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Privileges as a regulator of social and economic relations in European states in XIX century

Abstract

The paper discusses theoretical, historical and legal foundations of the institute of privileges in European states. It defines its role, social value and efficiency to regulate economic relations; identifies common and specific features of economic privileges in different countries. The historical examples of privileges are Roman immunity, Byzantine *exkusseia*, feudal immunity and a monopoly of any kind in a sense of an exclusive right which covers a certain type of activity, granted to the individual subject.

The research covers not only the history of economic privileges and general rules of their use, but also focuses on their special type (monopolies) in order to make an in-depth analysis of specific economic processes in some European countries (Germany, Great Britain, etc.). Monopoly was one of the most common types of privilege as a form of the state regalia right implementation, it proved to be effective politically and beneficial for the government.

In the XIX - early XX centuries monopolistic unions' protection in the European countries facilitated industrial output and promoted technical progress and social modernization. It is concluded that privileges are immanent to the state ability to fulfill its tasks effectively at all development stages.

Keywords: Privilege; Monopoly; Exclusive Right; Economic Relations; State

JEL Classification: K00

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Привілеї як засіб регулювання соціально-економічних відносин у європейських державах у XIX столітті

Анотація

У статті розкрито теоретичні та історико-правові засади інституту привілеїв в окремих європейських державах. Визначено їх роль, соціальну значущість та ефективність у регулюванні економічних відносин. Розкрито закономірності й особливості надання економічних привілеїв в окремих країнах. У процесі дослідження було продемонстровано історичний розвиток економічних привілеїв та спільні закономірності їх застосування в економіці, проаналізовано окремі випадки застосування привілеїв на прикладі монополій у контексті економічних процесів в окремих європейських країнах (Німеччині, Великобританії та ін.). Обґрунтовано тезу про важливість привілеїв для ефективного виконання завдань розвитку держави.

Ключові слова: привілеї; монополія; виключне право; економічні відносини; держава.

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Привилегии как способ регулирования социально-экономических отношений в европейских государствах в XIX веке

Аннотация

В статье раскрыты теоретические и историко-правовые основы института привилегий в отдельных европейских государствах, определены их роль, социальная значимость и эффективность в регулировании экономических отношений, выявлены общие закономерности и особенности экономических привилегий в различных странах. Авторами произведен анализ истории системы экономических привилегий, общих закономерностей и, на примере монополий, отдельных случаев их применения в европейских странах (Германия, Великобритания и др.). Обоснован тезис о важности привилегий для эффективного решения задач государственного развития.

Ключевые слова: привилегии; монополия; исключительное право; экономические отношения; государство.

1. Introduction

Nowadays, government economic policy in EU countries is still a very acute problem because of prolonged economic issues impacting national economies. Under democratic regime, public policy usually pursues social preferences and public choices (Larina & Kukanov, 2016); however, this is not always the case. The institute of privileges that has reflected legal inequality since the emergence of the state is a most important tool used to control social relations, and boost administrative efficiency. It has been a necessity in social, economic and political spheres for a long time.

The institute of privileges occupies a very special place in the regulation of economic relations: commercial and customs privileges and monopolies played a prominent role in economic activities of the states and influenced every sphere of social relations including development of economic institutes in all the countries worldwide. Monopoly is a specific type of economic privileges. Monopolies have had an important role of keeping balance between common good (economic expediency) and public (government) interest. From the government's point of view, it is also a major way to control the development of economic relations in certain areas. 19th century is known as the era of monopolistic imperialism perceived as the highest and ultimate point in development of capitalism. Today, in the time of economic crisis, further development of capitalist (market) relations in post-Soviet and Eastern European countries requires specific study of the impact by privileges and monopolies on economy, in particularly in their relation to government policies.

2. Brief Literature Review

In foreign literature, the nature of privileges and their economic impact were discussed by Rau (1826), Stein (1885), and Wagner (1871); the state policy of privileges in economy was studied by Bolje (1900). Several issues of privileges-monopolies interaction were raised by Levy (1914; 1924) and some other scholars.

Soviet period witnessed complete rejection of the very institute of privileges both in academic science and in economic activities, as this institute was seen as a representation of immanent economic and social inequality. Meanwhile, prior to 1917 revolution, Russian economic science contributed to the classification of laws used to contain a specific category of «privilege statutes», understood as legal acts that established certain preferences for a certain person or group of people. These cases were thoroughly studied by Trubetskoy (1917). In Imperial Russia, individual types of privileges and their role in the European economy were studied by several scholars, for example, Tarasov (1883). Many scientists studied the evolution of privileges in law at the different stages of the state development, and distinguished primary privileges, the privileges applied in different industry branches and so on (Gutnova, 1951; Leontiev, 1961). The research by Goryainov (1956) extended the understanding of *exkusseia*, and set several questions that had to be answered in order to get better insight into the Byzantine system of privileges.

At the same time, some scholars in their research opt for denial of any value to social development inherent in the institute of privileges (Kropotkin, 1990).

Privilege is a complex social phenomenon, and legal scholars are still debating about its nature and legal status. Thus, Sumenkov (2002) offers an approach to the privilege as a special part of the mechanism for social relations.

Afanasyeva (2007) investigated history of privileges, and examined development of commercial and industrial privileges as a patent law formation factor.

Morozova (1999) studied the institute of privileges with specific focus on the nature of privileges and lawmakers' expectations regarding their application.

However, there is still no systemic scientific research into the influence produced by the institute of privileges on economic relations in foreign countries (at any stage of the privilege evolution).

3. Purpose

The main purpose of this work is a comprehensive study of history of the institute of privileges in the context of its use by

the state as a tool to regulate economic relations. The study is based on the assessment of social efficiency of individual privileges in the European countries.

4. Results

In the foreign legislation, the institute of privileges has played a very important role. Since Middle Ages, the privilege had become a powerful political and economic tool in Europe where it had gradually transformed from private statute into general law. According to Vladimirov-Budanov (2005), immunities or privileges are an integral part of the history of new European nations. As acts of granting grew in numbers substantially, these acts of private nature acquired power of general law, and once an exception was turning into a general rule. Thus, individual rights of people of the upper class (the only class that can exercise all civil rights) first transformed into the general right of the whole social class, and later turned into the general law.

There are many historical examples of privileges, such as Roman immunity, Byzantine *exkusseia*, feudal immunity, or a monopoly of any kind understood as an exclusive right, covering a particular type of activity, granted to the individual subject.

Immunity (*immunitas*) in the feudal society meant the cession of certain rights of the state to a private person, the release from certain state dues, and the prohibition for governmental agents to take possession of the immunist's estate (Vasiliev, 1923).

Exkusseia is a taxation privilege that existed in Byzantium in X-XV centuries. First of all, it released the *exkusseiate*'s lands tenure (of both landlords and subordinated peasants) from state taxes (usually extraordinary ones), and excluded any possibility for state officials (such as tax collectors, judges or military officers) to get the possession of the property. In Byzantium that institute helped to create a very specific type of privileged land ownership.

In the European countries privileges were extensively applied in the feudal system. At that time, privileges used to be a distinctive feature of a subject's legal status, they were an indicator of the status within the social hierarchy, being a standard of morals and manners (i.e. established dressing, living and other standards, defined the place to be occupied in an assembly, church, etc.) (Sumenkov, 2002).

We certainly agree with Sumenkov (2002a) when he says that in the situation of continuous intestine strife privileges used to be a powerful political weapon. Seeking new allies, kings and emperors would grant cities high privileges. For example, the law of Speyer (Germany) stated that the privilege granted to the city by Heinrich V on August 14, 1111 was confirmed by Friedrich I on May 27, 1182.

One of the most important privileges in Europe was the land owners' privilege that granted them the right of political power over the population in patrimonial estates. The privilege (also called immunity) was granted in the form of the royal charter that permitted tycoons to exercise justice, collect taxes and customs duties, administer police, military, and executive functions within the entrusted territories. Sometimes the granted privilege even prohibited governmental agents to interfere in the possession.

It can be said that in different European countries privileges had specific features, which were determined by peculiarities in the evolution of feudal relations in each state. For example, according to Danilov (1948), in Germany, where immunities were most extensively applied in the period of Saxon dynasty (X-XI centuries), their evolution resulted in the development of compact immunity protected domains, which facilitated the formation of principalities.

In Great Britain full immunity was not granted as often as in Germany, here a very important role belonged to the legal immunity (Gutnova, 1951).

In Byzantium, as it has been said above, *exkusseia* (that was similar to Franconian immunity) had the form of tax exemptions (Gramenitskii, 1946).

Another example is the staple (stacking or storage) right (from German «*Stapelrecht*») that is a medieval right accorded to certain cities that required the merchants unload their goods

and display them for sale on specially allotted grounds (Stoklitskaya-Tereshkovich, 1960).

Staple right was a considerable economic privilege as it facilitated the delivery of important strategic goods to urban settlements, and was an instrument to pump up local budgets through collecting sales duties. Except for being a mean of generating income, the staple right was also an instrument of economic influence on other cities as it permitted to retain or buy out transit goods (Stoklitskaya-Tereshkovich, 1960).

Privileges were also very important for the development of feudal property, because the holders of patrimonial estates, those that were protected by immunity, could exercise their rights in full, and place the remaining free peasants under their authority.

The institute of privilege was active and performed important functions, however, it had to be applied with caution, and only when and where it was actually needed; otherwise the social inequality problems could have risen substantially.

One of the most common types of privilege is monopoly, a form of the state regalia right implementation (Larina, 2010), because it is effective politically, and is beneficial for the government.

According to Kropotkin (1990), the institute of privileges is actually able to expose the essence of the state, because it reveals true bias of the state towards certain social groups. He also notes that capital and state are two organisms that are growing simultaneously and cannot exist without one another, and stresses that never would the state have been able to get organized and gain the power it has, if it had not protected the growth of industrial and land capital. Denker (2008) considered that protection of the privileges and property of the ruling class is a «historical mission» of the state.

Whatever opinions for the role of monopolies in the European economic history might be, it is not argued that this type of economic privileges formed the foundation of the European capitalist economy in the XIX century (Larina, 2010), while the policy of applying privileges and monopolies prepared economic and industrial breakthrough in Great Britain and Germany in course of the industrial revolution.

The industrial revolution in Great Britain created most powerful manufacturing system in the world. In the first half of the XIX century its industrial output increased four times. Hundreds of big factories were built, and the country got an extended network of railroads. In 1840 Great Britain's share in the global industrial output was 45%, and it was often called a «global factory».

British domination at the world market was supported by a flexible policy of privileges. To foster trade, Great Britain used commercial privileges and introduced duty free procedure for many goods: in 1850-1860 imports and exports reached their peak (Koshelev, Orzechowski & Sinitsa, 1998).

Because of 1840-1880 industrial revolution in Germany, in 1870-1913 share of national industrial production increased six times.

Such progress is an effect of extreme concentration of production accompanied by the growth of big monopolies, mainly cartels and syndicates (Koshelev, Orzechowski & Sinitsa, 1998).

Let us investigate several monopolies in details for an example. We are going to take those that are still playing an important role in modern economies.

Table 1 shows an evidential increase in the concentration of industries and their efficiency. In 1907 the share of 506 big factories was

only 0.017% of the total number of German factories, but their share in the production of electric and steam engines was already around 32%. Krupp's factories dominated in weaponry production, while coal mining syndicate «Rheinisch-Westfälisches Kohlen-Syndikat» controlled half of coal production in the country (Koshelev, Orzechowski & Sinitsa, 1998).

Such concentration of industrial production ensured the domination of monopolies in the national economy. That trend continued in early XX century; at that time Germany had 600 monopolies, which was 10 times more than Great Britain (Koshelev, Orzechowski & Sinitsa, 1998). In 1900, the whole electric and technical industry was under the control of seven monopolist groups, while in 1907 their number reduced to four. In 1912 «Deutscher Eisenverband» concentrated almost all iron production in the country. Steel syndicates in Dusseldorf and Upper Silesia got the control over steel production (Kryvoguz et al., 1959).

Monopoly as a form of economic activities could not exist without government support. Such support included protectionist customs policy, fiscal relief, and even letters of marque and reprisal (Davis, 2005). For example, German government authorized a long-time lease of real property for industrial purposes for Krupp's benefit. Usually the state abandoned its rights in favour of inventions and granted industrial privileges to manufacturers.

In Europe, monopoly capitalism emerged not only in Great Britain and Germany, industrial leaders of the XIX century, but also in Italy and France. The principles of privileges-monopolies had been in the foundation of economy for a long time.

Figure 1 shows the development of automobile production in Italy, and the dominating position of some manufacturers - automobile «giants». Production policy of the latter made Italy the global leader in automobile industry.

In 1950s in Italy there were two other rapidly developing industrial sectors - chemical and pharmaceutical ones. For example, the government rendered every kind of assistance to «Montecatini» that occupied 85% of dye production, 63% of medical supplies and explosives, 100% of nylon and 79% of artificial rubber output (Leontiev, 1961).

European governments supported monopolies till the second half of the XX century when many states switched to the economic concept of «efficient competition». Nevertheless, even modern anti-monopoly policy in the Western Europe has

Tab. 1: Production of electric and steam engines in Germany

Year	Number of factories with more than 1,000 employees	Number of manufacturing staff (people)	Market share of industrial production on national market (%)
1895	252	448 731	25%
1907	506	954 645	32%

Source: Compiled by the authors based at Koshelev, Orzechowski & Sinitsa (1998)

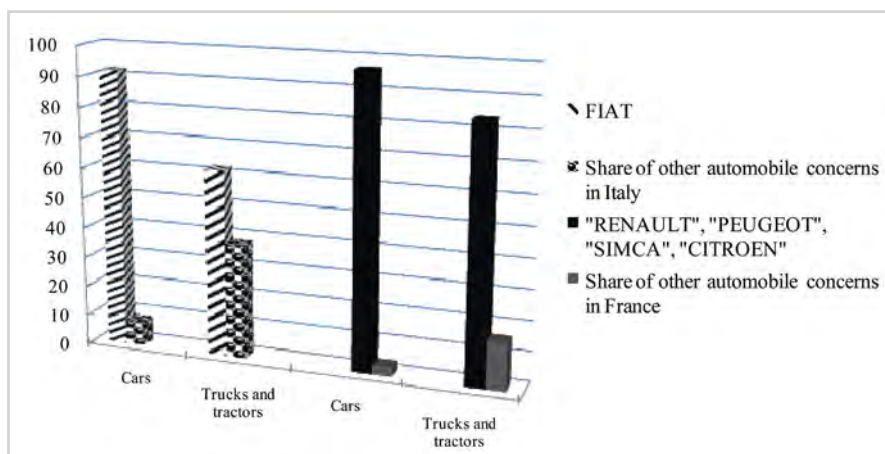


Fig. 1: Automobile conglomerates in Italy and France in 1956 (market share in %)

Source: Leontiev, 1961

some specific features: formally its aim is to protect consumers' interests, however, on the other hand, it fosters the process of production concentration and formation of major corporations, especially when it concerns scientific and engineering progress. In this sense it is often said that monopolies are playing a special role of national innovative development boosters, and thus are of public benefit.

5. Conclusion

In the XIX century, monopolistic unions formed the foundation of economy and political system as they provided financial

support to the governments and generated budget revenues. In turn, government policy of privileges guaranteed the legal basis of monopolism, shaped its legal form, and provided ideological support. In the XIX - early XX centuries monopolistic unions' protection in the European countries helped to reach very good output of industrial development, promoted technical progress and innovative development of society.

The cases under revision in this paper allow us to conclude that the policy of privileges, including monopolies, is a very important condition of a balanced development of economic relations.

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