

LEGISLATIVE REGIME OF THE CONTROL FUNCTION OF THE NATIONAL BANK OF SERBIA OVER COMMERCIAL BANKS

ABSTRACT: The existence of a central bank in one country is of a great importance, because the central bank controls the functioning of the financial market and its participants (banks, insurance companies, financial leasing companies, payment institutions, voluntary pension fund management companies and exchange offices), striving to comply with the law on the National Bank of Serbia in achieving the goals that are clearly and precisely defined. It achieves its goals by performing the intended functions. One of the functions performed by the NBS is reflected in the control of banks, which is the topic of this paper. The control function of the NBS is defined by both the Law on the National Bank of Serbia and the Law on Banks. The NBS performs the function of controlling banks in the process of establishing a bank, but also in the course of its operations. The process of establishing a bank, as the most important financial institution, is far more complex. The complexity of this procedure is reflected in the fact that the legislator has foreseen the procedure of obtaining preliminary approval and then obtaining a work permit. After holding the founding assembly of the bank and obtaining the obligatory consent, the bank can be registered. The control function is also represented in the fact that the bank has the obligation to submit regular and extraordinary reports

* Teaching assistant, The Faculty of Law for Commerce and Judiciary, Novi Sad, Serbia, e-mail: marija.sojevic@pravni-fakultet.info



© 2022 by the authors. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

to the National Bank. In this way, the NBS protects the financial market of Republic of Serbia from instability and crises that can cause illiquid, uncertain and illegal operations of banks.

Keywords: *The National Bank of Serbia, the NBS, central bank, banks control.*

1. Introduction

The significance of the existence of one bank as central in the state is great, because it controls the operations of all financial institutions that operate on the territory of one state and thus strives to achieve the set goals. According to the Constitution of the Republic of Serbia, the National Bank of Serbia¹ is the central bank in RS. As Šojić and Hinić, (2014) state: “The first central bank was established in 1883 under the name of the Privileged National Bank of the Kingdom of Serbia. In accordance with the changes in the name of the state and its organization, the National Bank has changed its name several times. Throughout its long history, the National Bank has operated in a variety of economic, social and international circumstances, including war events, trade, economic and financial sanctions, hyperinflation (1993-24 January 1994) and a variety of domestic and international political circumstances” (p. 146). The main goal of the NBS, which is defined by law, is to achieve and maintain price stability (Law on the National Bank of Serbia, 2003). Achieving this goal contributes to creating a favourable climate for economic growth and development within the country, and thus affects the raising of citizens’ standards and raising their purchasing power. The success of achieving the goals of the economic policy of the state, maintaining the stability of the banking system and protecting the interests of all participants in the financial market are the basic policies of the central bank based on its regulatory and control functions (Carić, Vitez, Dukić Mijatović & Veselinović, 2016, p. 109). The regulatory function of the NBS includes primarily performing activities related to the issuance of money and loans, performing activities for the account of the state as well as maintaining external liquidity, while the control function includes control activities performed by the NBS over financial market participants. In addition to the basic goal, ie achieving and maintaining price stability, the law defines two more goals which the NBS can approach only if it does not jeopardize the fulfilment of the first goal. In

¹ Hereinafter referred to as the NBS

order to achieve its goals, the National Bank performs a number of functions determined by law.²

The law stipulates that the NBS performs its control function in relation to banks in the process of issuing a work permit, but also later in the course of its operations. The aim of this control is reflected in the need to protect the financial market from insecure and liquidated legal entities, in order to prevent any instability in the financial market that could lead to a crisis. Due to the fact that the banking system is very important in the monetary and economic life of a

² The National Bank of Serbia determines and implements monetary and foreign exchange policy; manages foreign exchange reserves; determines and implements, within its competence, activities and measures for the purpose of preserving and strengthening the stability of the financial system; issues banknotes and coins and manages cash flows; regulates, controls and promotes the smooth functioning of payment operations in the country and abroad, in accordance with the law; issues and revokes operating licenses to banks, controls the solvency and legality of banks' operations and performs other activities, in accordance with the law governing banks; issues and revokes licenses for performing insurance activities, controls this activity, ie supervises its performance, issues and revokes authorizations for performing certain activities from the insurance business and performs other activities, in accordance with the law governing insurance; issues and revokes licenses for performing financial leasing activities, supervises the performance of these activities and performs other activities, in accordance with the law governing financial leasing; issues and revokes licenses and licenses for management of voluntary pension funds to companies for management of these pension funds, supervises this activity and performs other activities, in accordance with the law governing voluntary pension funds; issues and revokes payment institutions for the provision of payment services, and electronic money institutions licenses for the issuance of electronic money, supervises the provision of payment services and the issuance of electronic money, and performs other tasks, in accordance with the law governing payment services; performs activities of protection of the rights and interests of service users provided by banks, insurance companies, financial leasing providers, voluntary pension fund management companies, payment service providers and electronic money issuers, in accordance with the law; determines the fulfillment of conditions for initiating restructuring procedures of banks, ie members of the banking group and implements these procedures, decides on instruments and measures to be taken in restructuring and performs other tasks related to bank restructuring, in accordance with the law governing banks; issues and revokes payment system operators licenses for the operation of this system, supervises their operations and performs other tasks, in accordance with the law governing payment services; issues and revokes authorizations for performing foreign exchange operations, controls foreign exchange and foreign exchange operations and performs other operations, in accordance with the law governing foreign exchange operations; performs tasks determined by law, ie contract for the Republic of Serbia, without endangering the independence and autonomy referred to in Article 2 of this Law; performs other tasks within its competence, in accordance with the law.

country, the state strives to protect this system in the best possible way and ensure its smooth functioning, through strict control over the establishment and operation of the bank itself. As a legal entity that deals with deposit and credit operations (which distinguishes it from other companies), it must operate in a liquid and legal manner, and for that it is necessary to have an institution that will control its operations, which control according to our positive legislation by the NBS.

The effect of central bank control is best seen in the economic systems of countries in transition. In transition economies, the functioning of the banking system is very significant because the capital market is still in its infancy, so the basic functions in terms of capital allocation and monitoring are related to it (Bjekić, 2006, p. 35). The very fact that the functioning of modern economies requires adequate functioning of the banking system, the state is obliged to provide the necessary control, in order to prevent instability in the financial market and ensure the development of the economic system.

2. Control function of the National Bank of Serbia according to the Law on the National Bank of Serbia

The National Bank of Serbia represents the central bank in RS, which is defined as such in the third part of the Constitution, entitled “Economic organization and public finances”, which the constitution-maker pointed out its importance. The NBS is a central bank, it is independent in its work, and it is subject to the supervision of the National Assembly, to which it is responsible for its work. It is headed by a governor, elected by the National Assembly (The Constitution of the Republic of Serbia, 2006). Central or the issuing bank is a specific banking institution of the monetary system that is usually under great supervision (control) and influence of the state (Vunjak & Kovačević, 2006). The control and influence of the state is reflected primarily in the fact that the NBS is responsible for its work to the National Assembly, and is obliged to submit reports on its work. Also, all NBS officials (governor, vice-governor, council members) are elected by the National Assembly, they are obliged to submit reports on their work to the National Assembly. The organization, functions and powers of the National Bank of Serbia shall be regulated by the Law on the National Bank of Serbia.³

³ The Law on the National Bank of Serbia was passed in 2003, but it was amended several times in order to better harmonize with the laws of the European Union, bearing in mind that RS is in the process of joining the European Union and has an obligation to adjust its internal legislation. EU legislation. In this part as well, which concerns the NBS, it was necessary to approach certain amendments in order to harmonize our law with EU law as quickly and better as possible.

As already mentioned, achieving and maintaining price stability is the main goal of the NBS, but the legislator has set two more goals. By fulfilling the basic goal, which the NBS strives for, the stability of monetary policy is achieved, but also the stimulation of economic growth within the countries. The second goal is to preserve and strengthen the financial system of the state, which seeks to prevent the occurrence of inflation in the financial market, while the third goal is to implement the economic policy of the RS Government. The government conducts economic policy in such a way as to ensure economic growth and development, but also contributes to the strengthening and preservation of the financial market. When implementing the Government's policy, the NBS takes into account that the goals set by the Government, ie the tasks entrusted to it in the process of implementing the Government's economic policy, do not jeopardize the achievement of the first two goals.

The NBS, as the central bank, performs its regulatory function over financial market participants. Financial market participants include banks, insurance companies, financial leasing companies, voluntary pension fund management companies, payment institutions and exchange offices. In order to ensure the stability of the financial market, the NBS controls the work of these institutions primarily during their establishment, during their operations and finally during the termination of financial institutions. In this paper, the control function of the NBS will be focused only on banks as the most important financial institutions. The bank⁴ is a legal entity established exclusively in the form of a joint stock company. A joint stock company as a company whose share capital is divided into shares held by one or more shareholders who are not liable for the company's obligations, except in the case referred on a breach of legal personality. A joint stock company is liable for its obligations with all its assets (The Companies Act, 2011). In order for an organization to operate on the territory of the Republic of Serbia, as a bank, it is necessary to be established in the form of a joint stock company, and to have a work permit issued by the NBS. Already in this procedure (issuance of a work permit), we can see a part of the control

⁴ The term Bank comes from the Latin word "banco" which means bench (counter, in today's sense of the counter). The first modern bank, the Bank of Saint George (Casa di Sant Giorgio) was founded in 1407 in Genoa, Italy. Banking also existed in the time of ancient Babylon, Egypt, and Rome. It could be said that banking is as old as history. In the Middle Ages, when taking interest was marked as a mortal sin, people were forced to do this work secretly, away from the public eye, and primarily in Italy, money changers did this work on a bench, (in Italian "banco"), whence the name Bank.

function performed by the NBS over the bank that is being established. The bank must have its headquarters in the territory of RS, and in order to operate as a bank it must have a license to perform deposit and credit operations. Only a bank can perform deposit operations, credit operations and payment card issuance operations. In addition to these tasks, the bank performs many other tasks determined by the Law on Banks.

From banks that are established and registered in RS (so-called domestic banks) in accordance with domestic positive legislation, we also distinguish foreign banks. The Law on Banks defines the term foreign bank as follows: "A foreign bank is a legal entity with its registered office outside the Republic of Serbia which, in accordance with the regulations of the country of origin, is established and registered as a bank. bodies of that state and which perform deposit and credit operations" (Law on Banks, 2005). In order for a foreign bank to operate on the territory of RS, it must have a consent issued by the NBS. In order to obtain consent and register in the register of economic entities in accordance with the law, a foreign commercial bank must submit a handful of documents with a written request, and in order to comply with its other goal, ie preserving and strengthening the state financial system, the NBS could make a decision on giving consent or rejecting the request for giving consent. First of all, the foreign bank must submit a certificate issued by the regulatory body of the country of origin that the foreign bank has a license to operate, but also a permit to open a representative office in RS, then all information about the bank (business name, seat and status of the bank), a copy acts, data on the financial condition of the foreign bank, the decision on the appointment of the person responsible for the work of the representative office, a proposal of the name under which the foreign bank will operate, as well as the seat where the representative office of the foreign bank will be located and data on the management of the representative office. In addition to the above, it is necessary to have a certified statement of a foreign bank confirming that it assumes all obligations arising from the operations of the representative office (Law on Banks, 2005). If the foreign bank does not submit all the stated data, the NBS will refuse to issue a consent to the foreign bank for opening a representative office on the territory of the Republic of Serbia. Here, too, we can see part of the control function performed by the NBS in its work, all with the aim of protecting the stability of the financial market, the state and citizens from illiquid banks.

3. Establishment of a bank and the role of the National Bank of Serbia in establishing a bank

Given that the bank is one of the most important institutions of the financial market, the process of establishing a bank is a bit more complex. Namely, the Bank Law is applied to the procedure of founding a bank, but also the Law on Companies in the part related to the establishment of a joint stock company.⁵

The Law on Banks provides for the existence of a procedure for issuing a preliminary work permit. We could freely call this procedure the previous procedure for obtaining a work permit. With the existence of this procedure, the legislator aimed to show how important the bank is as a participant in the financial market, and that it is necessary to determine in a comprehensive way that the bank can ensure stable, safe and legal operations in order to protect financial market stability.

In order to establish a bank, it is necessary for the founders of the bank, the NBS to submit a request for obtaining preliminary approval for the establishment of the bank. When submitting this request, the founders are obliged to submit the appropriate documentation, but also to pay into the temporary account opened with the NBS the monetary part of the share capital. The founders of the bank must make the founding act of the bank, but also the draft statute of the bank, which the NBS must approve, then submit all information about the founders, their contributions to the bank, as well as the amount of shares they acquire, draft business strategy and policy for the period. of three years, as well as the activity plan for the first year of operation, the proposal of the risk management strategy and the capital management strategy, as well as the proposal of the members of the bank's management and executive board, data on persons who will participate in the bank, provided that the founders are obliged to explain on what basis those persons acquire participation. The founders of the bank are also obliged to submit a statement

⁵ One of the important differences between a bank and other companies established in the form of a joint stock company is primarily that the Law on Banks stipulates that the minimum share capital for the establishment of a bank is 10,000,000 Euros, which distinguishes it from other companies. are established in the form of a joint stock company, because the Law on Companies provided for a minimum cash capital in the amount of RSD 3,000,000 for the establishment of a joint stock company. In addition to this fact, the bank differs from other companies established in the form of a joint stock company in relation to the activities it can perform (deposit, credit operations and payment card operations), but also in relation to the establishment procedure, bearing in mind that establishment of a bank provided for the existence of a procedure for obtaining preliminary approval for the establishment of a bank.

confirming that the non-monetary capital will be transferred to the bank's founding capital, provided that the NBS may, if it deems it necessary, request the founder to submit other documents (Law on Banks, 2005). Only after submitting the said documentation, the bank enters the process of obtaining preliminary approval. The deadline for deciding is 90 days from the day of submitting the complete request.

When the bank receives this preliminary work permit, it is obliged to submit all the necessary documentation for obtaining the final work permit within 60 days, because otherwise the obtained preliminary approval ceases to be valid and the founders lose the right to re-apply in the next year. to obtain a work permit. The same rule applies if the National Bank rejects or rejects the request for preliminary approval for any of the reasons provided by law. In order to obtain the final approval for work, it is necessary for the bank, ie. the founders of the bank shall submit a request to the National Bank with the submission of all necessary documentation provided by law (Law on Banks, 2005). If it determines that the bank meets all the conditions, the NBS will issue a decision on issuing a license to the bank, otherwise the request will be rejected.

It performs the control function of the National Bank even after the issuance of the operating license, and until the moment of the bank's registration. When the bank's founders receive a decision on granting a work permit, they are obliged to schedule a founding assembly at which they are obliged to adopt the statute, appoint the president and members of the board and executive board, adopt the bank's business policy and program of activities for three years. the decision to issue the first shares. After the founding assembly is held, all the necessary documents are adopted and the president is elected as a member of the management and executive board, the founders are obliged to submit all the documentation to the NBS again for approval. After obtaining the consent, the consent with the work permit and the remaining necessary documentation that is registered shall be submitted to the register of economic entities.

4. Control function of the National Bank of Serbia according to the Law on Banks

The control function of the NBS is also defined in the Law on Banks. It is reflected in the fact that it is necessary to give consent in case a person wants to acquire ownership in the bank's capital. The consent of the NBS is required for the acquisition of ownership in the bank's capital, which would enable the acquirer 5% or more of the voting rights. Without this consent, no person

can legally acquire the right of ownership in the bank's capital, otherwise he would have to alienate that right, and he would not be able to exercise those rights that he would otherwise have had to possess the consent. Thus, the protective function is manifested, which is reflected in the impossibility of acquiring a significant or controlling interest in the share capital of the bank.

The Bank has the obligation to submit regular reports to the National Bank, but also extraordinary ones if the National Bank requires the submission of such reports. In addition, the bank is obliged to provide access to data and business documentation at any time, whether it is data that is transparent and accessible to the general public, or those that are a business secret. Persons employed in the National Bank are obliged to treat the data obtained during the control over the bank, which represent a business secret of the bank, in the same way.

The NBS can control banks directly and indirectly. By applying any form of control, the NBS actually controls creditworthiness⁶ and the legality of the bank's operations. Indirect control is the control performed by the National Bank indirectly, ie on the basis of reports submitted by the bank. The Bank is obliged to submit annual financial reports together with the external auditor's report on the bank's operations for the previous business year, within 120 days from the end of the business year. These reports, as well as extraordinary reports (if any) the bank is obliged to publish on its official website. If it is necessary to additionally check or process some data from the annual report, the NBS may determine that the bank hires an external auditor, who will perform this control. This procedure is called a separate audit of financial statements.

Direct control is the control that is carried out in the business premises of the bank itself. The Bank is obliged to provide direct control persons with direct access to all necessary documents and premises required by authorized persons of the NBS. These persons have the right to access not only the place marked as the seat of the bank, but also all other premises, organizational units, representative offices and branches from which the bank performs its activities.

Direct and indirect control of banking and non-banking financial institutions aims to ensure compliance with established standards in their operations (Golubović, 2016, p. 181). In order to ensure the most efficient and liquid operations of banks, but also to protect clients, countries and financial

⁶ The term creditworthiness comes from the Latin word "bonitas" which means good, valuable, quality. Creditworthiness is a formal and material property of a bank that makes it a safe debtor in which funds are invested. Creditworthiness is the ability to pay, the security of a particular claim, or the ability to give and pay loans. In that sense, prudential control includes the control performed by the NBS in order to ensure legal, reliable and safe operation of the bank.

organizations, the European Commission has adopted basic standards in the operation of banks called Basal III. Basel III is a comprehensive set of banking regulatory reform measures developed by the Basel Committee on Banking Supervision to strengthen regulation, supervision and risk management in the banking sector. These measures aim to improve the banking sector's ability to absorb shocks arising from financial and economic stress, regardless of the source, improve risk management, strengthen bank transparency and disclosure. The G20 approved the Basel III agreement in November 2010 and consists of several successive updates (European banking authority).

During its operations, the bank is obliged to hold regular sessions of the bank's assembly, but also extraordinary ones if necessary. Regular sessions of the bank's assembly are held at least once a year. How long the session of the bank's assembly will be during one year, when and how they will be held, the bank determines by its statute. The decision determining the convening of the general meeting of the company also determines the agenda. The Board of Directors of the bank is obliged to inform the National Bank about the date of the session of the bank's assembly, as well as about the agenda. When the NBS deems it necessary, it has the right to request that some other issues be included in the agenda of the Assembly, which the bank is obliged to do. The same rules apply to the holding of extraordinary sessions of the bank's assembly, regardless of whether the request for holding this session was submitted by the NBS, the board of directors or any other body of the bank authorized to convene an extraordinary meeting, whether this request was submitted by the shareholders. In addition to the possibility to include in the agenda the relevant issues that are important for the bank's operations, the NBS has the right to determine the person who will attend the session of the bank's assembly. The representative of the National Bank does not have the right to vote at the assembly, but he has the right to ask questions to shareholders.

In the process of performing control, the NBS has the right to apply appropriate measures in order to eliminate irregularities in the operations of banks, which may endanger the stability of the financial system.

5. Imposition of measures by the National Bank of Serbia in the procedure of bank control

Considering that the law stipulates that the National Bank has the right to impose appropriate measures in the procedure of control over banks, we can conclude that the NBS is entrusted with the performance of certain administrative tasks. Having in mind that the Law on General Administrative

Procedure is applied to the procedure of control of banks, but also other financial institutions, we can conclude that the legislator of the NBS has brought it under the administrative body. Our legal writers, who in administrative-legal theory have considered or only lightly touched on this question of whether the NBS is an administrative body, have conflicting opinions. As Bačanin (2007) points out, "Numerous state and non-state bodies and organizations appear in the legal system of Serbia as executors of administration, where the state administration consists of state administration bodies and special (administrative) organizations, and public administration - state administration bodies and organizations, state non-governmental bodies (Government of the Republic of Serbia, National Assembly of the Republic of Serbia, President of the Republic of Serbia and courts), independent state non-governmental organizations (National Bank of Serbia) and non-state executives (companies, institutions and other non-state organizations, territorial autonomy bodies and local self-government bodies). Only for administrative bodies, performing an administrative function is the basic or main activity. For other executives, the administrative function is a secondary, auxiliary or ancillary activity. The National Bank of Serbia is undoubtedly the executor of the administration" (p. 43). Most of the authors consider the NBS a non-governmental organization, while a smaller number include it in the state apparatus, treating it as a state organization, mostly, or a state body, exceptionally (Bačanin, 2007, p. 44). We are of the opinion that the NBS still represents an administrative body, bearing in mind that it performs part of the administrative function reflected in the authority given to it in the Law on Banks to impose appropriate measures if it finds that there are certain irregularities in the bank's operations financial market.

After the control procedure over the bank, The NBS has the possibility, if it determines that there are irregularities in the bank's operations, to impose appropriate measures. There are three types of measures available: written warning; issuing orders and measures for elimination of irregularities; revocation of the bank's operating license.

When the National Bank determines that there are irregularities in the work of the bank, but they are not such as to endanger the financial condition of the bank, it shall issue a written warning to the bank in which it leaves a deadline to eliminate the deficiencies. If the bank does not eliminate the deficiencies in operations due to which a written warning was issued, the NBS has the right to issue an order or measure, all in order to eliminate irregularities in operations and maintain the bank's financial condition at the level necessary for its safe and legal operations. However, when there are

deficiencies that significantly jeopardize the financial condition of the bank and its future safe and liquid operations, then the NBS has the right to issue to the bank some of the numerous orders and measures prescribed by the Law on Banks. What measure will be imposed on the bank depends on the type and amount of irregularities that were determined in the bank's control procedure.

The strictest measure that the NBS can impose on a bank is the measure of revoking the work permit. The imposition of this measure may occur when it is determined that there are such irregularities in the bank's operations, which have led to the deterioration of the bank's financial condition, and the bank cannot continue with liquid operations due to such irregularities. The reasons for revoking a work permit do not always have to be of a financial nature. The bank's work permit may be revoked if it is determined that the work permit is based on facts that are not true, but even if the bank violates the regulations, the company's members withdraw their roles, the bank does not start performing activities within 60 days from the date of enrolment. register of economic entities, etc. (Law on Banks, 2005).

The purpose of imposing measures is to try to "save" the bank, ie to provide it with further operations with as few losses as possible, but also to preserve stability in the financial market. In that sense, the NBS strives to impose the mildest possible measures, having in mind the irregularities it finds in the bank's control procedure. When it issues measures and orders or when it revokes the bank's work permit, it does so by making a decision. The bank has no right to appeal against this decision, because the decisions of the NBS are final. In any case, the bank may initiate an administrative dispute against the decision in which the court can only determine whether the decision of the National Bank is legal or not, and on the merits it cannot decide because the National Bank is competent for that (Law on Banks, 2005).

6. Conclusion

From all the above, we can conclude that the legislator aimed to show the importance of the bank as a participant in the financial market, bearing in mind that it provided for a far more complex procedure for establishing a bank. The central role in the establishment of the bank is played by the NBS, as the central supervisory body, which controls the entire process of establishing the bank, but also its operations. In that control procedure, it has the discretionary right to impose appropriate measures on the bank in order to ensure liquid and legal operations of the bank and thus protect the stable functioning of the financial market. In the process of establishing a bank,

the central bank performs preventive control in terms of determining the fulfilment of all conditions for the establishment of the bank itself.

After the establishment and registration, and when the bank starts performing its activities, it is obliged to submit regular and extraordinary reports to the National Bank, which prevents performing activities contrary to laws, but also regulations issued by the National Bank of Serbia, and standards and business policy of the bank. When the existence of any irregularities is determined in the control procedure, the National Bank has the right to issue appropriate orders and measures, but also to revoke the work permit in order to prevent any negative consequences on the market. Having in mind that the legislator foresaw far stricter conditions for the establishment, but also the operation of the bank, we can conclude that this was done with the intention to protect the financial market from instability and crises caused by illiquid and illegal operations of the bank. In the procedure he envisaged, the legislator did his best to ensure security in the operations of banks, and to ensure the achievement of the goals of the National Bank of Serbia.

Bajčetić Marija

Pravni fakultet za privredu i pravosuđe, Univerzitet Privredna akademija u Novom Sadu, Srbija

LEGISLATIVNI REŽIM KONTROLNE FUNKCIJE NARODNE BANKE SRBIJE NAD POSLOVNIM BANKAMA

REZIME: Ogroman je značaj postojanja centralne banke u jednoj državi, jer centralna banka kontroliše funkcionisanje finansijskog tržišta i njegovih učesnika (banke, društva osiguranja, davaoca finansijskog lizinga, platne institucije, društva za upravljanje dobrovoljnim penzijskim fondovima i menjačnica), težeći da, u skladu sa Zakonom o Narodnoj banci Srbije, ostvari ciljeve koji su jasno i precizno definisani. Ciljeve ostvaruje obavljanjem predviđenih funkcija. Jedna od funkcija koje obavlja NBS ogleda se u kontroli banaka, što je i tema ovog rada. Kontrolna funkcija NBS je definisana kako Zakonom o Narodnoj banci Srbije, tako i Zakonom o bankama. NBS funkciju kontrole banaka obavlja u postupku osnivanja banke, ali i u toku njenog poslovanja. Postupak osnivanja banke, kao

najznačajnije finansijske institucije, je daleko složeniji. Složenost ovog postupka ogleda se u tome što je zakonodavac predvideo postupak dobijanja preliminarog odobrenja, zatim dobijanje dozvole za rad, te nakon održavanja osnivačke skupštine banke i pribavljanje obavezne saglasnosti, a radi registracije banke. Kontrolna funkcija se ogleda i u činjenici da banka ima obavezu podnošenja redovnih i vanrednih izveštaja Narodnoj banci. Na ovaj način NBS štiti finansijsko tržište Republike Srbije od nestabilnosti i kriza koje može izazvati nelikvidno, nesigurno i nezakonito poslovanje banaka.

Ključne reči: Narodna banka Srbije, NBS, centralna banka, kontrola banaka.

References

1. Bačanin, N. (2007). O pravnoj kontroli upravne funkcije Narodne banke Srbije [On the legal control of the administrative function of the National Bank of Serbia]. In: Bejatović, S. (prir.), *Pravni sistem Srbije i Evropske unije i Saveta Evrope: knjiga II* [The legal system of Serbia and the standards of the European Union and the Council of Europe: book II] (pp. 41–78). Kragujevac: Pravni fakultet Univerziteta u Kragujevcu, Institut za pravne i društvene nauke
2. Bjekić, Z. (2006). Banke kao privredni subjekti u savremenim tržišno-ekonomskim uslovima [Banks as economic entities in modern market and economic conditions]. *Pravo teorija i praksa*, 23 (1-2), pp. 31–44
3. Carić, S., Vitez, M., Dukić Mijatović, M. & Veselinović, J. (2016). *Privredno pravo* [Commercial Law]. Novi Sad: Fakultet za ekonomiju i inženjerski menadžment
4. Čolić, B. (2007). Poslovanje banaka i Narodne banke Srbije, funkcije i odnosi [Business of banks and the National Bank of Serbia, functions and relations]. *Pravo i privreda*, 44 (9-12), pp. 61–74
5. Evropsko nadzorno telo za bankarstvo [European banking authority]. Downloaded 2021, December 15 from <https://www.eba.europa.eu/regulation-and-policy/implementing-basel-iii-europe>
6. Golubović, S. (2016). Kontrolna funkcija Narodne banke Srbije [Control function of the National Bank of Serbia]. *Zbornik radova Pravnog fakulteta u Nišu*, 55 (74), pp. 175–187
7. Zakon o bankama [Law on Banks]. *Službeni glasnik RS*, br. 107/05, br. 91/10 i 14/15

8. Zakon o Narodnoj banci Srbije [Law on the National Bank of Serbia]. *Službeni glasnik RS*, br. 7203, br. 55/04, 85/05 – dr. zakon, 44/10, 76/12, 106/12, 14/15, 40/15 – odluka US i 44/18
9. Zakon o privrednim društvima [Law on Companies]. *Službeni glasnik RS*, br. 36/11, 99/11, 83/14 – dr. zakon, 5/15, 44/18 i 91/19
10. Pljakić, Lj. (2015). Diskreciona ovlašćenja u upravnim aktima Narodne banke Srbije u vršenju kontrolne funkcije nad poslovnim bankama [Discretionary powers in the administrative acts of the National Bank of Serbia in performing the control function over commercial banks]. *Pravni život*, 64 (10), pp. 221–235
11. Šojić, M. & Hinić, B. (2014). 130 godina Narodne banke Srbije 1884-2014 [130 years of the National Bank of Serbia 1884-2014]. *Bankarstvo*, 43 (3), pp. 138–151
12. Vunjak, N. & Kovačević, Lj. (2006). *Bankarstvo: bankarski menadžment* [Banking: banking management]. Bečej: Proleter ; Subotica: Ekonomski fakultet