

RE-ESTABLISHING NATIONAL IDENTITY ON THE GLOBAL SCENE. AN ECONOMIC ANALYSIS APPROACH TO CONSTITUTIONAL REFORM – IS THIS NECESSARY?

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Abstract: The modern world showcases plenty instances of successful companies, as well as failing national establishments. Private actors owe their achievements to several good practices, while troubled states are certainly facing difficulties at several levels and in many key areas. Some countries, ours included, are nimble enough to choose their fate, but an economic analysis of law is crucial to the success of the endeavor. Should we use extrapolation methods to try and solve some of the shortcomings that public entities are confronted with? And if so, how do we go about the process? What are the lessons that can be taught by organizational culture to macro sovereign structures? I tackle the perplexing prerequisites of self-discipline and drive, as well as explore the deep nexus between strategic planning and successful strategies. Ultimately, by harnessing competitive edges in a manner infused with targeting and monitoring performance, and by implementing business continuity planning practices and applications of sustainability concerns, causalities can be achieved and the grey areas between hazardous and warranted results cleared.

Keywords: legal system; sovereign identity; constitutional reform; economic analysis of law; organizational culture.

1. Introduction

Some entities function significantly better than others. Their success is not correlated with variables such as size, complexity of business models or of the outputs produced (although these factors do play a significant role in the strategic choices that have to be made in the process of development), but can be attributed to efficient performance. The everlasting craving and hunt for this essential efficient performance is in turn fueled by competition. As competition became significantly more obvious and fierce throughout the world in the decades following the end of the Cold War, we reached a point where companies and countries are bound by its rules, and the only remaining viable option is understanding and becoming better at playing according to them. (Porter, 2008, p. 7)

Today, and especially for the purposes of this paper and the broader field of study to which it belongs, the distinction between nation players and national players is of minimal importance. Ultimately, they are both bases of cooperation, as well as legal entities.

As areas of interaction directed to the achievement of specific goals, they are founded upon legal documents. Nation players are organized according to their constitutions. In democratic systems, the right to elect leaders and to prescribe constitutional provisions is one intimately bound with the citizens. Therefore, it has been noted that as many people as possible should be involved in crafting a constitution (representative of the political and socio-economic environment and national specificities), for the latter to represent a true reflection of their ideals, values and interests. This reasoning adds that such a national framework will be embraced, respected and safeguarded by its creators and beneficiaries, because if the citizens generally understand and accept its provisions through involvement and a general sense of attachment, they will confidently feel the inner need to do so. (Odoki, 1991, pp. 1-2) At the same time, any national player is structured according to a corporate charter. In Romania, the New Civil Code defines it as the agreement through which two or more entities agree to cooperate and share money, goods, services, know-how with the

purpose of splitting profits or benefiting from economies of scale pursuing specific endeavors. (Păun, 2013, p. 108) The functional compatibility of all these organizations extends to their ideals, to their goals and to their activities as well. Economic and financial successes or failures affect them comparably.

Legal entities have an autonomous existence, are endowed with legal rights/ duties and bound to legal and moral purposes (in accordance with the public interest). According to articles 187-188 of the Romanian New Civil Code, the State is a clearly recognized legal entity. National enterprises can be legal entities or their associates can substitute the lack of status. Therefore, in either case, these structures enjoy legal support. (*Ibidem*)

By outlining the compatibility between States and corporations from a structural standpoint, as well as a functional one, the recommendation to use extrapolation methods in order to identify and solve some of the shortcomings that public entities are confronted with becomes an almost obvious choice of action. Let us continue with a more in-depth understanding of key areas worth juxtaposing.

2. Reference practices in the private sector

In order to develop any organization, two of the main tasks to be undertaken are the creation and subsequent adherence to a growth strategy. This should be a sketch that succinctly explains how the company will make future resource allocation decisions, in ways that allow it to achieve its expansion objectives. (Thakor, 2011, p. 48) The author splendidly highlights the fact that growth is a concept with similar meaning whether we analyze it in conjunction with individuals, corporations or countries. Such growth can represent economic development, improving the quality of or expanding the range of produced goods and services, or a rebranding that repositions the entities for subsequent growth. In any case, the only alternative to development is stagnation, and the second state is deadly in the long run. (*Idem*, pp. 4-5)

As the book's title "The Four Colors of Business Growth" suggests, there are just as many main types of strategies that successful companies employ, in order to gain a competitive advantage in growth. Each of these, suggestively dubbed Collaborate, Control, Compete and Create is backed by a specific set of characteristics, values and is subject to an optimum leadership style. (*Idem*, pp. 19-25) Their brief study reveals the significant obstacles our country would face in the design of a long-term national development strategy – currently non-existent, even though its necessity is implicitly acknowledged. (Government, 2013, p. 131) These problematic issues are choosing the primary type of growth strategy to be pursued, and to the inevitable extent that a country development strategy transcends any singular type of tactic, the leadership has to be able to mitigate the consequences. (Thakor, p. 22)

Choices as those presented above presuppose a good understanding of an organization's competitive advantage, of its edge. The modern theory of national competitiveness focuses solely on efficient productivity (of the workforce and capital), as this is the variable that allows for living standards to constantly rise. (Porter, p.148) The workforce and capital are best employed in specific areas of the economy, where these variables are qualified to outperform other competitors in the global market, where they are supported by a strong national demand, where auxiliary industries that are also competitive on an international scale support their activity, and where a competitive environment constantly forces their standards and performance to increase. (*Idem*, pp. 153-154)

Following a successful determination of the competitive assets and of the appropriate strategic cocktail to complement them, the management has to constantly monitor success and risk factors. This ongoing procedure could allow for timely responses to changes in the

business environment, for adjustments in the international financial portfolio and for efficient reactions to natural disasters or political instability. (Cook, 2009, pp. 2-3) A comprehensive performance management strategy has been deemed vital to any company's success in today's volatile economy, but in order for this tool to properly function it has to incorporate risk management as a key component. (*Idem*, p. 10)

The final two main areas of concern to managers as well as shareholders are somewhat intertwined. Business continuity planning and the ongoing concern for the sustainability of any chosen model or consequent choice of action are the backbone that ensures the organization's effective longevity.

All companies need to possess and be capable of executing a comprehensive business continuity program, as in today's marketplace business risks are unavoidable. By providing the tools to respond to occurrences in a swift and efficient manner, this program evolved to a mission-critical component of any enterprise's annual strategic planning endeavor. (Hayes, Kotwica, Correia, 2013, p. 1)

3. Knowledge transfer to the public sector

The growth strategy should be constructed in a focused manner, by capitalizing on the national competitive edge. Any specific country's competitive edge is determined by a series of factors. The quality of the local democratic system has to be taken into account, Romania's global ranking of 59 out of 167 currently being at an evolutionary standstill. (The Economist Intelligence Unit, 2012, pp. 5-8) The same goes for the positioning on the global competitiveness scale, where Romania's rank of 76 out of 148 is on the rise. (Schwab, 2014, pp. 324-325) Our efficiency-driven economy can develop if the Government focuses on optimizing the market for goods and labor (by activities including, but not limited to supporting higher education and technological development). This way entrepreneurship will be stimulated and our transition towards an innovation-driven economy status will be smoothed. (Bosma, Coduras, Litovsky, Seaman, 2012, pp.10-11) Currently, we rank below the average of non EU28 states in public policy support of entrepreneurship, both in its proper acknowledgment as a relevant economic issue and its overcoming legal/ fiscal hurdles dimensions. (Amorós, Bosma, 2014, pp. 44-47) Factors such as economic freedom (where Romania is ranked 62 out of 178 in The Heritage Foundation's 2014 Index of Economic Freedom) and ease of doing business (national ranking of 73 out of 189 in the World Bank and International Finance Corporation Doing Business Project) play an important part as well.

Even though the Gross Domestic Product (purchasing power parity) is an important benchmark (according to which Romania is ranked 48 in the world in the Central Intelligence Agency's The World Factbook), it is by no means one to be considered superior to others. The way globalization has been handled so far and the accumulation of democratic deficits at the national as well as international levels raise the issue of fairness of the rules of the economic game. These are managed by institutions such as the International Monetary Fund, the World Bank, the World Trade Organization, where the voices of smaller nations can easily become lost. (Stiglitz, 2008, pp.236-237)

Moreover, even if a particular country is part of supra or international strategic alliances such as the North Atlantic Treaty Organization or the European Union (as is Romania's case), it will not necessarily become safe from the threat of its natural resources being misappropriated. This becomes an even more imminent issue if the nation in question is 'energy source'-rich and in a developing state. (*Idem*, pp. 124-126)

Therefore, Romania has to learn efficient diplomacy. It has to establish boundaries and demand that its rights are enforced. The public management of the energy sector is in dire

need of reform, as it is simply unacceptable that in a time when the greatest concerns are declared to be economic recovery and stable development, the country is divided on the issue of natural resources exploitation.

If the nation having to truly optimize the market and support entrepreneurship is a given prerequisite towards a much more competitive innovation-driven economy, the specific strategic paths to be pursued offer choices and present a full array of risks and opportunities. However, the focus must be on the way in which value will be created, not on the desired subsequent outcomes of the value creation process. (Thakor, p. 49)

The model I propose is currently focusing on a predominant Control-type strategy, as it fits the short-term advantages that Romania enjoys and allows for consolidation, development and ultimately transition towards an ideal innovation-driven economy status. This strategy is internally focused, specifically on the processes that the organization employs (with variables such as efficiency, outcome predictability and cost reduction being of central concern). It targets short-term results, is know-how driven and constantly strives to stabilize and improve the existing methods in order to achieve tangible and measurable outcomes on well-defined timelines. (*Idem*, pp. 20-21)

It is in line with the higher education and technology development desirable policies. As far as the workforce is concerned, it has to become more organized, methodical and technical in its daily activities. As far as the psychological profile and positioning in respect to the goals of the organization of the various workers are concerned, they have to become more practical, objective and persistent. These are all traits developed by the education system, so a beneficial confluence of policy choices and desirable outcomes exists from this standpoint. Also, the core of this strategy, that of growing the organization by improving products, reducing the cost of activities and implementing high quality standards can only be achieved through constant and ever-increasing advances in the available technologies. (*Idem*, pp. 19-23)

The general environment in which the activities and cohesive work processes unfold has to enable structured work and feature clear roles in the pursuit of logical objectives. Performance has to be constantly monitored, and great emphasis should be placed on regulatory compliance, budget adherence, achieved milestones and minimizing the number of inevitable failures. (*Idem*, p. 23) The recommendation for enacting a system of strategic safeguards contained by this paper is in line with and will help further develop this strategy.

As the bureaucracy has to be managed, and the decision making has to become more efficient, the leader of a Control-type enterprise will necessarily assume the role of an analyzer, while her main focus will be the internal operating system. However, it is recommended that an opposite-type complementary leader is included in the management team in order to increase the possibility of obtaining great results. Such a manager, embodying the necessary skills and focus pertaining to the Create-type strategy will have to be a vision setter concerned on the future of the organization. (*Idem*, pp. 23-24)

Some constitutional aspects relevant to business continuity planning include the establishment of clearer and more specific procedures to be followed in the event of disruptions such as natural disasters or military conflicts. Romania's New Constitution will have to be drafted with the embedded structure of a Business Continuity Plan. One of the key issues such a plan should address, aside from quality assurance techniques (exercises, auditing and maintenance), one that is currently overlooked in other countries as well (Public Safety Canada, 2014, p. 1), is economic/ financial crisis management. Especially in the case of developing economies that have access to abundant natural resources, safeguards have to be enacted in order to limit any one political cycle to severely impact the future wellbeing of the nation. The types of aid that a specific Government can seek, the institutions from which it can request these, as well as the obligations it can incur in the process are several parameters

that deserve our full attention. Thus, any intervention must occur only if it is necessary, while legal procedures that protect the adequacy of the various courses of action represent the only acceptable protection. (Deleanu, 2006, p. 83)

Finally, the sustainability of the State as an organization has to be considered as well. The existing scientific know-how has to be taken into account so that the New Constitution will address the issues of social and environmental policy sustainability, a political and institutional framework that fosters high sustainability, as well as internal resource allocation. (Eccles, Ioannou, Serafeim, 2011, p. 24) The fact that Romania has a strong social-democratic flavor present in most policies presents an element of added risk, as it is not likely that the senior officials would choose laying off employees in economic down cycles in order to protect a high degree of sustainability. However, populism must not impede sound economic judgment and the greater objective for a sustainable organizational model that does not involve through constant burdening of tomorrow's Governments by those of the present political cycle.

4. Conclusions

Viewing Romania as a company that has the wonderful chance of public support for structural reform is crucial to the future development of the nation. The opportunity of constitutional reform and within this process to diplomatically reform the national identity on the global scene is truly unique. Thus, in order to maximize the positive returns of the process, it is crucial to apply business and economic theory to the legal reform mix. Only by applying the successful practices that private enterprises use in their development will any country succeed in its own economic development.

The modifying of a national Constitution is not merely a time for petty settling of political scores and to recalibrate the balance and distribution of powers within the state, but mainly one of ground-up structural reform to support a sustainably-accelerating economic development. In order for this most desirable goal to be achieved however, several key steps have to be taken.

First, the competitive edge of the country has to be considered objectively. Only then can any of the available strategy choices be tested, in the strategic planning phase. As the endeavor will have lasting effects, it is necessary to pre-establish a follow-up strategy, which should include elements of performance targeting and continuous monitoring, business continuity planning, as well as sustainability safeguards.

Finally, by applying self-discipline and drive every step of the way, the development and efficiency results become choices regularly pursued and objectives constantly achieved rather than hazardous improbable results. Because it is a generally-known fact that failing to plan amounts in essence to planning to fail.

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