, i.e. the proposal of the EU Treaty of the European Parliament.[56]

SEA defined 31st December 1992 as a deadline to implement proposals from the Commission, and introduced a new institutional mechanisms to achieve this goal: qualified majority voting in the Council and the procedure for cooperation with the European Parliament. These regulations cover three main areas: physical barriers, technical barriers and fiscal obstacles.

In terms of physical barriers as the first area, the Commission has proposed cancelling of controls the movement of goods and persons. Until late 1991, the Council agreed with the removal of customs formalities, paperwork and control at the borders between Member States (which numbered approximately 60 million documents per year). In October 1992, the Commission has published the Common Customs Tariff (*nomenclature*), and customs barriers were finally called off on 31 December 1992. By the end of 1992, 81 measures were adopted on issues related to the movement of agricultural products, and compensation for farmers at the borders in accordance with

[56] Gasmi G., *Pravo i osnovi prava EU*, Singidunum 2010, pp. 132.

the Common Agricultural Policy. However, in terms of barriers to the movement of people has been made small progress. So, Great Britain, Ireland and Denmark have agreed on abolition of passport control and the establishment of common visas. Other members have signed the Schengen agreement; the EU has built a new institutional mechanisms and legal instruments to regulate these areas in accordance with the "third pillar" of cooperation in justice and home affairs, as well as subsequent reforms of this pillar in the scope of Amsterdam Treaty.[57]

Secondly, the Commission took the title "technical obstacles" as a common category. When it comes to product standards and in the Cassis de Dijon case from 1979, the European Court of Justice ruled that all products that meet the standards in one member state could legally be sold in another. Based on this principle of “mutual recognition”, the Commission proposed “a new approach to technical harmonization” (Pelkmans, 1990).

In the area of public procurement while awarding public contracts, the governments are not able to give priority to domestic companies. The free movement of people and entities, the residence rights were extended to categories of the unemployed (such as students and pensioners), non-citizens have gained access to state subsidies and social rights, and certain rules are designed to compare the educational and professional qualifications.

In the service sector, several directives on the liberalization of financial services, air, land and river transport, as well as the opening of national markets of telecommunications and television services were enacted. Regarding movement of capital, the control of the free flow of capital between member states was abolished.

Third, in order to remove fiscal barriers, the Commission proposed the harmonization of value added tax (VAT or sales tax) and excise tax on products such as alcohol and tobacco. After lengthy negotiations, the Council adopted a framework for harmonization of VAT in October 1992. This includes a standard minimum VAT rate of 15 percent in each Member State, the abolition of luxury tax (and lower rates for specific products in the interim period), as well as rules about when to pay VAT - in the case of cross-border trade, for example, VAT is paid at the destination. That same month, the Council has set a harmonized structure for excises with abolition of restrictions on cross-border purchases of products like alcoholic beverages and tobacco (for personal use), and the subsequent abolition of duty-free sales in aircraft and on ships (1999).

According to Professor Dr. Dusan Jaric and Dr. Victor Radun market in economics is perceived as a mechanism to ensure regular and adequate exchange of goods and services. The market is primarily perceived as a mechanism of exchange, i.e. medium

[57] Op. Cit. Hiks S.

for the exchange of manufactured goods and services between two parties: the manufacturer and the purchaser or consumer.[58]

RESUME

The single market has changed the process of governance in Europe. Rules on the production, distribution and exchange of goods, services and capital is now largely determined at the European level, which led to a special regulatory regime, i.e. connection of liberal deregulation and regulation of social market.
The single market program had a strong deregulatory effect. Mutual recognition and harmonization and the new approach, combined with competition protection policy in the EU, led to the abolition of customs barriers between member states and liberalization in many sectors of European economies. National governments have no freedom to use trade barriers, state aid and special permit for the business, to protect their industries from competition from other EU member states. Therefore, some leftists (especially Scandinavian countries and France) the single market program is the victory of neo-liberal project.

However, in the single market mode there are some important regulatory elements. First, harmonization of national standards for products aimed at achieving effective results in the European public interest. Instead of reducing the rules that apply to goods and services, EU has been particularly successful in establishing a new European product standards (such as CO2 emission), and in many cases these new standards are at a higher level than was the case in most Member States.

Second, harmonization of standards in the process of labor and production is aimed at achieving the results of this redistribution policy. These regulations are not disbursed social value directly by subtracting from one group (by taxation) and giving the second group (through public spending). Indirect redistributive effect was achieved by imposing costs for producers and protecting the values and interests of advocates of environmental protection, consumers, employees and other representatives of diffuse interests.

REFERENCES

l. Sajmon Hiks, *Politički sistem EU*, Službeni Glasnik SRS, 2007.
2. Majone G., *Regulating Europe*, London, 1994.
3. Moe T, *Interests, Institutions and Positive Theory: The Politics of the NLRB, Studies in American Political Development*, 2: 236-99, 1987.
4. Horn M., *The Political Economy of Public Administration: Institutional choice in the public sector Cambridge,*Cambridge University Press, 1995.
5. Gasmi G., *Pravo i osnovi prava EU*, Singidunum 2010.
6. Jarić D. i Radun V., *Uvod u ekonomiju*, Autorsko izdanje, Novi Sad 2007.

[58] Jarić D. I Radun V., *Uvod u ekonomiju*, Autorsko izdanje, Novi Sad 2007, pp.155.