

INFLUENCE OF THE BUDGETARY LAW ON STATE MANAGEMENT IN THE CONDITIONS OF THE DEVELOPMENT OF THE DIGITAL ECONOMY

UTJECAJ PRORAČUNSKOG ZAKONA NA UPRAVLJANJE DRŽAVOM U UVJETIMA RAZVOJA DIGITALNOG GOSPODARSTVA

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Abstract

The subjects of this study are the effectiveness of budget innovations in the field budgetary rule making and the role of the government in shaping fiscal policy in a digital economy. The article makes a case for new approaches to budget formation, for the enhanced use of budgetary levers to boost socio-economic development in the context of global digitalization. In order to make the influence of social informatization on economic development more effective, the economy has to move to a flat (network) management model. The problems of budget control are analyzed.

Sažetak

Predmet ove studije su učinkovitost proračunskih inovacija u izradi proračunskih pravila na terenu i uloga države u oblikovanju fiskalne politike u digitalnoj ekonomiji. U članku se razmatraju novi pristupi oblikovanju proračuna, poboljšano korištenje proračunskih poluga za poticanje socio-ekonomskog razvoja u kontekstu globalne digitalizacije. Kako bi učinak socijalne informatizacije na ekonomski razvoj bio djelotvorniji, gospodarstvo se mora preseliti u model ravnog (mrežnog) upravljanja. Analiziraju se problemi proračunske kontrole.

INTRODUCTION

Digital technologies are now an integral part of public life, which penetrate more and more into economic processes /1/. Legal support of these processes is an objectively necessary condition, since in public life, new financial public relations have been arising, due to the use of digital technologies, and they have not been clothed yet in the legal norm /2/.

The government projects influence on financial relations and flows between institutional sectors through the fiscal policy /3/. Within the system of national economic management, the expected contribution is the creation a favorable macroeconomic environment, stable financial system, an economic growth, investments, modernization of national production, better business climate and a higher standard of living /4/. In the light of current endogenous and exogenous challenges and constraints, the budget policy has to establish a package of adaptive

regulatory anti-crisis measures to ensure macroeconomic stabilization and competitive development of the national economy.

Governments have learned that digital connectivity-expanding and promoting faster and cheaper Internet service-could quickly become an electorate-pleasing staple with the potential to stimulate new digitally based businesses /5/. Nonetheless, governments have moved with widely varying speeds in responding to the need for increased bandwidth, broader coverage, and faster connections /6/. The government of Japan, for example, actively interfered with the early development of the Internet, which was quickly bogged down in a morass of civic and national regulations, before discovering the potential of the digital age immediately after the 1995 Kobe earthquake and moving quickly to put the country among the world's leading nations in terms of access, speed, and low cost. Canada, conversely, was an early leader in widespread Internet connectivity, but the promising start languished amid government regulation, the power of the national telecommunications oligopoly, and the costs and complexities of delivering high-quality, high-speed Internet services across the second-largest country in the world /7/. South Korea, at the opposite extreme from Canada, emerged in the last decade as the most aggressive Internet nation in the world, expanding fiber-optic connectivity and producing some of the world's fastest consumer Internet speeds and services at low prices /8/. Sub-Saharan African nations, without the government resources to mount digital-media strategies of their own, have liberalized private sector systems to permit companies to expand aggressively, particularly in the wireless space.

The challenge for national governments is to identify the policies and economic strategies that align with the trajectory and imperatives of digital media and digital content /9/. Some countries and regions are doing appreciably better than others. East Asia has been more creative and intensively interested in digital media as an economic sector. The European Union sees digital content as playing a very specific role in the future. North America, particularly the United States, sees the digital-content field

as a new version of the Wild West /6/. Poorer parts of the world — South Asia, South America, and Africa — have used the wireless Internet, in particular, as part of efforts at poverty reduction and economic revitalization. The policies, investments, strategies, and initiatives range widely, responding to local strengths, perceived opportunities, and government priorities.

The adoption of digital technologies into the management in Russia was started in 2008, when the concept of the Electronic Government was developed. In 2011 the State program "Electronic Budget" was adopted. On December 1, 2016, the President of Russia in his Address to the Federal Assembly of the Russian Federation proposed to launch a large-scale system program of economic development of a new technological generation, the so-called digital economy.

It should be noted, that the best way to manage the State is the management with the help of money /10/ and digital technology will make this method transparent and open to the public. For example, the introduction of the "Electronic Budget"/11/ will allow to unify and simplify the budgetary process, as well as compilation and submission of regulated reporting, eliminate the need for multiple manual input of information, facilitate the transition to legally significant document management in public administration finances, will allow using unified registers and classifiers and will make it possible to have centralized interaction with federal registries and portals /12/.

E-commerce has a strong impact on taxation and tax policy. Concerns have been expressed that e-commerce could result in the erosion of tax bases /13/. Consumption taxes are levied on the principle of taxation at the place of consumption and according to rates set in individual countries, or in individual states in the case of federal nations. Ecommerce, however, has the potential to undermine the application of domestic and national tax rules. Historically, the generation of income depended on the physical presence of assets and activities /3/. This physical presence, or permanent establishment, generally determined which jurisdiction

had the primary right to tax the income generated. Because of the growth of electronic commerce, new e-business models have emerged. Each allows taxpayers to conduct business and generate income in a country with little or no physical presence in that country. The separation of assets and activities from the source of the income represents a significant departure from historic business models. This change creates new tax planning challenges and opportunities.

Without the touch of macroeconomics in both the budget policy and the corresponding tools of budgetary regulation, solution to economic and social problems may not work and the national interests may not be met. The upper threshold and the lower threshold arose from the results of the existing empirical studies. Below are data from the European Macroeconomic Imbalance Procedure (MIP). The MIP scoreboard is structured around the following indicators:

- current account balance (thresholds: -4 and +6 percent);
- net investment position (thresholds: -3 and +5 percent);
- real effective exchange rate (thresholds: - or + 5 percent; - or + 11 percent outside the euro area);
- export market share (threshold: -6 percent);
- nominal unit labor costs (threshold: + 9 percent; + 12 percent outside the euro area);
- house prices (threshold: + 6 percent);
- private sector credit flow (threshold: +15 percent);
- private sector debt (threshold: 160 percent);
- general government sector debt (threshold: 60 percent);
- unemployment rate (threshold: + 10 percent);
- financial sector liabilities (threshold: +16.5 percent).

The MIP is a tool contributing the sustainable development of the national economy and defining the parameters of financial security. Based on this, national development and economic integration both are impossible without measuring the effectiveness of budget policy toolbox, its impact on the national economy in

the context of global digitalization, without entering the path of modernization, without highlighting the existing imbalances.

Thus, there is a need to study legislative innovations in the field of budget planning and a change in the state budget policy, which affects the methods of governance.

METHODOLOGY

The methodological basis for monitoring the influence of budgetary levers on the government control in the digital economy involves the Keynesian, neo-Keynesian and neoclassical economic models /14/. Each defines the possibilities of using economic levers to provide soft indirect effect or active intervention.

The state uses budgetary levers differently, depending on the maturity of the institutional environment, on the level of economic development, on the vectors of long-term development, on the balance between the interests of the state and society, on the mentality of politicians, on the mentality of the population, and on the level of civil society development /15/.

The approach the state uses to do regulation in a digital economy assumes the presence of a professional degree, the availability of information data sets, the ability to respond quickly, the presence of experience in financial work and public service. The potential of institutional and infrastructural development today makes it possible to create the most up-to-date methods of financial management, to offer a comprehensive scientific substantiation of financial, economic and budgetary processes, including the digitalization of economic processes /16/. This provides for the free use of governance methodology and financial law through the systemic and the head on approaches.

Concept of State management in a digital economy

A common for digital economy projects is the fixation on a specific consumer, the comprehensive use of information as a driving resource, the account of specific characteristics of a particular consumer, and the global use of digital

technologies to transform real business processes. Such transformations are challenging. Countries that have reached a high level of digital maturity have to solve complex cultural, organizational and technical problems. With these factors considered together, the transformations of real business processes are successful /17/. To become true digital leaders in specific areas of the economy, priority should be given to digital projects that are implemented by specific organizational teams. Digital teams should focus on three key activities: on developing a digital strategy, on managing digital activities through national companies, and on turning their digital performance into an operational advantage /18/.

Management is an extremely complex and multifunctional concept that defines information interactions, and determines the relationships between the State, citizen, and society in the field of the system of finance, and financial law. The ultimate goal of the management is the achievement of certain goals or objectives, obtaining in advance the expected results. In particular, now in Russia it is the development of the digital economy, socialization of life and building of a rule-of-law State.

Many people believe that the increase in labor productivity in the United States and some countries in Europe, Africa and the Middle East is associated with the spread of information and communication technologies (ICTs). The economic transformations that engulfed the countries of Western Europe during the last decade provide clear evidence supporting this belief. The Western European countries investing in IT infrastructures increased labor productivity, gained access to new markets and entered a long-term phase of economic development. Digital technologies, services and systems are crucial for social development. These facts all indicate that the government chose proper methods for performing management in the context of informatization and digitalization of the economy.

In this way, the most efficiently defined end result can be achieved with observance of two conditions: a) providing global not only direct, but feedback both within the systems of the state and society, and between systems of all

levels, which, in tuarn, implies b) self-regulation of systems of all levels, which ensures a progressive dialectical development, provided by the finances and ensured by the norms of the budget law. Moreover, the latest digital technologies will favor to this process.

In addition, it should be noted, that the rules of the budget law, considered in the general system of financial law, give the opportunity to determine the legal corridors for the passage of direct and feedback in the administration of the State. Taking into the account of the information essence of both finance and financial law in general, it will be possible to monitor continuously the flow of money flows in the State and society, and in case of any failures and violations in State administration, make the necessary decisions and make appropriate amendments, correcting and correlating legal norms with the aim of achieving final results in the management of the State and society /19/. Thus, it is more considered and fundamental to design the norms of law in the field of the financial activity of the State, combining efforts in this area of both lawyers - financiers, economists and finance specialists. It will make possible to avoid those countless and permanent amendments to the financial legislation, that are observed today and which hinders the development of the State and society with a market economy. An important role in ensuring the effectiveness of management is the systematization of the norms of budget law /20/.

Actual issues of budgetary and legal regulation of public procurement

The sphere of public procurement is one of the problem areas of budgetary regulation. The existence of a number of theoretical and practical issues that are not resolved in this area predetermines the need for its in-depth study. Governments, consistently among the world's biggest consumers of products and services, have discovered the benefits of online procurement, although in some jurisdictions political imperatives tied to local sourcing and other such interventions restrict the global use of these capabilities. Government processes are often more complicated than standard business transactions are, for content and service requirements

and legal considerations are tied to government regulations /21/. Nonetheless, many of the same benefits of speed and cost reduction attach to government use of digital procurement.

In public procurement, ICTs are developing at a very fast pace /22/. Electronic bidding, auctions and tenders use blockchain and other technologies /23/. Because public procurement of innovation only recently attracted attention as a strategic policy instrument, existing skill sets of procurement agencies are not yet well aligned and established organizational cultures only adapt slowly to the new requirements /24/. In particular, relevant market knowledge about the range of possible innovative solutions to a given problem and their potential suppliers can be missing. Moreover, technical knowledge to properly assess the value and viability of cutting edge technologies is rare /25/. Consequently, innovation activities conducted as part of procurement contracts are unlikely to be of radically new nature. Instead, government agencies will resort to solutions that have already proven to be applicable in other closely related contexts. Primarily, such incremental innovations and adaptations of already existing products entail a much lower development risk and are less prone to failure. Also, as these technologies are already better understood than radically new approaches, they are easier to control and describe /22/.

State and municipal purchases are carried out today within the framework of the so-called contract system of procurement for State and municipal needs, in the center of regulation of which is a special federal law¹. The sphere of public procurement includes a variety of relationships, and it determines the intersectoral nature of its legal regulations. The norms of administrative, civil and budgetary law form, first of all, here normative composition. The Budget Code of the Russian Federation is of great importance in the complex of federal laws defining the legal field of public procurement, in the regulation of budgetary relations in this sphere².

Budget- legal content and regulation of public procurement is due to the fact that a significant part of them is carried out at the expense of budgetary funds, and the purchases for State and municipal needs form the subject of one of the types of budgetary expenditures in accordance with the RF Budget Code. At the same time, budgetary rules on procurement are contained both in the Budget Code of the Russian Federation and the budget legislation adopted in accordance with it, as well as the law on the contractual system of procurement for State and municipal needs. In this regard, the quality of the budget and legal regulation of public procurement appears to be dependent, on the one hand, on the effective harmonization of budget norms and institutions of contract law with the rules and institutions of budget legislation, and on the other hand, on the legal quality of the budget legislation itself. It should be noted that in both directions there are a number of problems, both theoretical and practical.

The uncertainty and difference in the content of the concept of procurement for State and municipal needs, which in one sense is applied in the budgetary, and in the other in contractual legislation, is one of the illustrations of this complex of problems. Basing on the content of the budget legislation, it should be concluded that the concept of budget purchases or purchases from the budget doesn't coincide with the concept of procurement for State and municipal needs, not all budget purchases belong to the latter, for example, purchases of budgetary institutions, although, in fact, are purchases for public needs. The problem also has practical consequences. Thus, the antitrust legislation establishes additional pro-competitive (antitrust) requirements for procurement with respect to the Law on Contractual Procurement System, linking such requirements with purchases for State and municipal needs /26/. From the standpoint of the budget law, this means that for a number of budget customers such antitrust requirements are not mandatory /27/, /28/.

¹ The Federal law of 05.04.2013 N 44-FZ "On contract system in procurement of goods, works, services for state and municipal needs" // "Rossiyskaya Gazeta". 80. 2013.

² "Budget Code of the Russian Federation" of July 31, 1998 N 145-FZ // "Rossiyskaya Gazeta". 153-154. 1998.

The procedure for conducting public procurement using electronic bidding includes a standard sequence of stages, each of which has its own peculiarities. These stages are depicted in the following diagram.

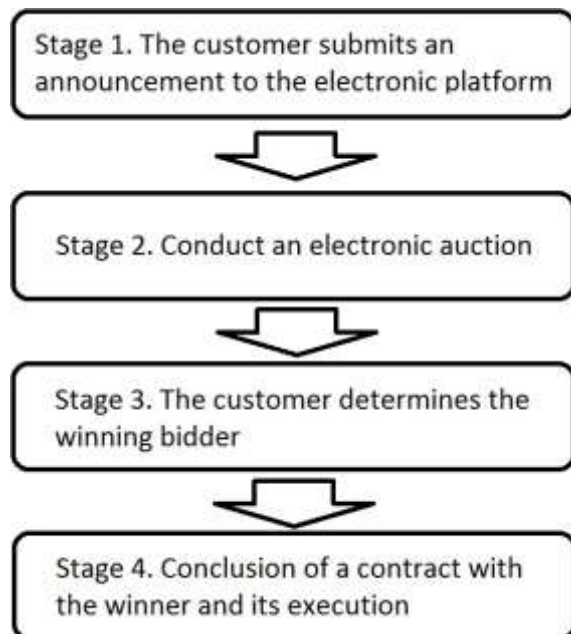


Figure 1. Electronic bidding: a general line of actions

Certain problems of harmonization of budgetary and contractual laws are also observed while considering the correlation between the principles of the contractual system of procurement and the principles of the budgetary system. Thus, the principle of the effectiveness of using budgetary funds is one of the most important principles of the budgetary system that are important for regulating budget purchases /27/, /28/, as a form of public expenditure (Article 34 of the RF Budget Code).

In the EU, the potential of using demand-side innovation policies in order to enhance the competitiveness of European industries, improve the provision of public services, and tackle grand societal challenges has been long recognized. Commitment 17 of the EU's Innovation Union Flagship Initiative was concerned with improving the well-functioning of public pro-

urement markets for innovation across Europe. In particular, the initiative aimed at overcoming the fragmentation of procurement activities by harmonizing framework conditions that allow for cross-border tenders. Moreover, the participation of small and medium-sized enterprises should be promoted and specific public procurement budgets were set aside in the EU'S Framework Programmes for Research and Innovation³.

The electronic system of public procurement is necessary to ensure the transparency of public procurement, to increase the confidence of business in the state and to increase effectiveness of anti-corruption measures. For public e-procurement, e-tools are needed for each stage of the procurement process, from requirements capture and the provision of payment options to the potential contact management. Hence, the company must have free access to the Internet and apps.

As noted above, the quality of budgetary and legal regulation of purchases is affected not only by the problems of harmonization of contractual and budgetary legislation, but also by the general state of the latter. It should be noted that modern budget legislation in itself contains many shortcomings in terms of mandatory requirements of the principle of legal certainty.

The ambiguity of interpreting public procurement legislation, errors and deviations from the procurement procedures stipulated by the legislation cause fair criticism among bidders, complaints and lawsuits from participants who did not win the competitive bidding, and sometimes cancellation of bidding results. This leads not only to financial losses due to delayed procurement of goods, works and services necessary for the livelihood of the institution but also to financial and moral damage to bidders and to the loss of prestige. Because of these negative consequences, the interested business entities may not take part in public procurement.

It seems that this problem, as well as the problem of determining the concept of procurement for State and municipal needs, is rooted in the

³ See: <https://ec.europa.eu/programmes/horizon2020/> (accessed 30 November 2017).

lagging behind both budgetary law and legislation, and broader, public law in general, in the unsettled complex problems such as fixing and regulating in the legislation of the so-called legal entities of public law or decentralized power subjects. In the modern world, public authorities, including financial powers, are carried out not only by government bodies, the so-called legal persons of public law, having both economic and imperious status. The individual problems are solved fragmentarily in different branches of legislation, sometimes without a systemic interrelation. In this context, it should be said that Russia's current budget legislation has largely been formed under the influence of old concepts intended for another time to regulate relations with other categories of power subjects of law, and not yet fully takes into account the changed conditions, including the expansion of practice legislative allocation of organizations with separate financial powers.

According to the content of identified blocks of problems, their solution should be carried out in three main directions: a) conceptual refinement and its previous theoretical work on the formation of the budget legal status of legal entities of the budgetary law; b) elimination of contradictions in the conceptual apparatus and coordination of norms and institutions of budget legislation; c) the search and solution of theoretical and practical problems of contract legislation and ways of their elimination only in indissoluble connection with matter and the doctrine of budgetary and financial law and legislation.

Foreign experience shows that in Europe, there are two leading models of public e-procurement: centralized and decentralized. Although protectionism is the opposite of free trade, in the EU financial legislation, liberal motives are intricately intertwined with the protectionist motives. For example, breaking of trade barriers between the EU member states (in particular, barriers associated with public procurement) is considered one of the means to achieve competitiveness in the global market.

Actual issues of budget control

Budget control, acting as a kind of financial control, in the conditions of market relations assumes special importance because the budget is a special "attribute" of the State, which on the one hand, allows the State to stimulate the development of economic relations, and on the other hand, when making wrong management decisions and the implementation of appropriate actions, to discourage the development of the country's economy /29/.

Turning to the classics of financial science, budget control is the last but very important wheel in the budget mechanism of the State. Budget control is important not only at the stage of budget execution, but also at the stages of drafting, reviewing and approving budgeting projects of the budgetary system, i.e. at the stage of planning income and expenditure /30/. Thus, it should be checked not only the quality of budget execution, both in terms of revenues and expenditures, but also the quality of budget planning, since the fulfillment of financial obligations by the State will also depend on the situation from how the revenues and expenditures will be planned in the budget. Not by accident that the legislator has established one of the principles of the budgetary system - "the principle of reliability of the budget". It is through the control the State communicates with society when society learns about how it was spent financial resources, received by the State /30/.

It is worth noting that control as a function of management is a process that is interrupted, and which ends with an act of verification. An ongoing process of monitoring the movement of budgetary funds will be carried out within the framework of - monitoring, which allows the monitoring of the movement and use of budget funds continuously.

The absence of a legal definition of "budget control" has generated in the scientific literature various interpretations of this concept, which can be combined as follows: first, budget control is a kind of financial control; secondly, it is carried out in a special legal process - budgetary, both at the planning stage and execution, as well as in the reporting stage (at the stage of budget reporting, as well as its consideration and approval); thirdly, it is carried out in the

budgetary activities of the State and fourthly, budgetary control is aimed at assessing the effectiveness of State (municipal) management in the budgetary sphere and evaluation of the effectiveness of the budget management /31/.

In accordance with the current version of the Budget Code of the Russian Federation, the budget control is divided into external, internal State (municipal financial control and the control of the founder (departmental control.) It is worth noting that the second type of control - internal State financial control is more concerned with public institutions.

The objectives of budgetary control can be nuanced by institutional characteristics, such as the object and subject of control, the stages of budgeting, the procedure for adopting budgets within the budgetary system, and entities with supervisory powers. Together, these elements of budgetary control form the concept of budgetary control and allow organizing effective performance in the budgetary sphere of financial relations.

Given the dual legal nature of control and its function in the budgeting process, budget control can be viewed not only as a tool for correcting mistakes, punishment and prevention, which is important indeed. Budget control is to improve the organization of the budgeting process, to make sure the participants follow the necessary stages of the budgeting process, the terms and procedures established by law. In the context of digital economy, strong administrative and financial tools to ensure fair budget control require an improvement of coercive control.

One of the main powers of the control bodies is the verification of the observance of the budget legislation by the objects of control. But the very observance of the budget legislation by the budgetary objects from the point of view of the budget legislation is a very narrow scope of powers.

From the point of view of politicians and regulators, the emergence of digital economy is changing the picture of financial control. As industries, markets, and pricing strategies transform, the traditional sector-based policy-making approach will be unable to deliver the expected results of economic growth and social

development. An even more challenging task is to use a traditional risk-based approach that cannot provide the expected regulatory control and adequate consumer protection.

Additionally, in the digital world, governments can provide purposeful public services at minimal cost with increased flexibility and efficiency. Governments can also experiment and innovate, relying on aggregate demand and direct citizen feedback in an environment where location does not matter and where cost and communication methods are change fundamentally different. This increased ability to deliver innovative public services enables policy-makers to create public goods, requiring through an increased flexibility and responsiveness on the part of public administrations, especially in the context of changing expectations.

DISCUSSION

In the climate of general digitalization, the financial sector is transforming. The new market players emerge and the role of financial intermediation changes. Additionally, there are new approaches to trading securities and other financial instruments /17/. The spread of e-commerce in the financial market led to significant changes in the market structure and in the interaction between market participants on a global scale.

The digital economy era throws new challenges to legislators, forcing them to look for new methods and ways of managing. However, to some extent, digitalization of the economy simplifies social relations in another sphere. As noted above, growing reliance in certain new business models on data may raise tax challenges both in terms of characterisation of and attribution of value from data, and in terms of the changing ways in which users and customers interact with businesses. Further, new revenue streams adopted in particular due to the spread of multisided business models or the use of massive computing power and broadband connection trigger questions regarding the appropriate characterisation of certain transactions and payments for tax purposes. Finally, digital technologies make it easier to do business across jurisdictions, as well as enabling

consumers to access products and services from anywhere in the world, generating challenges in terms of collecting the appropriate amounts of consumption tax.

For policy makers, changes occurred in earnings from decision-making and resources allocation, and in the target indicators of social development and economic growth. For regulators, a change in thinking when moving from risk management to active development became a fundamental requirement. The following should be done in each sphere:

- Develop policies towards a digital economy based upon Open Government data sharing and Big Data analytics, including establishing data protection regulations and then ensuring that such regulations are kept updated and relevant, particularly as they cut across ever more sectors and services.

- Ensure that critically important networks, such as telecoms and banking systems, interconnect, and that platforms become interoperable so that apps and services work across all systems, and are accessible by all, as much as possible at any time.

- Develop an intelligent security policy (a cybersecurity policy in our case) to protect essential information infrastructures, to facilitate the rapid exchange of information at both national and international levels, and to prevent cyberattacks.

- Create cross-agency (whole-of-government) frameworks (and agencies) for effective policies and regulations so as to enable the development and delivery of government and social services, and to incentivise innovation and investment, while at the same time protecting consumer interests.

If implemented, the suggested measures will undoubtedly provide an opportunity to create a coherent and effective system of public administration, to improve budgetary discipline, to minimize abuses in the public sector, and to improve the management of public finances.

CONCLUSION

The digital economy is a strong pillar around which the economy, the business, the social spheres develop.

The government control and policy should play a key role in developing, promoting and implementing comprehensive digital strategies. The government should focus on removing barriers standing on the way of digitalization, on correcting market failures, on supporting fair competition, on attracting investment, and on developing digital infrastructure and digital economy to meet national priorities. The country cannot be successful in developing digital economy without the necessary regulatory framework and without an economic development strategy based on advanced information technologies.

When it comes to the development of digital economy, it is crucial to raise requirements for potential managers, to establish new criteria by which government institutions can select employees in the field of financial development, budget policy and control. The candidates must possess professional skills, basic information and communication competence, be prepared for a professional career. The cost-effectiveness of ICT development and related government policies to promote national competitiveness are also in the red.

At the economic level, the shift from the industrial economy to the knowledge-based economy leads to the transformation of a vertically integrated structure into a flexible network. Management models based on knowledge generation and information processing are organized in the network, within which only the valuable participants perform, adding to the value of the network. Advanced social informatization alone will not lead to economic development and competitiveness because they are a result of a complex action of factors. The critical factor is the presence of a highly competitive environment, the use of resources to solve urgent problems, the use of previous experience and readiness for the latest technology. In order to make the influence of social informatization on economic development more effective, the economy has to move to a flat (network) management model.

Notes

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