

**COMPARATIVE LEGAL ANALYSIS OF CHANGES
IN THE SYSTEM OF STATE AID IN SERBIA
AND THE WESTERN BALKAN COUNTRIES –
IMPACT ON THE EFFICIENCY
OF THE EUROPEAN INTEGRATION PROCESS ^a**

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Abstract

The control of state aid allocation is an important part of competition policy, due to the selective nature of state aid and possibility of favoring market participants. Establishing of the system of state aid control is a part of the pre-accession commitments of the Western Balkans countries in the integration process into the European Union. The paper examines the degree of the development of the system in the analysed group of countries by applying a comparative - legal analysis. A correlation analysis examines the interdependence between the development of the system of state aid control and the success of the countries in the integration process. The aim of the paper is to emphasize the great importance of building an effective system as a mechanism of competition protection and an important pre-accession commitment of the/those countries.

Key words: state aid, control, Western Balkan countries.

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УПОРЕДНОПРАВНА АНАЛИЗА ПРОМЕНА У СИСТЕМУ КОНТРОЛЕ ДРЖАВНЕ ПОМОЋИ У СРБИЈИ И ЗЕМЉАМА ЗАПАДНОГ БАЛКАНА – УТИЦАЈ НА ЕФИКАСНОСТ ПРОЦЕСА ЕВРОПСКИХ ИНТЕГРАЦИЈА

Апстракт

Услед селективног карактера државне помоћи и могућности да се њоме фаворизују учесници на тржишту, контрола њеног додељивања важан је део политике заштите конкуренције. Успостављање система контроле државне помоћи део је претприступних обавеза земаља Западног Балкана у процесу интеграције у Европску унију. У раду се упоредноправном анализом сагледава степен развијености система у анализираној групацији земаља. Корелационом анализом испитује се међузависност између развијености система контроле државне помоћи и успешности земаља у интеграционом процесу. Циљ рада је указивање на изузетну важност изградње ефикасног система као једног од механизма заштите конкуренције и као битне претприступне обавезе земаља.

Кључне речи: државна помоћ, контрола, земље Западног Балкана.

INTRODUCTION

An uncontrolled granting of state aid may distort the competition between the market participants who receive and those who do not receive the state aid. Thus, the state aid control is an important segment of the competition policy. The regulatory role of the state institutions is essential in order to achieve the objectives of competition policy. State institutions define the rules that regulate fair and loyal competition (Milenković-Kerković, 2007, p. 145). The measures to protect the competition conditions are directed, on one side, to the companies, and on the other side, to the activities of the state and state aid control. Establishing a system of state aid control is also an important requirement of the integration process of countries in the European Union (EU). The Stabilisation and Association Agreement (SAA) is the main instrument through which the EU seeks to ensure the acceptance of the rules of the European common market by the countries that are potential candidates for the membership. The two basic elements of the SAA are trade liberalization, and the creation of a single market and harmonization of legislation, as an essential prerequisite for the realization of the first element. The most important sectors of adjustments relating to the functioning of the single market are competition and state aid. The Western Balkan countries assumed, among other things, the obligation of building institutions for state aid control by signing this agreement.

This paper, firstly, examines the experiences of the Central and Eastern Europe (CEE) countries which have built their systems of state aid control before the Western Balkan countries. Furthermore, in order to assess the achievements of the Western Balkan countries in this area, a

comparative - legal analysis of the system of state aid control development in Serbia, Croatia, Macedonia, Montenegro and Bosnia and Herzegovina is conducted. The results of the comparative - legal analysis provided the basis for the application of the correlation analysis and testing of interdependence between the degree of the system of state aid control development and the success of the countries in the process of integration into the European Union.

THE EXPERIENCE OF THE EUROPEAN UNION COUNTRIES IN BUILDING THE SYSTEM OF STATE AID CONTROL

The specificity of the period of the existence of the centrally planned economies was that various forms of state aid were a widely used instrument. Using the budget funds and subsidies was an essential mechanism for compensation of the losses of the companies that could not operate effectively in a non-market system. It was expected that, with the advent of the transition period to a market-oriented economy, the process of price liberalization was accompanied by a parallel reduction of subsidies. However, the decline in budgetary subsidies has led to the emergence of a series of indirect and less transparent forms of state support of inefficient firms and sectors. State aid has become an important instrument in the process of economic transformation in the most of the Central and Eastern Europe countries (Aranasiu, 2001, p. 263). Rescue and restructuring policy of enterprises in the early period of transition can be described as unplanned and non-transparent and with a strong "crisis management" (Hashi, 2004, p. 3). There was an open or hidden subsidies flow to certain companies and sectors, even after determining that many of them do not have a future in terms of a competitive market economy. Also, the experiences of the CEE countries testify about the important role of state aid in the process of privatization. There is an amazing inventiveness of states when it comes to the original scheme and the method of financing and preferential treatment of companies (Danwitz, 2008, p. 3). This way, there was a huge gap between the state aid policy in the period of transition of the CEE countries and EU state aid policy and the need to synchronize them in the pre-accession period.

The change of policy was initiated with the start of the EU accession negotiations. The intention and efforts of the CEE countries to adapt national policy to the European state aid rules date back to the entry into force of the European Agreements. In general, the conditions of the pre - accession agreement derived from the Copenhagen criteria (1993), which define the objectives that a candidate must meet before joining the EU (Schutterle, 2002, p. 585). The Copenhagen criteria means the stability of institutions, as well as the capacity to take on membership obligations (Cafaggi, Cherednychenko, Cseres, Gorywoda, Karova, & Micklitz, 2013, p. 12). In the economic sphere, these criteria require the existence of a functioning

market economy and the capacity of the country for coping with competitive pressure and market forces within the EU (Holscher & Johannes, 2004, p. 322). The European Agreements contain provisions on state aid, which closely follow the model of the Treaty on the Functioning of the European Union (TFEU) (general prohibition).

All CEE countries, candidates for the EU membership, have adopted national legislation on state aid and established national monitoring bodies between 1997 and 2001 (Blauberger, 2007). In most cases, the candidate countries and potential candidates, along the adoption of laws, formed a national body for the state aid control (Blauberger, 2009, p. 1035). The responsibilities of the national body for control are limited to the period up to the EU accession (Schutterle, 2002, p. 580). After that, these bodies transfer its authorities to the European Commission.

Establishing a system of state aid control at the national level requires a valid solution for a variety of legal, political and institutional conflicts. As the experience of the CEE countries shows, many difficulties arising from the establishment of a functioning control system are procedural (Aranasiu, 2001, p. 263). This applies particularly in determining and guaranteeing the status and competence of the bodies for state aid control. The national competent authority should have the power similar to the European Commission in the field of state aid, including the power to request relevant information, investigation, authorization of aid, monitor the existing aid schemes and order the return of illegal aid (Cremona, 2003, p. 268). A functional system of state aid control means that the right of full ex ante and ex post control must be granted and guaranteed to the body of state aid control. Ex ante control is related to the right of approval and prohibition of the proposed aid measures. Ex post control includes the right to impose suspension and recovery of illegal aid. Table 1 provides an overview of the regulatory bodies for the state aid control and its competence in the CEE countries in 2000.

State aid control was entrusted to the Ministry of Finance in two of the ten analysed countries (Bulgaria and Estonia). State aid control in four of the countries was in the hands of competition authorities (Czech Republic, Lithuania, Poland and Romania). A special body for state aid was formed only in Latvia and Slovakia. The Commission for State Aid control in Hungary was a part of the Ministry of Finance, and a part of the Ministry of Economic Affairs and Development in Slovenia. The regulatory bodies for state aid had a full ex ante control in eight of the ten analysed countries. In Hungary and Poland, its jurisdiction was reduced to giving an opinion on the legality of the proposed aid measures.

Table 1. Regulatory bodies for state aid control in the CEE countries and its controlling power (situation in 2000)

Country	Regulatory body	Competence
Bulgaria	Ministry of Finance	Full ex ante control
Czech Republic	Office for the Protection of Economic Competition	Full ex ante control
Estonia	Ministry of Finance	Full ex ante control
Hungary	Office for State Aid Monitoring (Ministry of Finance)	Right of opinion on the legality of proposed aid measures
Latvia	Commission for State Aid Control	Full ex ante control
Lithuania	Council for Competition	Full ex ante control
Poland	Office for Competition and Consumer Protection	Right of opinion on the legality of proposed aid measures
Romania	Office for Competition and Council for Competition	Full ex ante control
Slovakia	Office for State Aid	Full ex ante control
Slovenia	Commission for State Aid Control and Section for State Aid Control (Ministry of Economic Affairs and Development)	Full ex ante control

Source: European Commission, Country Reports on Progress towards Accession, <http://ec.europa.eu/>

After the last enlargement of the European Union, modelled on the analysed CEE countries, the development of the system of state aid control is becoming more important in Serbia and other Western Balkan countries. Obtaining independence and conducting market operations free from an excessive state intervention is one of the biggest challenges for these countries (Czékus, 2014, p. 52). The implementation of the system of state aid control is a binding part of the process of its integration into the European Union. The need for its development is defined by the Stabilisation and Association Agreement (SAA). The Stabilisation and Association process requires that the potential candidate and candidate countries adopt the EU approach in this area before the formal EU membership.

ASSUMPTIONS AND RESEARCH METHODS

The purpose of this research is the evaluation of the achieved results in the development of state aid control in the Western Balkan countries as a mandatory part of the integration process into the European Union. The main goal of research is to emphasize the importance of system development in the integration process of these countries.

The following hypothesis is tested in this paper in accordance with the objectives and purpose of the research:

There is a positive correlation between the degree of the system of state aid control development and performance of the countries in the

integration process into the European Union. The research is conducted by using the method of comparative legal analysis, in order to assess the achieved results of the analysed countries in the system development, and correlation analysis, in order to examine the relationship between the achieved results and successfulness of the integration process.

RESEARCH RESULTS

Evaluations of the Achieved Results in the Development of the System of State Aid Control in the Western Balkan Countries

In order to assess the achieved results and the adopted solutions in the field of system of state aid control in Serbia, we carried out a comparison of the adopted decisions, guidelines and instructions with solutions in selected countries in the region.¹ The assumption of the analysis is that the countries in the region that were among the first on the list of the potential candidates for accession to the European Union have more developed systems of state aid control. Thus, there is a correlation between the system of state aid control development and the potential time in which the country will meet all the necessary requirements and partake in this economic integration. The Western Balkan countries establish their systems of state aid control modelled on the European Union system. At the EU level, in addition to the TFEU as the basic document, the different categories of state aid are regulated by a number of secondary legislation documents.

The *Law on State Aid Control* in Serbia, as a basis for a further development and construction of the control system, came into force in 2010. The work of the Commission for State Aid Control is defined with only just a couple of rules adopted at the beginning of the establishing of the system of state aid control. The provisions of the Law are detailed in the *Regulation on Rules for State Aid Granting*. The *Reports on State Aid Granted* have been available since 2006. However, the lack of regulation that prescribes in detail the methodology of the preparation of the annual report and the deadline for the submission of the data, implies a lack of accuracy in reporting and lack of application of the EU methodology in the early years of reporting. The adoption of the *Rulebook on Methodology for Drafting Annual Report on State Aid Granted* in 2011 had a positive impact on the coverage of recent reports (2010 and 2011), as well as on the compatibility with the EU reporting standards. The rulebook prescribes: the methodology of establishing the annual report on granting state aid, the period in which providers of state aid submit data on the granted state aid to the Ministry of Finance and the deadline within which the Commission submits an annual

¹ The analysed Western Balkan countries are: Croatia, Montenegro, Macedonia, Serbia and Bosnia and Herzegovina (B&H).

report to the Government. The procedure of state aid notification is also regulated by that special regulation. Table 2 provides an overview of the adopted regulations governing the area of state aid control in Serbia.

Table 2. State aid regulation in Serbia

Year of adoption	Description	Documents
2008	Basic requirements	<i>SAA</i>
2010	General terms and control procedure	<i>Law on State Aid Control</i>
2010	Granting criteria and assessment of justification	<i>Regulation on Rules for State Aid Granting</i>
2010	The notification process	<i>Regulation on Rules and Procedure for State Aid Notification</i>
2011	The methodology and the deadlines for submitting reports	<i>Rulebook on Methodology for Drafting Annual Report on State Aid Granted</i>
2006-2011	Annual reports	<i>Reports On State Aid Granted</i>

Source: Ministry of Finance of the Republic of Serbia, www.mfin.gov.rs

Any regulation that would lead to rounding the system of control, its greater transparency and harmonization with the EU practice has not been adopted after these initial decisions. It was expected, but still not resolved, that the adopted policies and regulations would be modelled on the practice of the European Commission, more precisely in determining the conditions of granting each state the aid category. In addition, the Commission for State Aid Control has not adopted any legislation to regulate the allocation of state aid during the period of the global economic crisis, and it was regulated by a special temporary legislation at the EU level.

Croatia has the most regulated system of state aid control of all the Western Balkan countries. By signing the Stabilization and Association Agreement before any of the analysed countries, Croatia was the first to start with the fulfilment of its requirements and development of the system of state aid control. The first *State Aid Act* and the *Regulation on State Aid* were adopted in 2003, which lay the foundations for authorization, monitoring and eventual return of state aid. However, nominally meeting the provisions of the SAA by adopting a satisfactory national legislation does not mean the satisfactory implementation of the legislation (Kesner-Škreb, Pleše & Mikić, 2003, p. 325). The implementation of the legislation in practice indicated a need to change the original decision in order to comply with the EU regulations, so Croatia adopted a new State Aid Act in 2005 which is still in force and a new Regulation on State Aid in 2006. The content of the application form for state aid notification is prescribed by the Ordinance. The Croatian Government has adopted a number of individual decisions that define rules for specific sectors or rules on the granted aid for specific

purposes. Table 3 provides an overview of the state aid regulations in Croatia (before the accession to the EU).

Table 3. State aid regulation in Croatia (before the accession to the EU)

Year of adoption	Description	Documents
2001	Basic requirements	SAA
2003/2005	General terms and control procedures	<i>State Aid Act</i>
2006	Assessment of compliance with the state aid provisions of the Act	<i>Regulation on State Aid</i>
2008	Regional aid map	<i>Decision on the regional aid map</i>
2009	Publication of the rules in the "Official Gazette"	<i>Decision on the publication of a list of rules on state aid</i>
2009	General block exemption	<i>The decision on publishing general rules on the block exemption in state aid area</i>
2009	Temporary measures in the period of the global economic crisis	<i>Decision on publishing rules of temporary framework for state aid measures to support access to finance in the current financial and economic crisis</i>
2006-2013	Decisions on specific categories of state aid	<i>Decision of the Government of the Republic of Croatia²</i>
2008	Method of determining the reference interest rate	<i>Decision on publishing rules of determining the reference and discount rates</i>
2003-2011	Annual reports	<i>Annual reports on State Aid</i>
2012	Content of the application form for state aid notification	<i>Ordinance on the form and content of the notification and the method of data collection and keeping the State aid register</i>

Source: Croatian Competition Agency, <http://www.aztn.hr/>

Croatia created a regional state aid map in 2008 (Odluka o karti regionalnih potpora, 2008). This way, Croatia successfully meets one of the initial requirements of the SAA.

² Individual Government decisions determine more precisely the rules of allocating state aid for the following areas: shipbuilding sector, the rapid development of broadband networks, traffic, public service broadcasting, state aid in the form of guarantees, environmental protection, compensation of costs due to liberalization of the electricity market, steel sector, venture capital, hiring, training, financial transfers to public enterprises, regional aid, postal services, short-term export credit insurance, SMEs, fees for public services, research and development and innovation, rescue and restructuring, de minimis state aid.

Croatia is the only Western Balkan country that had specific guidelines which regulated the granting of state aid during the period of the global economic crisis, analogous to the practice of the European Commission. In those areas in which Croatia had not adopted a decision on the regulation of state aid, the European Union rules were applied. The body responsible for monitoring, prior to Croatia accession to the EU, was the *Croatian Competition Agency*, which approved and controlled the granted state aid, conducted an inventory of state aid and submitted the annual reports, as an independent legal entity.

Macedonia adopted the *Law on State Aid* in 2003, while the *Law on Amendments to the Law on State Aid* was adopted in 2006. The important change from the original legal decision is related to the allocation of responsibility for monitoring to the Commission for Protection of Competition instead of the *Commission for State Aid* (which was initially composed of three members: two proposed by the Ministry of Economy and one proposed by the Ministry of Finance). The law from 2006 was valid until 2010, when Macedonia adopted the *Law on State Aid Control*, which is still in force. The reporting procedures and procedures for assessing state aid are governed by a special regulation. When it comes to the decisions on individual categories, Macedonia adopted a special decision only for the horizontal, vertical and aid for rescuing and restructuring companies in difficulty. The overview of the adopted legislation in the field of state aid control in Macedonia is given in Table 4.

Table 4. State aid regulation in Macedonia

Year of adoption	Description	Documents
2001	Basic requirements	<i>SAA</i>
2003	General terms and control procedures	<i>Law on State Aid</i>
2006	General terms and control procedures	<i>Law on Amending and Supplementing the Law on State Aid</i>
2007	Description of the process of evaluation and description of the elements of the beneficiaries' annual report	<i>Regulation of the manner and procedure of notification of state aid, as well as the procedure for monitoring of the existing state aid</i>
2007	Decisions on specific categories	<i>Decision of the Ministry of Economy</i> ³
2010	General terms and control procedures	<i>Law on State Aid Control</i>

Source: Commission for Protection of Competition of Republic of Macedonia, www.kzk.gov.mk

³ Special decisions regulate the following categories of state aid: horizontal, regional and aid for rescue and restructuring of companies in difficulty.

Notwithstanding the relatively early adoption of the law, Macedonia, unlike Croatia, has far less developed its system of state aid control. In Macedonia, there is no separate annual report on state aid. The aggregated data on the granted aid are published as a part of the *Annual report of the Commission for Protection of Competition*. It is evident that the EU rules on the contents of the annual report are the least respected in Macedonia in relation to other analysed countries.

Montenegro adopted the Law on State Aid Control in 2009. Montenegro adopted a number of regulations which detail the procedure for reporting, assessment and records of state aid in the short period of the law implementation. There are still no decisions on individual categories of aid. The jurisdiction of monitoring is in the hands of the Commission for the State Aid Control. The first report on state aid is for 2003 and 2004, the second report (for 2005 and 2006) includes all direct and indirect subsidies, which are paid from the budget of Montenegro, the third report (2007) was based on the data provided by the state aid grantors. Montenegro has applied, in reporting, the methodology prescribed by the European Commission in the field of state aid since 2008. The overview of the regulations in the area of state aid in Montenegro is shown in Table 5.

Table 5. Regulation of state aid in Montenegro

Year of adoption	Description	Documents
2007	Basic requirements	SAA
2009	General terms and control procedures	<i>Law on State Aid Control</i>
2009	Content of the annual report on total aid	<i>Rulebook on Content of Annual Report on State Aid Granted</i>
2010	Notification process	<i>Regulation on Rules and Procedure for State Aid Notification</i>
2010	Evidence	<i>Regulation on data keeping on state aid Regulation on detailed criteria,</i>
2010	Granting criteria	<i>conditions and manner of granting state aid</i>
2003 - 2011	Annual reports	<i>Reports on State Aid Granted</i>
2012	Regional aid map	<i>Regional Aid Map Decision</i>

Source: Ministry of Finance of the Republic of Montenegro, <http://www.kkdp.me/>

In addition to Croatia, Montenegro is the only Western Balkan country which adopted the regional aid map. The gross domestic product of Montenegro is 38.67% of the EU average, and the maximum allowable aid intensity for the whole territory of Montenegro should/is not be greater than 50% of the investment. This way, the fulfilment of the obligations under the SAA concerning the area and state aid control policies in Montenegro is rounded.

Bosnia and Herzegovina is the only one of the analysed countries that failed to respond to the requirements of the Stabilisation and Association Agreement (in terms of the adoption of the Law on State Aid and the establishment of the bodies whose competence would be a system of state aid control at the country level) (Stojanović & Stanišić, 2011, p. 54). Namely, Bosnia and Herzegovina had obligation to, within two years in which the Interim Agreement with Bosnia and Herzegovina was in force (which entered into force on the 1th July 2008), adopt the mentioned law as well as to established an independent regulatory body. This obligation was not met. The lack of legal framework in Bosnia and Herzegovina until 2012 logically implied the lack of other authoritative regulations that would more closely regulate this field. The basis of the state aid control system in B&H was set at the beginning of 2012 by adopting the Law on State Aid, and then by holding the inaugural session of the Council of State Aid at the end of 2012. Adoption of the by-laws for the implementation and enforcement of the law is planned for the next period.

*Examination of the interdependence between the degree
of development of the system of state aid control and the success
of countries in the integration process*

Due to the fact that the construction of the system of state aid control is an important pre-accession obligation of the countries, the level of its development can be seen as an indicator of the success of the countries in the integration process. In order to investigate the relationship between the level of development of the system and the country's progress towards the European integration we systematize the necessary indicators in Table 6. Firstly, we give an overview of the adoption of the relevant legislation (Law on State Aid Control) in the analysed countries and rank the countries according to this criterion (1 - a country that adopted a law the first, 5 - a country that adopted a law the latest). Then, we rank them according to the degree of development of the system of state aid control (based on the results previously conducted through the comparative legal analysis). The promptness in the adoption of the relevant legislation may be an indicator of the promptness of countries in the formal fulfilling of the pre-accession commitments. On the other hand, the way of functioning of the system of state control and its level of development are essential indicators of the efficacy of the adopted laws. Hence, both criteria are selected and correlated with an indicator that examines the country's progress towards the European integration. As an indicator of the progress of the countries towards the European integration we selected the date on which the analysed countries became candidates for the membership in the European Union and rank them according to this criteria (1 - a country that has become the first candidate, 5 - a country that has become the latest candidate).

Table 6. Ranking of the Western Balkan countries according to the year of adoption of the Law, the development of the system and the date of obtaining the candidate status

	Year of the Law adoption (I)		System development (II)	European Council confirms country as a candidate (III)	
	Year	Rank of country	Rank of country	Date	Rank of country
Serbia	2010	4	3	01/03/2012	4
Montenegro	2009	3	2	17/12/2010	3
Croatia	2003	1	1	01/06/2004	1
Macedonia	2003	2	4	16/12/2005	2
Bosnia and Hercegovina	2012	5	5	/	5

The countries are ranked according to selected criteria and it allows for the calculation of the Spriman's correlation coefficient (Table 7) in order to examine the interdependence between the development of the system of state aid control and the success of countries in the process of integration into the European Union.

Table 7. Spriman's correlation coefficient of rank

		Correlations			
		I	II	III	
Spearman's rho	I	Correlation Coefficient	1.000	0.700	1.000 ^(**)
		Sig. (2-tailed)	.	0.188	.
	II	Correlation Coefficient	0.700	1.000	0.700
		Sig. (2-tailed)	0.188	.	0.188
	III	Correlation Coefficient	1.000 ^(**)	0.700	1.000
		Sig. (2-tailed)	.	0.188	.

^{**} Correlation is significant at the 0.01 level (2-tailed).

Source: Calculation of the authors (SPSS Statistics 19)

Based on the results of the correlation analysis presented in Table 7, we conclude that there is a very high direct interdependence between the year of adoption of the Law on State Aid Control (I) and the date of obtaining the candidate status (III) in the analysed group of Western Balkan countries. The results are statistically significant. The high positive correlation (correlation coefficient of 0.700) was observed between the development of the system of state aid control (II) and the date of obtaining the candidate status (III). A positive correlation coefficient of 0.700 also indicates that there is high direct interdependence between the year of the law adoption (I) and degree of development of the system of state aid control (II).

CONCLUSION

The development of the system of state aid control, as the field of competition policy, is an important segment of the pre-accession commitments of the countries in the process of integration into the European Union. The obligation of building a system for the Western Balkan countries was created by signing the Stabilization and Association Agreement. All the analysed countries, except Bosnia and Herzegovina, responded to this requests within two years since signing the Stabilization and Association Agreement, and adopted the Law on State Aid Control as well as formed an operational regulatory body for control. It is logical to expect that those countries that started among the first with the construction of the system of state aid control through signing the SAA, and then through the adoption of relevant laws, have the most advanced systems.

However, the situation is different. Croatia is the first according to the development of the system and the number of individual regulations, which regulate the particular area of the complex issues of state aid among the analysed countries. The second country, according to their system development, as well as according to the number of adopted regulations, is Montenegro. Serbia and Macedonia are lagging behind in this regard. Bosnia and Herzegovina still does not have the authoritative laws and secondary legislation in the field of state aid. Bosnia is in the beginnings of establishing the system of state aid control.

The comparative legal analysis showed that there is an inverse correlation between the level of development of the system of state aid control and the potential time required to obtain the status of a full member of the European Union. In fact, Croatia has the best organized and most developed system of state aid control among the analysed Western Balkan countries. Croatia is the only country in the region that successfully completed the process of joining the EU and became its member. It can also be concluded that the development of the system of state aid is not crucially determined by the length of the period of its development. The fact that the system does not formally meet the set of the pre-accession commitments is more of a direct consequence of the will and readiness of the authoritative actors. The system should be the functional pillar and subsystem of the wider system of competition protection in the market.

The initial assumption of the research about the existence of a positive relationship between the level of development of the system of state aid control and the success of the countries in the process of the European integration is also confirmed by the results of the correlation analysis. The countries that have been among the first to adopt the Law on State Aid Control received their candidate status also among the first. A highly positive correlation was observed between the development of the system of state aid control and the date of obtaining the candidate status.

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УПОРЕДНОПРАВНА АНАЛИЗА ПРОМЕНА У СИСТЕМУ КОНТРОЛЕ ДРЖАВНЕ ПОМОЋИ У СРБИЈИ И ЗЕМЉАМА ЗАПАДНОГ БАЛКАНА – УТИЦАЈ НА ЕФИКАСНОСТ ПРОЦЕСА ЕВРОПСКИХ ИНТЕГРАЦИЈА

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Резиме

Синхронизовани напори на пољу праћења и контроле активности предузећа на тржишту, али и државе, предуслов су постојања ефикасне политике заштите конкуренције. Државна помоћ, као облик селективне државне интервенције усмерене ка појединим предузећима, може нарушити конкуренцију на тржишту. Отуда је неопходно конституисање и доследно спровођење система контроле државне помоћи као подсистема политике заштите конкуренције. Развој система контроле државне помоћи обавезујући је део процеса интеграције земаља у Европску унију. Искуство земаља нових чланица ЕУ показује да се пре пријема у чланство мора остварити оперативна контрола државне помоћи. Успостављање овог система у земаљама кандидатима за чланство између осталог за циљ има и хармонизацију националних законодавстава са законодавством Европске уније.

У раду се методом упоредноправне анализе сагледавају постигнути резултати у развоју система контроле државне помоћи у Србији и земаљама Западног Балкана. Упоређена су институционална решења у Србији са решењима у земаљама у региону. Поређење са земаљама „добре праксе“ увек је пожељно и омогућује систематизацију препорука за правилно конципирање и изградњу транспарентног, ефикасног и предвидивог система контролисања државне помоћи. На основу резултата упоредноправне анализе, може се закључити да Хрватска има најразвијенији систем контроле државне помоћи међу анализираним земаљама Западног Балкана. Хрватска је и једина од анализираних земаља испунила све обавезе и постала чланица Европске уније. С друге стране, Босна и Херцеговина има најмање развијен, односно готово неразвијен, систем контроле државне помоћи. Резултати корелационе анализе потврдили су почетну претпоставку истраживања о постојању позитивне везе између степена развијености система контроле државне помоћи и успешности земаља у процесу европских интеграција. Земље које су раније усвојиле Закон о контроли државне помоћи раније су добиле и статус кандидата. Такође, висока позитивна међузависност забележена је између развијености система контроле државне помоћи и датума добијања статуса кандидата.