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Source: 'Annales. Ethics in Economic Life' 2014, vol. 17, no. 4, pp. 65-78

Published by Lodz University Press

Stable URL: http://www.annaesonline.uni.lodz.pl/archiwum/2014/2014_4_kondratiene_65_78.pdf

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Artykuł opublikowany w „Annales. Etyka w życiu gospodarczym” 2014, vol. 17, nr 4, s. 65-78

Wydawnictwo Uniwersytetu Łódzkiego

Stable URL: http://www.annaesonline.uni.lodz.pl/archiwum/2014/2014_4_kondratiene_65_78.pdf

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Abstract

The principle of subsidiarity can be an effective tool for adjusting economic systems and establishing the social rule-of-law concept in public organisation. In considering the usability of the principle of subsidiarity, the following aspects thereof are discussed: the role in the development of the European social model; employment in determining limits for the powers of the public and private sectors; the application in the market and planned economy systems; and the social justice function in the development of a social welfare state.

The principle of subsidiarity as an instrument for individuals' interests, balancing and adjusting in the regulation of economic systems, helps to establish the relative sizes of public policy and the market, as subsidiarity can help ensure a more equitable distribution of public goods while guaranteeing the maintenance of the creative potency of operators and minimal satisfaction of vital needs of individuals unable to contribute to the production of goods. It amounts to a constitutional measure determining the balance of productive and protective state, thus ensuring the stability of the state organisation.

In the concept of a social rule-of-law state, subsidiarity draws clear limits to the state's powers, institutionally bringing together efforts of all members of the community to achieve welfare in the state.

Keywords: the principle of subsidiarity, state governance, regulation of economic systems, the concept of social rule-of-law state

JEL Classification: H1, H4

1. Introduction

The scientific literature indicates¹ that the prerequisites for the occurrence of an economic concept of subsidiarity are related to the subsidiary transactions applied in India in the eighteenth century. The concept of those transactions is similar to the modern perception thereof and is associated with the occurrence of subsidiary liability² and the transfer of responsibilities to a third person when the principal debtor is unable to meet its obligations to its creditors. The concept of subsidiary transaction in civil law of Lithuania is related to concepts of subsidiary liability and obligation, enshrined in articles 2.50, 6.90, 6.92, 6.444, 6.773 etc. of the Civil Code of the Republic of Lithuania³. On the application of subsidiarity in the economy, major debates were raised in church bishops' encyclicals. According to E. Šiaudvytienė, the subsidiarity principle in the economy was defined in 1986 in a U.S. bishops' pastoral letter *Economic Justice for All*. Incidentally, most of the major statements of Church representatives regarding the current financial crisis also mention the subsidiarity principle (for example, the Holy See's UN representative, Archbishop C. Migliore's speech to the UN General Assembly on October 30, 2008, or the U.S. bishops' letter to the Bush administration and Congress of September 26, 2008)⁴. Subsequently, the principle of subsidiarity was started to be used both for the regulation of internal state economic structures and in the activities of transatlantic corporations in an international context.

The article aims to support the idea that besides effective regulation of a microclimate in a business (or an entity of any other legal form) through defining the forms of activity of the economic players (the smallest of which is considered to be a private equity enterprise), setting relationships based on coordination links, and distribution of duties and responsibilities of employees, the principle of subsidiarity is also able to influence the world's economies, directing them towards social welfare state development. The aim of the article is to prove that the idea of subsidiarity helps transform the world economic systems and develop socially-oriented relations of production based on the principles of humanism, thus contributing to the social development of the rule of law and its consolidation in the organisation of society. This is confirmed by historical examples and analysis of scientific literature. For instance, E. Schumacher in his work *Small is Beautiful, A Study of Economics as if People Mattered*⁵ points out that the splitting of large companies into small self-contained compounds, acting on the basis of associated

¹ P.H. Verkhan, *Predprinimatel. Ego ehkonomicheskaja funkcija i obshhestvenno-politicheskaja otvetstvennost* [An Entrepreneur. Its Economic Function and Social and Political Responsibility], Eridan, Minsk 1992, p. 28.

² Ibidem.

³ The Civil Code of the Republic of Lithuania, *Official Gazette* 2000, No. 74-2262.

⁴ E. Šiaudvytienė, *Europos Sąjungos subsidiarumo principo paradoksai*, (I) Vilnius, VšĮ "Bernardinai.lt" 2009, <http://www.bernardinai.lt/straipsnis/2009-01-29-elena-siaudvytiene-europos-sajungos-subsidiarumo-principo-paradoksai-ii/3358#form>, http://www.osjspm.org/majordoc_justicia_in_mundo_offical_test.aspx (accessed 13th September, 2009).

⁵ E.F. Schumacher, *Small is Beautiful, A Study of Economics as if People Mattered*, London 1973, pp. 205-211.

membership and constituting a 'quasi-companies' federation, in fact allows working relationships to be humanized and a creative atmosphere to be developed therein. As an example, he provides A. Sloan's company General Motors⁶, where the application of the principle of subsidiarity decentralised the management structure, leading to increased productivity and encouraging the creativeness of individuals. It is also noteworthy that, regardless of the choice of legal business form, without exception, all subjects of business activities are strictly hierarchical (employees must respect the chain of command and subordination principles), however they are reasonably believed to be 'genuine individualism and subsidiarity exponents'⁷, because they are established freely. Implication of subsidiarity provisions in enterprise management (through the definition of autonomy of employees' activities) develops a creative atmosphere in it and leads to better performance and higher company profits. The European Commission in its communiques (for instance, in the White Paper on Services of General Interest⁸) repeatedly pointed out the importance of the principle of subsidiarity to the organisation of work in the public sector. Thus, it is recognised that an enterprise shall be considered a human society, and the principle of subsidiarity shall be an ethical prerequisite in developing any business undertaking. Unlocking personal creational initiative, the promotion of acting independently as well as fair compensation for the work as a form of subsidiarity expression can develop the most favourable working conditions in any business.

The principle of subsidiarity is also applied to regulate labour relations (to balance the rights and obligations of employees and the employer). In labour law, the principle is supplemented by the provisions of solidarity, partnership, and paternalism⁹, protecting the unity of the employees, mutual assistance and support, as well as employers' care for their employees. Economic subsidiarity as a realization instrument of a fair social order is based on the principles of social welfare and justice, ensuring each person's freedom of economic activity and his safety, the right to work, fair wages, and private property ownership.

A logical, historical, systematic analysis and comparative methods are used in the article in order to reach the goal set therein. The methods allow various models of possible subsidiarity application in state organisation to be revealed, strengths and shortcomings of market and planned economies in historical and comparative aspects to be assessed, as well as the usability of subsidiarity for establishing greater social justice in society to be explored. It is no coincidence that the principle of subsidiarity is reasonably considered to be a universal process, a regulatory instrument for systems and relations. The European Union was established based on this fundamental principle of integration. This event led to the openness of states' territories, the emergence of modern society development

⁶ A. Sloan, *My Years with General Motors*, Doubleday, Garden City, New York 1964.

⁷ D.F. Terin, "Zapad" i "Vostok" v institucionalnom podkhode k civilizacini [West and East in Institutional Approach to Civilization], *Sociologicheskij zhurnal* 2001, <http://www.nir.ru/Socio/scipubl/sj/sj4-01ter.html> (accessed 2nd July, 2010).

⁸ White Paper on Services of General Interest.COM(2004) 374, 2004, p. 6, eur-lex.europa.eu/LexUriServ/site/lt/.../2004/com2004_0374lt01.pdf (accessed 12th January 2011).

⁹ P.H. Verkhan, *op. cit.*, p. 237.

concepts, regional, economic activity, and social infrastructure centres. The rapid integration of legal and economic systems allowed for the re-evaluation of the unified organisation's ability to address socio-economic problems of the citizens of the European Community as well as to choose a distinctive European social model. In this model, the 'socially oriented market economy' as 'an expression of overcoming of capital and labour'¹⁰ became the Western European states' social reality and social endeavour in many Eastern and Central European countries, requiring not only the restructuring of the economic system, but also changes in public legal consciousness. It is not accidental that the states and the governments have chosen a strategic objective to create such an economic policy that would reduce the problems of society, increase benefits and provide social welfare for all. An effective government's role in dealing with the economic problems is reflected in the following: (1) unemployment level is reduced to a minimum; (2) prices are stabilized; (3) economic efficiency improves; (4) income is distributed more equitably; (5) rapid economic growth is ensured, etc. According to prof. O. Rakauskienė, these strategic objectives for economics are raised in Lithuania as well, developing a long-term vision of coping economic problems¹¹. There is no doubt that Poland, the strategic partner and neighbour of Lithuania, aims for the same goals itself.

Thus, member states of the European Union resolved to create such a state communication and cooperation model that allowed, by developing a social concept of the rule-of-law, for the harmonization of differences in the organization of legal and economic systems of Western European and the Eastern and Central European countries, and so ensure greater social well-being of all European citizens and a more equitable distribution of the commonly created wealth across the economic space and political community organisation in the European Union.

2. Significance of the principle of subsidiarity in the intersection of economic ideologies

In liberal Western society, individual freedom of action, its autonomy and private property are recognized universal values 'because everyone has the right to act on his own choice, if that action does not interfere with the freedom of other people'¹². In the socialist order, which used to be dominant in Central and Eastern European countries, meeting the general needs and collective property were the basis for the structure of society. Liberalism, being the ideology axis of the modern Western society until the 19th century, had been 'more in line with the market

¹⁰ A. Merkel, *Europos vertybės globaliame pasaulyje*, Naujasis židinys-Aidai 2006, no. 1-2, p. 43.

¹¹ O.G. Rakauskienė et al., *Lietuvos ūkio plėtojimo ilgalaikė strategija iki 2015 metų. Organizacijų vadyba*, Sisteminiai tyrimai, Vilnius 2001, no. 19.

¹² J. Hosper, *Kas yra libertarizmas? Laisvoji rinka: skaitiniai*, Lietuvos verslininkų sąjunga, Kaunas 1992, p. 104.

functioning' principles 'than social order'¹³ laws, as individual liberty in this ideological philosophy was developed at the expense of justice, so it gradually lost its allure of values in favour of other categories integrating and correlating different ideological provisions. After the fairness of the ideas of liberalism was doubted (liberalism was criticized especially sharply by Karl Marx, whose scientific works have made a special impact on German economic policy), other ways to adjust the economic system were sought. 'That new policy framework was some middle ground between liberalism and socialism; it was a compromise system that could be called state socialism, or statism or interventionism (state intervention to economic affairs)¹⁴. So the situation at hand forced the society to set a new mechanism for economic management, one in which the state would have a significant role. According to Domas Cesevičius

present-day liberalism recognizes that where separate individuals can no longer make something, public corporations or the state have to come to their aid. Whether a state has a higher or a lower incidence, for the new liberalism it is not so much the matter of principle as much as the question of expediency (...) for liberals, a state is only a means to achieve human well-being (...) the state is only as good as the good it does for the people¹⁵.

The emergence of such political considerations helped turn the idea of subsidiarity in society into a reality. Libertarian society argued that with the aid of the principle of subsidiarity it is possible to balance the powers of the individual, society and the state, because this principle guarantees freedom of the individual, protecting him from forced integration into the team and especially from all forms of state violence. Subsidiarity was expressed in these principles: '*indubio pro libertate*' (when in doubt, for liberty) and '*soviel Freiheitwiewiemoglich, soviel Zwangalsnotig*' (as much freedom as possible, as much restraint as necessary). So the implementation of the idea of subsidiarity in social organisations demanded both personal initiatives and efforts of the general public and official authorities to address social problems. However, together, subsidiarity drew clear limits of state power – it must support only those public initiatives that exceed the possibilities of individuals or group of individuals acting independently of each other. 'The government should not alter or destroy small communities and individual initiative. On the contrary, it is required to enable them to function more effectively for social well-being and supplement their operation where a requirement of justice exceeds their capabilities'¹⁶. Any government's ultimate goal is to create an economic policy that reduces the problems of society, and increases the benefits. An

¹³ S.N. Bolshakov, *Princip subsidiarnosti v sovremennom demokraticeskom upravlenii: konceptualnye podkhody i problemy prakticheskoy realizacii* [The Principle of Subsidiarity in Modern Democratic Government: Conceptual Approaches and Problems of Practical Implementation], dissertation of the doctor of political sciences: 23.00.02 SPb., 2006, p. 372 RGB OD, 71:07-23/15, 2006, p. 10, www.lib.ua-ru.net/diss/cont/188411.html (accessed 2nd February, 2010).

¹⁴ Domas Cesevičius, compiled by V. Lukoševičius and M. Treinys, Vilnius 1998, p. 105.

¹⁵ *Ibidem*, p. 116.

¹⁶ D.J. O'Brien, J. Coleman, *One Hundred Years of Catholic Social Thought*, New York 1991, p. 20.

effective government's role in dealing with the economic problems is reflected in the following: (1) unemployment level is reduced to a minimum; (2) prices are stabilized; (3) economic efficiency improves; (4) income is distributed more equitably; (5) rapid economic growth is ensured, etc.

The principle of subsidiarity meant that decisions must be taken while taking into account the smallest community; the highest level structures shall be activated only when the need for social and political support emerges at the lowest levels of management. In this case, the state itself acts subsidiarily, as individuals' self-confidence with the support of families and charitable organizations dominates over the state, and the municipal decision-making level dominates over regional solutions, federal entities, and national- and international-level decisions.

Subsidiarity, as a principle of support for the integral nature of society, proved adequate for achieving social welfare goal in a state¹⁷ and for combining different public value attitudes. 'The principle of subsidiarity in the regulation of economic systems, as an instrument balancing and adjusting individuals' interests, helps to establish the relative size of the public policy and the market'¹⁸, therefore it has become an attractive tool for the concept of social justice (fairer distribution of produced goods) implemented in state organizations, thereby bringing closer together the ideologies of liberalism (in addition to individualism advocating the community, the common good and the provision of positive liberty¹⁹), socialism (demanding exclusive distribution of material goods according to needs) and conservatism (advocating community, collective goods and cultural value²⁰ for public life) in the development of the new concept of the state of social rule-of-law. A socially oriented market model, based on that concept, helped shift the entire European Community's social policy towards justice, and though, as German Chancellor Angela Merkel states 'European social models have yet to cope with ordeal of the challenges of common economic space and globalization'²¹, 'there will not be anybody who doubts the socially oriented market economy, social compensation, solidarity, and compensation for the risks that the individual can't even imagine'²². This model developed in Europe based on the idea of common wealth is 'good not just because it appeals to many ordinary citizens of the European Union and meets the principle of social justice, but also because it stimulates the economy and labour productivity growth, and regardless of its application in a different social order it is resistant to different types of crises and is sufficiently stable'²³.

¹⁷ Any social welfare function includes the principles of justice, which reflect the moral principles approved by the people. J.E. Lane, *Viešasis sektorius: sąvokos, modeliai ir požiūria*, Margi raštai, Vilnius 2001, p. 70.

¹⁸ *Ibidem*, p. 75.

¹⁹ A. Jokubaitis, *Liberalizmo tapatumo problema*, "Politologija" 1999/1 (13), p. 12.

²⁰ *Ibidem*.

²¹ A. Merkel, *op. cit.*, p. 43.

²² *Ibidem*.

²³ S.L. Grier, *Recept vseobshhego blagosostojanija [Recipe for General Welfare]* "Russkie chtenija". Ed.1, Collection of materials of the programme of the Institute for Public Projects, M.: «Gruppa Ekhspert», 2006, pp. 27-28.

Europe first drew attention to the significance of subsidiarity as a legislative principle with direct social purpose for the implementation of social rule-of-law state model, because it makes it possible to balance the extent of the public and private sectors' powers by setting clear limits to public participation in the market and identifying measures to influence the economy for the development of a model of socially oriented market. According to the model, in the state organisation, the public needs of the society members are individualised and personal initiative is supported, and principals of mutual assistance and support for those unable to take care of themselves are established. Subsidiarity both directly serves the public purposes and is an equivalent to the society's legal consciousness and social order. Its purpose in the regulation of economic systems is to implement the allocation of resources and public goods consistent with the provisions of public values, by a specified hierarchy, for which the relevant socio-economic institutes being completed are necessary.

Economic activity is people's right to choose whether or not to take advantage of the valuable, limited resources and meet their needs²⁴ and until these resources exist, economic institutes also function, a so-called 'long-term social practice'²⁵, helping to structure human economic activity. The economy is a basis for the development and welfare of the community representing the state, therefore the purpose of the functioning of any economic system is to ensure the opportunity for people to take advantage of goods produced. The ultimate goal of the economy is to prepare a problem solving policy, which would reduce the problems of the population and increase the benefits of the hard daily toil²⁶. In state organisation, there are two ways to reach that goal: production relations, based on market economy principles, and a planned economy, based on the redistribution of goods. Both internal and external factors affect the formation of the economic system (as well as any other system) in social organisation. Scientists exploring models of the functioning of economic systems (A. Smith, K. Polanyi, W. Eucken etc.) usually distinguish the two types of economies: 'In all ages, two main simple forms are found: ideal types of a non-exchange 'centrally managed economy' and an 'exchange economy'²⁷. They are characterized by specific concepts ensuring the functioning of the economy. A centrally governed economy is characterized by the following concepts: common (public, state) ownership, service work (service to the public and income from this work), synergy (coordination of actions), redistribution (accumulation, arrangement, and allocation), and proportionality (production, distribution and excess regulation of goods). Private (personally owned) property, hired labour (sales of labour), competition (rivalry of entities), exchange (purchase - sale), and profit (increase of goods) concepts are attributable to a market (exchange) economy.

²⁴ Eh. Dolan, D. Lindsej, *Mikroekonomika*, SPb.: Sankt-Peterburgorkestr 1994, p. 8.

²⁵ O. Alekseev, Shhedrovickij, *Prakticheskaja subsidiarnost*, "Kazanskij federalist" 2002 (4), <http://www.kaza-nfed.ru/publications/kazanfederalist/n4/stat3/> (accessed 5th April, 2009).

²⁶ P. Wonnacott, R. Wonnacott, *Makroekonomika*, Littera Universitatis Vytauti Magni, Vilnius 1994, p. 8.

²⁷ W. Eucken, *Osnovy nacionalnoj ekonomii. Die Grundlagen der Nationalökonomie*, Valag Helmut Kupper, Godesberg, 1947, pp. 126-177; Thesis, Vesna 93, vol. 1, p. 19.

The distinguishing features of these economic systems are based on the presence/absence of the concept of private ownership, as well as one of the economic activities integrating forms – exchange or distribution. A concept of private property operates in conjunction with other concepts of the market economy such as competition, exchange, hire, profit (as a performance criteria); a public-goods distribution concept functions in planned economy²⁸. Differences in Eastern (planned) and Western (market) economic organisations are revealed not only in comparing concepts of the economic systems, but also their organizing principles. In Eastern economies, the government dominates in ownership, since in this social organization ‘there is no real holder of property and civil rights’²⁹ (owner), which determines the dominance of vertical (subordinate) relations in social relationships (as opposed to the horizontal relations based on principles of partnership and subsidiarity in the Western economies)³⁰. It is no coincidence that ‘legal concept of property developed early in Western model made it independent from the government, and so made business operations independent from the state; in the Eastern model it eliminated property, and its social structure recovered as a positional-statutory hierarchy’³¹. As can be seen from the comparison of economic systems, the role of subsidiarity in a market economy is obvious, because the principle is an instrument for structuring horizontal relationships of autonomous structures (private equity companies) acting in the economic environment and institutionalising their interactions. With the aid of this instrument these subjects are grouped into a uniform (determining the specific rules) economic activity system (market). In planned economy system modelling, concepts opposite to subsidiarity are used (concentration of power, hierarchy and restriction of freedom of action), so its role here does not occur. However, in centrally managed economies, subsidiarity can help to decentralise and democratise the management systems, i.e. to reduce the public sector’s role and increase the possibilities of private economic operators in the economy, thereby freeing the individual initiatives and creative powers of the public.

In addition to the above signs, in the mentioned economies, forms of public goods production and use are different, and the organisation of property relations, recruitment mode, and models of operators’ interaction differ as well. Goods production and sales relationships, directly evolving among independent civil actors seeking to produce, sell or purchase goods or services required, become an object of the regulation of the subsidiarity principle in the economy. In a market (exchange) economy, subsidiarity creates legal presumptions for entities executing direct exchange, i.e. to produce and/or sell any items or services, to negotiate prices, production or sales conditions in the absence of direct government participation. In a planned economy, state involvement in economic relations is a neces-

²⁸ S.G. Kirdina, *Institucionalnye matricy i razvitie Rossii [Institutional Matrices and Development of Russia]*, TEZIS, Moskva 2000, pp. 58-59.

²⁹ V.V. Iljin, A. Akhiezer, *Rossijskaja civilizacija: Soderzhanie, granicy, vozmozhnosti [Russian civilization: Content, Limits, Possibilities]*, M.: MGU, 2000, pp. 31-33.

³⁰ *Ibidem*, p. 31.

³¹ *Ibidem*, pp. 31-33.

sary condition for the legality of their enforcement, but one of the major elements of subsidiarity, i.e. the subject's right to freely operate and/or choose an economic activity partner, is eliminated. In a market economy, private developers directly participate in the allocation of resources and public goods redistribution; the state performs only the optional function of 'night guard' needed to 'protect all citizens from violence, robbery, fraud, breach of contract and so on'³²; in a planned economy, the state is the exclusive subject of these economic relations involved in the allocation of resources and redistribution of public goods produced. These and other basics of economic activity describe the legal environment for the economic system's development and the functioning in the social structure, determining the intensive or extensive use of the principle of subsidiarity in a state organisation. In a market (exchange) economy, needs for values production are dictated by demand, while in a planned economy these processes are regulated by the state. Freedom of individual performance, personal initiative and self-effort to solve problems are generally not tolerated in a strong centralisation and rigorous economic planning system. It involves a complete imbalance in rights and duties (few rights, a lot of obligations).

3. The role of the principle of subsidiarity in developing the concept of a social rule-of-law state

The problem that constantly arises is how to find a balance between the public and private sector, how to standardise boundaries of public authority and the free operation of private entities, in order to not disturb the creative potency of production and function of public safety, for the economy to function giving the maximum return to the public, which takes into account the diversity of general and individual 'interests and preferences'³³. In general, government (the right to apply force) and property (the right to have goods) concepts are directly attributable to the consolidation of inequality in the organisation of the society, and develop preconditions to dispose of a variety of public resources). The principle of subsidiarity can help solve the problem. The aim of the subsidiarity principle is to guarantee state assistance (subsidy) to those market players who are not able to self-manage when they request this support. In a social rule-of-law state, this role belongs to the state (the authority acting on behalf of its citizens) regardless of the form of governance, although the importance of the role and powers given to state institutions may differ in different political orders. With the help of the principle of subsidiarity, having implemented the model of a socially-oriented market in the organisation of the state, the eternal competition of public and private sectors can be solved in the sensitive field of the harmonisation of economic interests, as the principle of subsidiarity allows the limits of operators' activities and their powers

³² R. Nozick, *Anarchija, valstybė, utopija. Socialinio teisingumo mirażas*, Eugrimas, Vilnius 1998, p. 186.

³³ J.E. Lane, *op. cit.*, p. 296.

(the institutionalisation of the power function) to be clearly defined, as well as a balance thereof to be established. Together, subsidiarity can help ensure a more equitable distribution of public goods, which is generally not adequate to the individual contributions to the production; however, it guarantees the maintenance of the creative potency of operators and minimal satisfaction of vital needs of individuals who are unable or temporarily failing to contribute to the production of goods (the social justice function). The principle of subsidiarity is the constitutional measure determining the balance of productive and protective states, i.e. the balance of the rights and obligations of producers and users of the public goods, thus ensuring the stability of the state organisation.

The need for social justice arises for any society declaring legal and moral values, therefore the state's duty is to ensure that an individual's 'inability to take advantage of their rights and opportunities for poverty or ignorance, as well as the general lack of tools'³⁴ does not limit the individual's 'freedom'³⁵ and would not precipitate him outside social welfare. Organisation of the state³⁶ is not a random collection of individuals, but an organically integrated community of people, associated in a social rule-of-law state for the common pursuit of social welfare, enabling the co-operation of intellectual and material efforts of the individuals and the state with the help of subsidiarity for the creation of general prosperity. Thus, the model of the social rule-of-law state requires that economic relations be regulated in such a way that the actors on the market would seek not only benefit for themselves, but they would also be obliged by the state to share the benefit with other people unable to take care of themselves, so creating wealth for all.

In the state of social welfare, both personal benefit and wealth received by individuals or groups of individuals, and benefit and wealth for society as a whole are important. The purpose of the state in social justice function implementation is not only 'to shape individual desires and needs', but also 'to create a social reality, which would include more than the persons acting'³⁷, for they could also receive their share of public goods satisfying their minimum (essential) needs. Such support of needs draws a clear social policy divide between market and planned economies. In the economic system with centralised management, welfare produced generally belongs to the public and is distributed to all, while in the market (exchange) economy, every market player seeks to increase profits and benefits for himself. On the other hand, in a centrally managed economy, the state government constantly adjusts the relationships of production, trade and distribution of profit and so personal initiative is stifled, therefore the welfare produced may not be enough for everybody. In a market economy, the well-being of individuals is concentrated in the hands separate individuals and others may run short of it. In order to properly balance the economic system, it is important to find the 'golden

³⁴ J. Rawls, *Teorija spravedlivosi [Theory of Justice]*, Izdatelstvo Novgorodskogo Universiteta, Novosibirsk 1995, p. 184.

³⁵ *Ibidem*, p. 184.

³⁶ The state is perceived as a social community in which a normative order is constituted. H. Kelsen, *Grynoji teisės teorija*, Eugrimas, Vilnius 2002, p. 235.

³⁷ J.E. Lane, *op. cit.*, p. 321.

mean', a suitable instrument to meet the needs of individuals and society as a whole. If the current system of social institutions is unable to cope with the emerging challenges in the society, other system-specific institutes may be used, if they help to solve the problem. The principle of subsidiarity is the most appropriate tool to regulate these systems and ensure interaction of different elements in it. A social purpose of the principle in Western societies is revealed by the function of social justice, introducing a socially oriented market model in market economy; in Eastern states it frees society members' initiatives, creating the institute of private property. Thus, the principle of subsidiarity undoubtedly becomes this regulatory instrument for the economic system, enabling society to establish balance of values or attitudes, requiring a more equitable distribution of public goods to the welfare of everybody in the state.

In the concept of social welfare, the function of the state in the economy is of a social nature, its aim is to ensure the socially equitable allocation of resources and redistribution of public goods in society with the help of legal and economic instruments. Thus, social policy implementation requires balancing the management of the economy, i.e. the subsidiary operation of public authority and private economic structures. In recognition of the state intervention in the national economy, free economic development and promotion of private initiatives must be supported as well. In this concept implemented by the state, subsidiarity with the aid of socially oriented market economy mechanisms can balance the legal position of public goods producers and individuals requiring public support, so preventing the state from taking from goods producers more than is necessary for the provision of public services in society (justice function). In addition, subsidiarity helps to maintain only the vital needs of others (that they cannot afford or if they are temporarily unable to take care of themselves) and the needs of individuals (social function), thereby stimulating the individuals to take creative action to achieve personal well-being when opportunities for that emerge. In the concept of a social rule-of-law state, subsidiarity draws clear limits to the state's powers – it should only support social initiatives 'in excess of the possibilities of an individual or group of individuals'³⁸, because the state should not 'replace or destroy small communities' and individuals' initiative. On the contrary, it must enable them to function more effectively for social well-being and supplement their operation where a requirement for justice exceeds their capabilities³⁹, institutionally bringing together all members of the community's efforts to achieve welfare in the state. As a complement to the principle of solidarity, which requires members of the society to support each other, subsidiarity supports and encourages each member of the community's initiatives to maximize their contribution to the social welfare in the state. So, with its help, social justice in society acquires not only a material but also a moral expression, helping it to achieve harmony, a balance of rights and obligations, and a diversity of views and interests in unity.

Subsidiarity, as the principle of harmonising the needs of society, constitutes an effective instrument for market legal regulation to achieve social justice and

³⁸ D.J. O'Brien, J. Coleman, *op. cit.*, p. 20.

³⁹ *Ibidem*.

effective management of the economic system in the state. Equal legal preconditions to achieve personal well-being are created for all residents of the state, while looking for a rational use of production resources to develop welfare in the state. During an economic upturn, priority is given to social justice in society; in economic recession or crisis, rational use of production resources to achieve maximum economic efficiency becomes the priority. With the help of subsidiarity, in different levels of government, according to the needs of a particular region or local community, both goals can be pursued in parallel; however, in order to prevent potential disparities in regional development, their aspiration has to be balanced at all levels of the management, ensuring coordination of policy priorities and institutional activity. Thus, there shall be a constant search for optimal forms of public interactions, which can ensure the economic well-being for everybody while creating the welfare state, and 'at every turn only time will show the feasibility and effectiveness of a certain industry's privatisation or nationalisation, development of exchange or introduction of public control over financial and material flow'⁴⁰. The principle of subsidiarity becomes an axis of implementation of social justice concepts, because it helps to meet society's needs that are constantly changing, selecting regulatory instruments consistent with the objectives: in one case, freeing the private initiative of members of society, in another case, increasing state regulation of economic relations. The principle of subsidiarity is namely aimed at maintaining the balance of a free market and a state regulated economy, helping to establish a socially oriented market economy model of state organisation.

In recognition of strong capability (and often transcending other principles' powers) of the principle of subsidiarity to regulate various processes, systems, and relations, it is important to understand the fact that 'no principle, no idea can be implemented to its final consequence. There are always a lot of principles in life and they are not really contrary to one another, as they seem in dialectical abstraction. Politics is the high art of combining principles and manoeuvring among them'⁴¹. This approach of the famous interwar Lithuanian economist D. Cesevičius proves once again the fact that there could not be any universal recipe for how to regulate social communities of people and whose principles are good for this simply because the changing environment and society relations dictate their distinctive regulatory mechanisms, depending on what priorities dominate in society and what needs and interests raise and enforce them. However, denying subsidiarity as a social and ethical value of modern society would mean denying the importance of unity, diversity, and harmony for the world community, without which humanity's existence is impossible. That is why subsidiarity becomes an essential substance for this community's existence and survival.

⁴⁰ S. Kirdina, *op. cit.*, p. 30.

⁴¹ Domas Cesevičius, *op. cit.*, p. 115.

4. Conclusions

The principle of subsidiarity in the regulation of economic systems, as a balancing and adjusting instrument of individuals' interests, helps to establish the relative size of the public policy and the market, as subsidiarity can help ensure a more equitable distribution of public goods, which is generally not adequate to the individual contributions to the production; however, it guarantees the maintenance of the creative potency of operators and minimal satisfaction of vital needs of individuals who are unable or who temporarily fail to contribute to the production of goods (the social justice function). The principle of subsidiarity is that constitutional measure determining the balance of productive and protective state, i.e. the balance of rights and obligations of producers and users of the public goods, thus ensuring the stability of the state organisation.

Europe first drew attention to the significance of subsidiarity as a legislative principle with a direct social purpose for the implementation of social rule-of-law state model. In the concept of a social rule-of-law state, subsidiarity drew clear boundaries of state power – it must support only those public initiatives that exceed the possibilities of the individual or a group of individuals acting independently of each other. 'The government should not alter or destroy small communities and individual initiative. On the contrary, it is required to enable them to function more effectively for social well-being and supplement their operation where a requirement of justice exceeds their capabilities', institutionally bringing together the efforts of all members of the community to achieve welfare in the state.

Subsidiarity supports and encourages each member of the community's initiatives to maximize their contribution to the social welfare in the state. So, with its help, social justice in society acquires not only a material but also a moral expression, helping it to achieve harmony, a balance of rights and obligations, and a diversity of views and interests in unity. Denying subsidiarity as a social and ethical value of modern society would mean denying the importance of unity, diversity and harmony for the world community, without which humanity's existence is impossible. That's why subsidiarity becomes an essential substance for this community's existence and survival.

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