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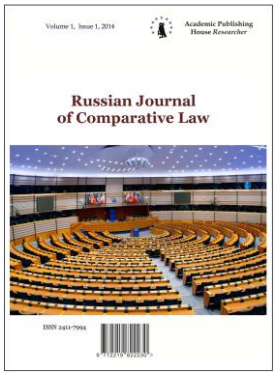

Consequences of Globalization of Law

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Abstract

This paper analyses the consequences of the process of globalization of law, as a part of the general process of globalization. In this respect, the legal and social consequences of the globalization of law are observed both at the international and national level. The few of the most singnificant consequences of the globalization of law at the international level are presented in the section on transformation of the contemporary law in the process of globalization. Considering the fact that the legal and social consequences of the globalization of law at the national level are inextricably linked, both types of consequences are presented at the same time. In doing so, various characteristics of the countries were taken into account, on the one hand those of developed countries and, on the other hand, of developing countries and undeveloped countries. The consequences of the globalization of law have been analysed through the characteristic examples in all social areas – technology, economy, politics and culture. In the field of use of technology, primarily information technology (IT), as well as biotechnology, that is technology of genetic modification of living organisms, were taken as the examples. The consequences in the field of economy are analysed through the examples of the adoption of the legal framework of the market economy, the liberal model of foreign trade and regional economic integration. For the purpose of analysing political consequences, the harmonization of national regulations with a democratic legal framework was taken as the example. In the cultural sphere, the consequences of the adoption of legal institutes on the death penalty, ban of smoking and regulation of the environmental protection were observed.

Keywords: globalization, law, international law, technology, economy, politics, culture.

1. Introduction

In order to fully comprehend the phenomenon of globalization of law, apart from determining its character, methods and causes (Dabovic, 2018). It is necessary to look at both legal and social consequences which this process brings, not only at the global but at the national level as well. Namely, one should realize that the process of globalization of law is a part of the process of globalization, as a general social global phenomenon of the modern world. All its causes and consequences, interact between each other, while the consequences becoming new causes, leading to acceleration of this process. The process of globalization has been particularly intense since the end of the 1980s, therefore, we have observed precisely this period in the research. In addition, the process of globalization directly leads to the transformation of contemporary law by its objective and subjective causes. The transformation of modern law primarily refers to overcoming the traditional classification into large legal systems of Civil Law, Common Law and Sharia law, as well

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as the classification into international law and national law and all other types of standard classifications in the contemporary law (between public international and private international law, etc.). Also, the process of globalization of law, indirectly, leads to the harmonization of law at the global level, mainly through international legal instruments, whether binding or non-binding ("soft law"), which is the greatest and most significant legal implication. These changes in law, indirectly, lead to the change in all social areas – technology, economy, politics and culture. Given that these social changes are reflected differently on individual countries, due to their different national characteristics and above all the degree of social development, the social consequences of globalization of law will be observed, taking into account the division between developed countries (the OECD member countries) on the one hand and on the other hand, developing countries and undeveloped countries. The classification into developed and developing countries with undeveloped countries is theoretical, used for the purposes of this research. Namely, within the group of developing countries, a group of countries with the fast-growing economies (Brazil, Russia, India, China and South Africa – BRICS) have reached and in some cases got ahead the developed countries.

Besides, at the national level, in the field of technology, the consequences of the implementation, or the non-implementation of adequate regulations in terms of e-business, the right to privacy and computer crime were analysed. In addition, the effects of different legislative approaches to the use of biotechnology, in particular genetic modification of living organisms (GMOs), were also analysed in this area. In the field of economy, the consequences of adopting the legal framework of the market economy, foreign trade liberalization, as well as regional economic integration were analysed. In the area of politics, the consequences of the third wave of democratization in the world were analysed, which includes the issues such as the reception of the most important international conventions in this field, as well as the issues on corruption, foreign debt and armed conflicts. In the field of culture, the consequences of the reception of legal institutes on the death penalty, ban of smoking and sustainable development based on environmental legislation were observed.

2. Methods and materials

This study is based on the previously published monography in Serbian by this author (Dabovic, 2007), with the exclusive reference books, relevant regulations, both international and national, and sources of data, as well as with the additional comments and conclusions. During the preparation of the study, the formal-legal method, method of text analysis, comparative method and statistical methods were used.

3. Discussion

3.1. Transformation of the contemporary law in the process of globalization

In the contemporary law, the process of globalization in all social areas (technology, economy, politics and culture) reflected simultaneously and generate further flow of these processes which interconnects to each other. Also, law at the global level also undergoes transformation, so that the gap between major legal systems (Civil Law, Common Law, Sharia Law) is gradually being lost, as well as between public international law and private international law, international law and national law, and all other traditional classifications of law.

Firstly, the differences between major legal systems are becoming smaller and, in some cases, it is possible to speak of a special "mixed" legal system, which raises the question of whether all legal systems have already become mixed. The most prominent example is the EU law, concerning the fact that all national civil courts of the member states must take into account the decisions of the Court of Justice of the European Union, while, on the other hand, the countries that practise Common Law must incorporate European legislation into their legal system (Frohlich, 2014).

In the field of international law, the process of globalization of law resulted in the constant development of this branch of law, starting from the end of the World War II, so that the development became extremely intense right from the beginning of the last decade of the 20th century. The development is reflected on a global and regional level, both in quantitative and qualitative terms. Namely, in the mentioned period there was a rapid increase in the number of adopted international legal documents (resolutions, conventions, decisions, etc.), principally by the UN, which declared precisely the period 1990-1999 the "decade of international law", but also at

the initiative of other global and regional governmental and non-governmental organizations (UN Resolution 44/23). In addition, two international war crimes courts (for the former Yugoslavia and Rwanda) were established, as well as the International Criminal Court, and the number of international arbitrations were increased significantly. A qualitative shift is, first of all, that, unlike the traditional system of international law, in which subjects were exclusively internationally recognized states, the jurisdiction of international law has increasingly been extending directly to individuals. Also, one can notice the trend of growing importance of the so-called soft law, or norms that are not legally binding for the countries, but which reflect the readiness of the countries to participate in the international community (Druzin, 2016).

On the other hand, under the influence of integrative changes in the process of globalization, the area of national law is experiencing a transformation towards the growing internationalization, that is, the harmonization of national regulations with the regulations at the international level, both global and regional. Thereby, the process of internationalization does not include equally all branches of law within one legal system. The most internationalized are the areas of trade, finance, electronic communications, especially internet, as well as the environmental protection (Snyder, 2002). The process of approximation of international law, on the one hand, and national law, on the other hand, is also reflected on the phenomenon of harmonization of law. Namely, during the period of modern national states there was a clear distinction between the international law and the domestic law of national states. The harmonization of law followed these parallel but independent flows: an internationally recognized sovereign state adopted an international convention by its own decision, therefore such law was incorporated in the recipient country by direct transposition or based on a special law. In the case of the adoption of law, the law was transferred from the national legislation of one state to the national legislation of another state, either in segments, that is, in specific legal norms or decisions, or completely. However, in the period of intense globalization, when a clear boundary between international law and national law is lost, the harmonization of law is achieved in the way which has elements of harmonization with international law and the reception from a national legislation. This problem may best be analysed in the case of the reception of EU law by non-member states, either by the European countries that have chosen to go through the fulfilment of conditions for joining the EU, or by European or even non-European countries which have taken a certain EU legal norm only because of its quality.

The law of the EU is, in fact, by its method of creation (based on international agreements), supranational international law of the member states. However, with the transformation of this organization into a political community and the introduction of the parliament, president, executive bodies, and other state features, as well as with the limited and defined territory, the elements of national legislation appear, the law of the EU increasingly takes on its own identity. Therefore, the reception of this law primarily by non-member countries, but also by the member states, cannot be clearly characterized as the adoption of international law, nor as the reception of foreign national law.

This is the case with many other international governmental and non-governmental organizations that initiate harmonization of law at the global level. Namely, in the frame of international law, recommendations, guidelines and models of laws (soft law) are increasingly being adopted by these organizations. Further, the norms lead to the reception of national legislation from the countries that have previously aligned their legislation with these principles to those countries that do so later. In this way, a legal norm that resulted from the international level is "nationalized" in some of the national legislations of the countries that have complied with the international law (they are most often the developed countries, which have stable state institutions and a built-in legislative apparatus). Then other countries, which are late in the process of harmonization with the given international principles (most often developing countries and undeveloped countries), would recept the finished, harmonized national legal norm.

As international law takes on a considerable importance of functioning of the modern national states within the international community, the harmonization of law is increasingly based on international law, unlike in the era of colonial conquest and the creation of modern national states with their own legal systems, which was based on the reception of national law of other states. This is, precisely, the basic distinction between the colonial and the modern way of harmonization of law.

3.2. Consequences of (non) harmonization of the legal framework for the application of new technologies

In the process of globalization, new technologies, primarily IT, but also biotechnology and other advanced technologies, lead directly or indirectly to the acceleration of this process, during which some drawbacks of the application of these technologies, or relevant regulations, may already be identified. The consequences of the reception of the legal framework regulating the application of new technologies in the recipient country depend not only on the adopted legal norms but on their adequate application and other social circumstances of the recipient country as well.

Although there are two opposing approaches in regulating the IT field in the world, one representing the United States (governance by self-regulation) and the other one representing the European Union (governance by legislation), the harmonization of the different manners of regulation has occured mainly by taking the legal norms from international legal sources (both binding and non-binding) at the international level as a result of the explosive growth of IT application. Namely, the harmonization has been achieved, among other things, in the areas of electronic business, privacy protection and computer crime, since the international business practices imposed in order to prevent the growing abuse of the Internet.

By the reception of law in the field of electronic commerce, primarily on the basis of documents prepared by the UNCITRAL, the harmonization of legislation in this field is achieved on a global level. United Nations Convention on the Use of Electronic Communications in International Contracts (2005) – 18 members; UNCITRAL Model Law on Electronic Signatures (2001) – 33 signatories; UNCITRAL Model Law on Electronic Commerce (1996) with additional article 5 bis as adopted in 1998 – Legislation based on or influenced by the Model Law has been adopted in 72 States and a total of 151 jurisdictions. Prior to the publication of these binding documents, a small number of countries had had regulations in this area, but many of them had been obsolete, or incomplete. Disparities in national regulations in this area leads to legal uncertainty in the international business. Therefore, the countries which do not have adequate legislation on e-commerce are excluded from the global market, that is, a sustainable expansion.

In the countries that have regulated electronic commerce in accordance with the international standards and the UNCITRAL law models, the volume of retail trade (B2C) generated in this way is has rapidly been increasing over the years. The share of e-commerce in total retail sales of products is in the USA in the period from 1998 to 2016 increased from about 0.2 % to about 8 % per year (United States Census Bureau, 2018).

It has been found that the development of e-commerce has a significant impact on the prices, structure of trade, the labour market and tax policy in the countries that are included in the world market in this way. However, the harmonization of measures and institutions, which is necessary to ensure an adequate environment for e-commerce, poses challenges to the legislative policy of each country, especially to developing countries, which should make major structural changes to harmonize with the international legal standards in a short period of time (Coppel, 2000).

In order to protect privacy rights of individuals in an unlimited, virtual space, it is necessary to harmonize national laws of all countries. The ease with which electronic data is transmitted across national borders allows for the protection of data to be avoided by transferring it to a third country that did not adopt such regulations. Given the inconsistency of these systems, the countries that advocate the regulation of privacy protection through national regulations (the EU and the countries that have harmonized their regulations in this area with the EU regulations) limit the exchange of data with the countries that do not have such a system, or have not yet developed any of these legal protection systems (the USA, etc.). However, since 2000, the Safe Harbour Agreement between the EU and the US Chamber of Commerce has left the possibility of overcoming this problem for IT companies from the United States (International Safe Harbour Privacy Principles). International Safe Harbour Privacy Principles consists of several decisions of the American Chamber of Commerce in order to implement the principles of protection of the right to privacy, prescribed by the special EU Directive. Therefore, the EU enact the Decision 2000/520/EC. Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequacy of the protection provided by the secure harbour privacy principles and related to frequently asked questions issued by the US Department of Commerce. However, at the request of the citizens, this Decision was abolished in 2015 by the

European Court of Justice. The creation of the new legal framework with the same goal is underway, called the EU-US Privacy Shield.

The international character of information technologies, and in particular the Internet, besides its positive sides, opens the possibility of its abuses or the occurrence of negative consequences in the form of specific criminal acts related to this area. Since this area is regulated by national regulations, the lack of regulations in a country, or the disparities in regulations with international standards, can lead to consequences in other country. Lack of international coordination and cooperation can have major negative consequences primarily on trade, but also on economy in general, as well as in the field of politics and culture, at the national or international level. This is the reason why entire sectors of the world economy, such as banking and international air transport, are largely, or even fully, on the international telecommunications networks (OUN, 1999).

Therefore, this issue is being addressed by the special international convention of the Council of Europe, by which the obligation of certain technical equipment, staff training for the use of such equipment and the establishment of special institutions (centres) for international communication is determined in the countries which accede it, in Europe and other countries in the world (Convention on Cybercrime, 2001). By the beginning of 2019, this convention was accepted in some way by 66 countries, out of which 25 are outside Europe. Also, in order to raise the level of security in developing countries, the developed countries, directly or indirectly, through their companies (Cyberbit, Cyberark, etc.), undertake technical assistance to these countries, i.e. to their governments, the private sector and citizens.

In recent years, a great debate has been developed in the world about the harmfulness of genetically modified organisms. In doing so, the public is mainly concerned about the possible consequences of consuming food containing GMOs (about which there are different scientific attitudes), as well as about the pollution of the environment or uncontrolled entry of GMOs into the environment. On the other hand, GMO companies claim that there are no health risks from GMO products. In relation to the producers-consumers, there has been a formation of different legislative policies in individual countries, ranging from liberal, through cautious too restrictive. Namely, the strongest advocates for the application of this technology, and therefore the liberal legislative policy on this issue, are the USA, Canada and Argentina, which are at the same time the largest GMO producers. The EU is at the head of the countries that prefer the cautious approach to this technology (although in France and Germany, several companies are engaged in the production of GMOs), while the restrictive policy is represented by 39 countries in the world (2015).

Although the harmonization of regulations at the global level has not yet occurred in the field of GMOs, there is an increasing awareness in the international community that this is necessary because of intensifying interconnectedness of the modern world. Consequently, the different national legislative policies led to convergence, in the direction of greater control over the use of GMOs. Namely, in the United States, a new regulation was passed at the federal level which introduces the obligation to label GMO products, while in the EU a regulation was adopted that allows Member States to bring regulations in this area that are significantly more restrictive than the EU legislation (Directive (EU) 2015/412).

3.3. Consequences of harmonization of law in the field of economy

When it comes to the globalization of law in the field of economy, the consequences of the process may be viewed in relation to finance, international trade and regional trade integration. In the field of finance, the developing countries were encouraged to carry out "structural adjustment", based on various international mechanisms, or to adopt an adequate legal framework, or certain individual legal norms. However, one may conclude that the impact of this legal framework cannot be viewed separately from other social elements in the country of the recipient. Namely, according to many empirical data, the reception of the legal framework which is promoted by international financial organizations, above all the IMF and the World Bank, should favour the developing countries that receive it, enabling them faster economic growth than other developing countries. On the other hand, it has been empirically proven that the mere adoption of an adequate concept of economic policy, or an appropriate legal framework, in itself (or even predominantly) does not produce the desired effects, but other social factors have to be taken into account (the development of infrastructure, raising the level of education, etc.).

In general, if the economic results of developing countries are to be observed in the period since the onset of the intense globalization process, the significant economic advancement of this

group of countries can be noticed. Specifically, GDP per capita in the period 1992-2017 amounted to an average of about 4.9 percent in the developing countries and about 1.9 percent in developed countries, which implies that in this long period of intensive economic globalization, or in the expansion of the legal framework of the market economy, developing countries have developed much faster than developed countries. Also, in the last five-year period (2012-2017) the GDP growth ratio per capita of developing and developed countries was favourable for developing countries (4.3 %, compared to 2.6 %). In addition, starting from 1991, the overall balance of payments of developing countries showed a deficit until 1999, and from then on, until 2017 it showed constant surplus. On the other hand, the developed countries were in constant deficits in the period from 1998 to 2014 (UNCTADSTAT).

Thus, based on the most important economic parameters, observed over a long period since the beginning of the adoption of the legal framework for the market economy, it can be concluded that developing countries have made significant progress in the economic development from developed countries. However, not all developing countries achieved the same results in this period. Namely, the data reveals that five advanced economies (BRICS) achieved an overall average GDP growth per capita higher than overall growth in developing countries (5,5 % versus 4,9 %). These countries have created a national legal framework that has allowed their economies to participate in the world market and thus significantly increased their revenues. On the other hand, countries that did not sufficiently participate in the global economy, such as the countries of Saharian Africa, recorded a smaller increase in the same period (an average of 2,9 % per year) (UNCTADSTAT).

Although the data indicate the link between the adoption of the legal framework for the market economy and the achievement of economic growth, several relevant empirical researches concluded that the economic prosperity for developing countries is not provided solely by this parameter, but rather it depends primarily on other factors.

Thus, in one IMF document it is stated that it is important to ensure that the benefits from globalization is of equal distribution. In that sense, education and training reforms should help workers acquire the appropriate skills for the development of global economy. Apart from this, the policies that extend access to finances for the poor also help, as well as further liberalization of trade that increases the export of agricultural products from developing countries. Additional programs may include providing adequate income support to alleviate the process of change, and that health care should be less dependent on continuous employment and increased healthcare contributions (IMF, 2008).

In the area of foreign trade, the total foreign trade balance of developing countries in the period 1992-2017 showed a deficit until 1998. However, it has constantly been in surplus since 1999, while in the given period, developed countries permanently showed a deficit in this area (UNCTADSTAT). The effects of the expansion of the liberalization of foreign trade in developing countries, or their adoption of an adequate legal framework, designed largely by the WTO, which has been intensified since the mid-1990s, must be viewed comprehensively, as well as in the finance field. Namely, in addition to the fact that, according to the data, it can be concluded that developing countries generally achieved economic progress in the mentioned period, all other circumstances, which do not contribute to the creation of the fair and stable world market, must be taken into account, especially in the field of agriculture. Namely, at the WTO Ministerial Conference in Nairobi in 2015, the member states adopted a historic decision to abolish export subsidies for agriculture and establish discipline with regard to the measures supporting exports with the same effect (WTO).

The economic effects of regional trade integration, that is, the harmonization of trade regulations in countries in a region are also complex and must be viewed in a wider economic and social context. Further, according to the available data, it can be concluded that the harmonization of trade regulations in a particular region, although very important for the general integration of the countries in the given region, does not lead to the intensification of regional flow of goods (or, in some cases, services, people and capital). The effects of such integration are influenced by many factors, primarily economic, but also general, of both the recipient countries and other countries within the framework of integration.

Namely, according to the data on internal and external exports and imports of the regional trade integration, several trends can be observed in the previous period: Firstly, during the period

of their existence from 2005 to 2018, regional economic integrations have substantially increased their total foreign trade (UNCTADSTAT). Secondly, although in this period, the economic cooperation within the economic regional integration has been formally developed, by extending liberalization, the share of internal exports and imports (within the integration) in the total exports and imports has not changed significantly, and in some cases has even been reduced (UNCTADSTAT). Thirdly, regional integration of developed countries, as well as regional integration in which some of the members are developed countries, make most of the total trade within the integration, but on the other hand, although being in regional integration, developing countries achieve most of their total exports and imports with the countries outside their integration (UNCTADSTAT). Finally, developing countries, if involved in the integration with other developing countries, economically incline towards developed countries, i.e. trade integration of developed countries in their region, e.g. the CEFTA countries have achieved the largest foreign trade with the EU since the beginning of this economic integration (UNCTADSTAT; Omokiniovo Efanodor, 2013).

3.4. Consequences of a democratic legal framework in the process of globalization

Harmonization of civil and political law, which in the process of globalization is achieved in a country by reception of legal norms, mainly from international legal instruments, formally leads to the establishment of a democratic legal framework. However, the implementation of the recepted law may be different. Namely, the expansion of a democratic culture is not promoted by the adoption of regulations that meet international standards, but their proper implementation is necessary too. The developed countries have a long democratic tradition and established democratic institutions; therefore, they have already adopted modern international democratic legal framework, and they have succeeded in applying these regulations adequately. On the other hand, developing countries, apart from some exceptions, they have failed to build up stable and efficient institutions and adopt a democratic culture, therefore fail to implement the democratic legal frame appropriately.

A properly implemented democratic legal framework is a political system that fully meets the political demands of its citizens, that is, a system in which citizens enjoy at least the medium level of freedom and equality, whereby citizens can check for themselves whether the state institutions follow the goals of freedom and equality in accordance with the rule of law. Therefore, for the existence of democratization in one society, it is not enough only to adopt a democratic legal framework that establishes multiparty elections and proclaim the political and civil rights of citizens, but it is necessary to: multi-party elections be held in a democratic manner; that the political and civil rights of the recipient's country's citizens are secured; as well as that there is the responsibility of political leaders towards citizens and the effective power of government.

Given the different levels of implementation of the democratic legal framework in the current democracies, according to an independent research conducted in 2017, the classification into "free" countries was established, i.e. countries in which the democratic legal framework is applied in an adequate manner, "partly free" countries (the countries where the democratic legal framework is only partially applied) and "non-free" countries (the countries where a democratic legal framework is not applied) (Freedom House, 2018). In this research, based on various indicators, it is determined in principle that democracy in the world is in crisis. Namely, out of the observed 195 countries, less than half of them (45 percent) may be characterized as "free", while 30 percent of the countries are characterized as "partially free" and even 25 percent are "non-free". However, there is a clear distinction between the developed countries and developing countries: while the first, with one exception (the USA), are almost entirely classified as "free", others are predominantly characterized as "partially free" and "non-free". In addition, the decline in the democratic level in the observed year, compared to the previous one, was recorded in only four European countries, while fifteen countries are from Africa, Asia and South America (Freedom House, 2018).

The problem of the functioning of young democracies, i.e. their adequate implementation of the adopted democratic legal framework, is most commonly the weakness of democratic institutions that should apply these regulations, which is primarily caused by corruption, i.e. the abuse of authority and infiltration of criminal elements into these institutions (Transparency International, 2018: 1). Besides this, the general social climate is important in which the rules on the protection of basic civil and political rights are applied, which primarily relates to the economic

growth, but also to the security, that is, the circumstance of the outbreak of conflicts. Based on one survey in 2018, which included 165 countries, it was observed that the political participation of the citizens, observed regionally, is best in North America and Western Europe, with an index of around 8 (out of 10), while in South America, Eastern Europe, and Asia with Australia index is around 5, and the Saharan Africa's regions, of the Middle East and Sub-Saharan Africa achieve an index of around 4. In this regard, not only was the reception of the democratic legal framework in a country was assessed, but also its adequate implementation as well, the real involvement of citizens in the political sphere of their own country (The Economist, 2018).

According to one survey of the presence of corruption in a society, out of the 180 countries and territories at the top of the list, Denmark is the least corrupt society, and the top ten countries are also: New Zealand, Finland, Singapore, Sweden, Switzerland, Norway, The Netherlands, Canada and Luxembourg. Other developed countries have low levels of corruption, while developing countries are, as a rule, more corrupt. At the very end, among the most corrupted countries there are the least developed countries. Observed regionally, the smallest corruption exists in Western Europe and the European Union, while the most corrupted is sub-Saharan Africa. Also, there is a direct correlation between the development of democracy and the existence of corruption, so that the countries with the established democracy in terms of the presence of corruption have an average score about two times better than the countries with autocratic regimes (Transparency International, 2018: 2-6).

In addition to the weakening of state institutions caused by corruption, the adequate implementation of the democratic legal framework, or the stability of "young" democracies, is largely influenced by economic development. Namely, some empirical studies have found that democracy is more stable in conditions of economic growth and low, or moderate inflation (Diamond, 2009; Roll, Talbott, 2003: 75-89). Otherwise, with the decline in economic growth and the rise in inflation, the chances of an adequate implementation of the democratic legal framework, as well as the survival of democratic order, are drastically reduced. The growing economic backlog of most of developing countries in relation to developed countries initiated a global campaign for writing off debts to poor countries by developed countries. In fact, according to the IMF and the World Bank analyses, the public debt of developing countries, especially the poorest ones, is one of the main obstacles to their further economic development (IMF, 2019).

A very important prerequisite for the development of democracy in a state is peace, because only in the conditions of adequate safety of citizens, their civil and political rights can be respected. However, it has been noted that a large number of developing countries that have adopted a legal democratic framework in the third wave of democratization since the end of the 1980s, for various reasons, have failed to implement this legislation in an adequate manner and, in this way, with the participation of other factors, gain general social progress (Huntington, 1991). Namely, it was determined that democratization in its first stages creates favourable conditions for the emergence of armed conflicts (Söderberg, Ohlson, 2003: 1). Thus, by adopting a democratic legal framework in some of the former communist countries (former Yugoslavia, the Caucasus region, Ukraine), as well as in sub-Saharan African countries, earlier ethnic tensions have been intensified, which have jeopardized the democratic process in these countries (Marshall).

3.5. Consequences of (non) reception of law based on modern system of values

Since law is a cultural phenomenon, global harmonization of law is initiated by the creation of a universal culture, but also reversibly influences on the further unification of cultural models, leading to the effect of *perpetuum mobile*. Namely, by reception of law on the issues such as the banning of the death penalty, the ban of consumption of tobacco products in public and the protection of the environment, the recipient countries with the legal norms directly adopt formal sets of values, because these provisions regulate the relationship of a society to life, health and environment. However, while developed countries have largely received international standards in these matters, developing countries are still in the process of harmonization of the national legislations. The failure to adopt modern international legal standards that promote modern sets of values brings these countries into a kind of cultural self-isolation. Namely, these issues have direct consequences to their economic and political international co-operation (e.g. non-compliance of national environmental regulations with the EU regulations may pose an obstacle to joining EU). By refusing to take legal solutions which represent modern civilizations' values, a country declares

itself unprepared for full participation in the contemporary international community, which is not a good signal for establishing international cooperation in other areas with the country.

With the reception of legal solutions to these issues, recipient countries do not, in fact, fully adopt the cultural model of a modern society, but only a cultural pattern that relates to some of the fundamental questions of the contemporary civilization. In addition to the adopted cultural models on the relations to life, health and the environment, these countries can express their cultural identity through various legal norms in many other cultural issues (marriage, gender equality, inheritance, etc.). In this way, the harmonization of law at the global level does not lead inevitably to global cultural unification, but contributes to the rapid adoption of the modern system of values by developing countries, which further contributes to their faster development and active inclusion in the international community.

Given that human life is the most significant value of the modern systems of values, the relation of a society towards the death penalty can be taken as an indicator of the process of adopting modern values. With the intensification of the globalization process, since the late 1980s, there has been a rising trend in the number of abolitionist states. Moreover, in the cases where there is inconsistent implementation of the legal institution on the abolition of the death penalty in the countries, the indicator shows that the process of adopting modern values goes "from above", which means that the value is not accepted in a given society in an adequate way, but that the abolition of the death penalty is introduced only formally.

According to the report of the UN Secretary General, for the period 1974-1978, there were 20 abolitionist countries in the world, in 14 countries the death penalty for ordinary crime was abolished, the two countries were divided, and 116 countries were retentionist. With the fall of the Berlin Wall, which marked the beginning of intense globalization, including the field of culture, many countries, former USSR members, or the Eastern Bloc, abolish the death penalty. In addition to many countries around the world, this period was characterised by the abolition of death penalty in a number of African countries, as well. Hungary and Czechoslovakia – 1990, Yugoslavia – 1992, Moldova – 1995, Azerbaijan, Bulgaria, Estonia and Latvia – 1998, Turkmenistan, Ukraine and Latvia – 1999, Albania – 2000, and Armenia in 2003 (Amnesty International).

Furthermore, developing countries in general lag far behind developed countries in terms of adequately adopting anti-smoking regulations, which can contribute to further social lagging behind of these countries. Namely, the increased mortality due to the effects of smoking causes a decrease in the social potential, the costs of treatment of the patients suffering from the effects of smoking burden the state's budget, and the absences from work due to more frequent smokers' illnesses reduce the efficiency of the economy. Thus, the overall negative consequences of non-compliance with regulations limiting the use of tobacco products, or their inadequate implementation, can be very difficult for developing countries and reduce their chances to compensate for social lagging behind in relation to developed countries. Mozambique and Namibia – 1990, Angola – 1992, Guinea-Bissau – 1993, South Africa – 1997, Ivory Coast – 2000, as well as in the Pacific region (Amnesty International).

The globalization of law also leads to the increased harmonization of national legislation in the field of environmental protection, i.e. to almost complete legal unification in this area. Analysing the constitutions, primarily the countries in transition and European countries, as well as the countries in other parts of the world, it can be noticed that most constitutions, especially the new ones, contain provisions on environmental protection. Despite many differences, some common elements are noted in these provisions. In a large number of the constitutions, the right to a certain quality of the environment is formulated as one of the basic human rights, so that these provisions are most often found in the part dedicated to the protection of basic human rights and freedoms. Along with this right, the right to information about the environment is often formulated in the constitutions, and sometimes the rights in the field of the environment are placed in the context of sustainable development (List of National Constitutions).

Apart from the constitutional provisions, the harmonization of legislation in this area also comes at the level of specific regulations related to the particular environmental issues, such as water protection, marine protection, prevention of cross-border industrial incidents, air protection, environmental risk assessment and others. Beside the detailed ever-increasing legal regulations on the environment at the international level, more and more regulations are being adopted at the

national level, both laws and by-laws, the number of which in some countries, mostly developed, is estimated to hundreds.

The failure to adopt a legal framework that promotes environmental protection can induce multiple negative indirect and immediate consequences, which can particularly be hard for developing countries, as it can slow down social growth and thus increases their lagging behind to developed countries.

4. Results

It was found that in the field of technology, the adoption of the international legal framework on the use of IT, in relation to electronic commerce, the right to privacy and computer crime, leads to the harmonization of national legislations at a global level, which creates security in international business, achieving better economic results of the countries that have adopted these regulations. In addition, there is a gradual harmonization of the different legislative approaches towards the use of GMO, therefore citizens of all countries in the world are protected in almost the same way from possible harmful effects of the use of technology. However, the lack of the adequate international regulation, prevents full protection of citizens in this area.

In the economic field, the consequences of the globalization of law regarding the reception of the legal framework of the market economy, the liberalization of foreign trade and regional economic integration may lead to the greater economic growth of the developing countries and the least developed countries, compared to the developed countries. However, for the progress to be achieved, it is not sufficient just to adopt the given legal framework, but also other, often non-economic conditions are important, which enable its better implementation.

The political consequences of the globalization of law can be perceived on the example of the third wave of democratization, that is, the adoption of an adequate legal framework. Beside positive consequences in terms of increasing respect for human rights, i.e. allowing citizens to participate in political life, there may be undesirable consequences, like increasing corruption and the outbreaks of armed conflicts as a result of political and ethnic traditional misunderstanding.

In the field of culture, it can be noticed that by reception of the regulations on the issues such as the abolition of the death penalty, the ban on smoking in public places and the protection of the environment, cultural models of life, health and the environment protection are actually adopted, which are the cultural trends of modern civilization. Therefore, the countries that have adopted these regulations are considered to be more advanced than those who have not yet done it.

5. Conclusion

In general, it can be concluded that the globalization of law leads to positive consequences in law, both internationally and nationally, and in all social areas in the countries that participate in this process. Additionally, globalization of the law initiates a number of risks, which should be avoided both in the part of the legislation and in the implementation of the adopted regulations. Namely, the globalization of law does not inevitably lead to the unification of law at a global level, but allows the transposition of only those international legal standards into national law which can lead to the achievement of benefits in all social areas.

References

Amnesty International – Amnesty International, Abolitionist and Retentionist Countries as of July 2018. [Electronic resource]. URL: https://www.amnesty.org/download/Documents/ACT 5066652017ENGLISH. pdf (accessed 30 May 2019).

Coppel, 2000 – *Coppel, J.* (2000). E-commerce: Impacts and Policy Challenges, OECD Economics Department, Working Papers. № 252, 14-20.

Dabovic, 2018 – *Dabovic, D.* (2018). Character, Method and Causes of Globalization of Law. *Russian Journal of Comparative Law*, 5(2).

Dabović, 2007 – *Dabović, D.* (2007). Globalizacija prava: Usklađivanje prava u savremenom svetu, Sužbeni glasnik i Pravni fakultet u Beogradu, Beograd.

Druzin, 2016 – *Druzin, B.H.* (2016). Why does Soft Law have any Power anyway? *Asian Journal of International Law*, 361-362.

The Economist, 2018 – The Economist (2018). Democracy Index 2018: Me too? Political participation, protest and democracy. [Electronic resource]. URL: https://www.eiu.com/public/topical_report.aspx?campaignid=Democracy2018. (accessed 30 May 2019).

Freedom in the World 2018 – Freedom in the World 2018 (2018). Freedom House. [Electronic resource]. URL: https://freedomhouse.org/report/freedom-world/freedom-world-2018 (accessed 30 May 2019).

Frohlich, 2014 – *Frohlich, A.* (2014). Are All Legal Systems "Mixed Legal Systems"?, Comparelex [Electronic resource]. URL: https://comparelex.org/2014/05/22/127/ (accessed 30 May 2019).

IMF, 2008 – IMF (2008). Globalization: A Brief Overview. [Electronic resource]. URL: https://www.imf.org/external/np/exr/ib/2008/053008.htm (accessed 30 May 2019).

IMF, 2019 – IMF (March 19, 2019). Debt Relief Under the Heavily Indebted Poor Countries (HIPC) Initiative. [Electronic resource]. URL: https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/11/Debt-Relief-Under-the-Heavily-Indebted-Poor-Countries-Initiative (accessed 30 May 2019).

International Safe Harbour Privacy Principles – International Safe Harbour Privacy Principles (1998-2000).

Huntington, 1991 – *Huntington, S.P.* (1991). Democracy's Third Wave. *The Journal of Democracy,* 2 (2).

List of National Constitutions - *List of National Constitutions* (2019). [Electronic resource]. URL: https://www.revolvy.com/topic/List%20of%20national%20constitutions&item_type=topic (accessed 30 May 2019).

Marshall – *Marshall Dr M.G.* (Ed.). Major Episodes of Political Violence 1946-2016, Center for Systemic Peace, available at: http://www.systemicpeace.org/warlist/warlist.htm (accessed 30 May 2019).

Omokiniovo, 2013 – *Omokiniovo Efanodor H.* (2013). Africa and sustainable development in the age of globalization: an old wine in a new wine skin. *Journal of Sustainable Development in Africa*, Vol. 15, № 2, P. 23.

OUN, 1999 – OUN (1999). International review of criminal policy – United Nations Manual on the prevention and control of computer-related crime, 239-240.

Söderberg, Ohlson, 2003 – *Söderberg, M., Ohlson, T.* (2003). Democratisation and Armed Conflicts, Department for Cooperation with Non-Governmental Organisations and Humanitarian Assistance and Conflict Management, 1.

Snyder, 2002 – *Snyder, F.* (2002). Economic Globalization and Law in the 21st Century, 3-4, in: Sarat, A. (ed.) (2003). The Blackwell Company to Law and Society, Blackwell Publishers, London and New York.

UNCTADSTAT – UNCTADSTAT [Electronic resource]. URL: https://unctadstat.unctad.org/ (accessed 30 May 2019).

United States Census Bureau, 2018 – United States Census Bureau (May 24, 2018), Report number E16-Estats.