



Weekly Briefing

**Serbia political briefing:
Arguments for the Rule of Law
IIPE**

China-CEE Institute

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Arguments for the Rule of Law

An overview of the most important news and events in Serbia during March indicates keeping the trend of the previous. Therefore it is necessary to introduce different approach of the political elite if willing to eliminate for good one of the biggest issues: the rule of law.

Currently, people in Serbia are faced with an unofficial pre-election campaign performed on three levels: the public political scene, the media and the Parliament. Irreconcilable political attitudes have been transformed into a sharp political speech that often is beyond not only the political culture but good manners as well. Behind that bad and flashy show is the real life of the people and regular Government activities. After twenty years, on April 4, 2019, a first-instance verdict was issued for the murder of journalist Slavko Ćuruvija; by the verdict four former members of the Security Service are convicted.

Bearing in mind the efforts of Government and professional bodies to solve old and new problems, the logical question is: Why is it always so difficult and why do they always come across almost insurmountable obstacles? Wouldn't be more convenient to secure the improvement and empowerment of the rule of law in Serbia? Definitely, on the one side, it would prevent the existence of numerous bad phenomena, and rationalize the resolution of social and developmental issues, on the other.

The Rule of Law draws its roots from Anglo-Saxon legal theory and practice and differs to a certain extent from the German meaning of the legal state. In short, it implies a valid legal order that limits political power by law and institutions and thus provides a broad body of human rights and liberties.

If we exclude lawyers and legal experts, the notion and importance of the rule of law for the majority of population is not clear enough. It could be defined as an intuitive understanding of a well-regulated state, which is not so far from reality. In public appearances, politicians recognize the importance and support the rule of law. But why then our state doesn't comply with it? Although there are many effects that can be taken as an example, here will be outlined the most important ones that bring the strengthening of the rule of law:

Legislation and justice. People in Serbia is accustomed that new Constitution usually has been adopted every 15 or 20 years depending on political needs (of course, worldwide different examples may be found, such as the United States Constitution from 1787 and Napoleon's Civil

Code from 1804 nowadays considered as exceptional examples of legislative practice). If that wouldn't be the case, violation of Constitutional Provisions would be prevented; justice would be independent while laws would be implemented in practice. Besides that, often is a case that de jure Serbia has good legal provisions, but problem arose when such provisions failed being applied or not being fully implemented! One may wonder, why then does such provision exist? Additionally, fully implemented law would remove temporary existing political pressure over the police and security services that by its nature should serve the state and secure the impartial implementation of law.

Corruption and Organized Crime. These two problems of each country are top issues before every election in Serbia, but immediately after the elections, they quickly fall into oblivion. Multi-decade embedded systemic corruption is perhaps the biggest obstacle to democratization and economic progress. Political consensus on the division of state positions and resources as an electoral trophy is a direct source of corruption. The same applies to the interconnection of organized crime and state structures, without which it would not have existed. The rule of law would suppress these two phenomena or at least would keep them under control.

Economy. The rule of law ensures the certainty of business activities and predictability of investment in each country. Even further, it turns to be much more efficient speaking in long-term manner than any state benefits and donations given to foreign investors. The equal treatment of domestic and foreign investors, no matter if they are big or small, stands as a condition for a healthy business climate and competition. It is a fact that the Government has some good results in economy and state finances. But the problem with sustainability and the rate of economic growth are insufficient investments, and the fact that their source is savings, both domestic and foreign. The Government is praising a successful rating in *Doing Business List* (World Bank), but does not point to a limited number of indicators that relate only to Belgrade. It would be useful to consider a far more detailed view of a larger number of indicators in [WEF: The Global Competitiveness Report](#), which shows a much more realistic picture of Serbia. Non-transparency, confidentiality of contracts, and direct deals in cases of large privatization and concessions are not in line with the rule of law. In other words, those indicators are those that don't contribute to improving the business environment and investing existing domestic capital.

Foreign relations. If Serbian main political goal EU integration, one may be puzzled that the European Union regularly demands improvement and strengthening of the rule of law. The same is required by all European and international organizations and major countries, apart the

Russian Federation, China, Iran and India. If the rule of law is on the very foundations of the European Union and all democratic countries, it is quite clear that this is *sine qua non* of international integration of Serbia.

Education and Science. By excluding elementary education and a larger part of secondary schools, the general assessment from the professional circles is that the introduction of dual secondary education was at the service of foreign investors (as well as the Labor Law). State Universities maintain and improve the quality of education, while only a few of the private ones perform the same. A number of private Universities and colleges in some way manage to meet the necessary requirements and receive accreditation, but in practice the level of teaching is of suspicious quality. Frequent affair implies so. This area is the most important area for the future and progress of a nation, therefore effective legal solutions must be implemented.

Scientific research activities in Serbia have survived for decades in the conditions of chaotic legal improvisations, which are changed according to unknown rules. The same applies to the financing of scientific research. In addition to poor education, such a treatment of science is the best way to ruin the future of one nation. Both education and science must be revitalized and the legal framework for its functioning must be clear and precise.

Emigration. The best-performing part of the population that currently are moving from Serbia is not economically endangered and can find decent work at home, but they do not want to live and build the future in such a country (according to a number of direct statements in the media). In addition to this group, very important professions leave Serbia due to poorly regulated working conditions, inability to progress, corruption. If such trend persists, very soon Serbia will be faced with the shortage of labor force.

Areas where the Government has achieved good results are the best evidence of benefits from strengthening the rule of law; to state: public administration, cadaster, gender equality, care and protection of children, health care, local government activities etc.

It has long been clear that without strong political consensus and support for the strengthening of the rule of law by all important social groups is not possible to achieve it. The main opponents of such a scenario are parts of almost all political circles and groups: those in power, those who were in power or hoping that would be one day. The reason is simple: this would mean the self-abolition of privileges, influencing positions, illegal and corrupt revenues.

Obviously, a new social and moral pattern is needed in Serbia. It is characteristic that a large part of the civil protests taking place in the cities of Serbia is precisely against everything that undermines the rule of law. Ordinary people are not lawyers but they feel that the greatest

burden of lawlessness and badly organized state falls on their account. No beautiful picture posted in the media can't override that fact.

Conclusion

It is a true that suggesting fully functioning the rule of law as a general solution is much easier to say than accomplish. It is not difficult to demonstrate that problems in many areas wouldn't occur at all if the rule of law was in act. Unfortunately, the rule of law is most frequently constrained by those who should promote it, bearers of political power.

It is fair to say that today's ruling political group in Serbia is no better or worse than earlier in the previous decades. It is up to ordinary people to make them to change. Every citizen has a right to demand the rule of law, to be improved and implemented. Without encouraging and improving the rule of law, it would be more difficult to solve the main problems of the economy and society while Serbia would move even far away from the EU.