Jelena Trajkovska-Hristovska *

THE RIGHT OF LEGISLATIVE INITIATIVE (Comparative Analysis of Macedonian and Swiss Model of Normative Solutions)

abstract

Legislation is a special state activity which, based on the constitution, establishes the foundations of social and state organization and the legal system. The paper will elaborate the issue of legislative initiative as a constitutionally guaranteed right to propose laws. Namely, the procedure for enacting laws is realized through several separate stages, and it starts with the legislative initiative. If we take into account the fact that "to propose a law means to rule", it will not be difficult to conclude that the legislative initiative represents more than just an initial phase of the legislative procedure and much more than just a technical issue. A special review in the paper will be the analysis of the legislative initiative in the Macedonian and Swiss model of legislative procedure. They are subject to elaboration, considering the broad nature of the right to legislative initiative. The paper will examine the thesis whether the number of entities that have the right to legislative initiative is an indicator of the degree of involvement of citizens in the process of passing laws.

Key words: *Parliament, Legislative Initiative, Parliamentary Initiative, Authorized Proposers, Proposal, Bill, consultation procedure, co-reporting phase, Motion/Postulate, Right to Petition.*

I. INTRODUCTION

Legislation is a special activity of the country that, based on the constitution, establishes the foundations of the social and state organization and the legal system"[1]. Although the legislative function is not the only competence of the parliaments, still "the view that the legal norms obliging the citizens to certain behaviour should be adopted with their consent or by acting and consent of their representatives in the legislative body, prevails"[2]. Therefore, the law represents a manifestation of the will of the citizens and an expression of the general will, so only this law will be accepted by the citizens as authoritative and mandatory.

The right to legislative initiative represents the right to submit legislative proposals to the legislative authority to be examined[3]. Formally and legally, it is the first stage of any legislative process. Namely, the legislative initiative is a constitutionally guaranteed right to propose laws.

* Jelena Trajkovska Hristovska, PhD., Associate Professor, Ss. Cyril and Methodius University in Skopje, Iustinianus Primus Faculty of Law, e-mail: j.trajkovskahristovska@pf.ukim.edu.mk

[1]Стопчев.*Конституционо право*.Ciela. Софија.2002. p. 407

[2]Стојановић. *Уставно право*.књига II. Ниш.2007.p.150

[3]Јовановић.Б.*Доношење закона*. Изадавачка књижарница Геце Кона. Београд.1923.p.3

It can have the feature of a proposal to enact a completely new law, and in that case the proposal will regulate social relations that until then had not been regulated by law, or if it presents the need to amend or supplement an already enacted law, the proposal will change the existing one to a greater or lesser extent.
The question which entities can act as authorized proposers of the law is a fundamental question related to the right to legislative initiative[4]. Thus, comparative and historical experience, note different solutions for the entities who are the holders of this right[5]. However, the comparative parliamentary law points to the government and MPs as the most frequent authorized proposers.
The two elaborated models in this paper are an example of a broad setting of the right to legislative initiative and the possibility of a larger number of entities to act as authorized proposers of a law.

II. THE RIGHT TO LEGISLATIVE INITIATIVE IN SWITZERLAND

The legislative initiative in Switzerland cannot be perceived as a technical issue only. Two arguments follow as support to this. Firstly, the legislative initiative initiates the process of creating laws and embodying the will of the citizens, and secondly, the number of entities that have the right to legislative initiative is an indicator of the degree of the involvement of the citizens in this process.
Switzerland is a country that has been categorized in the systems in which the right to legislative initiative belongs equally to the holders of the legislative and executive functions[6]. So, the following entities with the right to legislative initiative in Switzerland are:

- every MP;
- both legislative houses;
- the parliamentary committees for issues under their competence;
- the Federal Council.

However, the right to legislative initiative is not limited to these entities only. On the contrary, the cantons also have a right to legislative initiative in Switzerland. This solution *per se* corresponds to the constitutional provision of Article 1 according to which these entities are one of the basic constituent elements of the Swiss Confederation.
Citizens cannot directly be holders of a legislative initiative, but through the right to petition, as a "special mean of expressing political opinion"[7], they can submit a proposal for an enactment of a concrete law.

---

[4]Traditional parliamentary law determines three basic systems whose classification is made according to the entities that hold the right to legislative initiative: 1) System in which the right to legislative initiative belongs to the representative body 2) System in which the right to legislative initiative belongs to the executive power 3) A system in which the right to legislative initiative belongs to both the representative body and the executive power.
[5]Namely, MPs (which is the most common solution accepted in 82 countries), parliamentary committees (15 countries), the government (65 countries), head of state (29 countries), regional or federal units (9 countries), judicial authorities (8 countries) can be authorized proposer of laws. Les parlamentsdans le monde.Vol II p.88. Read detaly in Nikolić. *Zakonodavna procedura u Jugoslaviji sa posebnim osvrtom na svajcarsko pravo*. Isntitut za uporedno pravo.Beograd.1997.p.29
[6]Guided by the entities that have a right to legislative initiative, Jovanović distinguishes three basic systems: 1) the right to initiative belongs to the executive power, 2) the right to legislative initiative belongs only to the representative body (one or both legislative houses, MPs or parliamentary boards) and 3) the right to legislative initiative belongs equally to the holders of executive and legislative functions. Ibid.

This model is considered to offer the most rational solution. Several arguments are given as his theoretical justification:

- The Federal Council, as the holder of the executive function, is in constant contact with fellow citizens and by implementing the laws, it can best perceive the shortcomings and gaps in the legislation and determine the need of an enactment a certain law;
- The Federal Assembly, as the holder of the legislative function and the highest authority in Switzerland, has the greatest opportunity to directly exercise the right to legislative initiative, or to encourage, supplement and control the work of the Federal Council in the area of legislation;
- If we take into account that Switzerland is a complex country in terms of state organization, and if we take into account that the cantons, as federal units, represent its constitutive element, then we can understand the intention of the constitutor to provide the right to legislative initiative to these entities, as well;
- Even though citizens do not have the right to submit legislative proposals, they can submit a proposal for an enactment of a certain law through their constitutionally guaranteed right to petition. Formally and legally, the right to submit a proposal for an enactment of a law cannot be equated with the right to legislative initiative; however, the right to petition may have the significance as a certain type of a legislative initiative, given the fact that it may require the enactment or revision of a concrete law.

If we take into account the way in which the right to legislative initiative is regulated in Switzerland, and if we take into account that "proposing a law is ruling[8]", it will not be difficult to conclude that the legislative initiative in Switzerland is more than just an initial stage of the legislative procedure and much more than a technical issue.

1. Legislative Initiative of the Federal Council

"The executive power in Switzerland is monocephalic and it is exercised by a collective authority"[9]. The Federal Council is the supreme governing and executive authority of the federation. The constitutional provision of Art. 181, determining the right of the Federal Council to legislative initiative, makes this authority one of the authorized submitters of the legislative proposals. It has been said that the right to legislative initiative is a basic instrument for the direct participation of this authority in the creation of the federal legislation.

The submission of the legislative proposal is always preceded by a procedure of study of the proposal for the enactment of the law and a detailed analysis of the legal text that will be submitted to the Federal Assembly. This procedure (principle of collective decision-making) is implemented through four basic phases. They include an examination phase of the proposals for enactment of laws or the *elaboration of the need* for an enactment of a concrete law, a *consultation procedure* during which all the additional documents that will be attached to the proposal will be the subject of the study, as well as an analysis of whether the overall procedure can be implemented within the stipulated deadlines, and a *co-reporting phase* through which it is

---

[7]Николић. *Законодавна процедура у Јјугославији са посебним осврtом на Швајцарско право.* Институт за упоредно право. Београд.1997.p.35

[8] Ibid p.28

[9]Тренеска.*Извршната власт во демократските системи*. Матица македонска. Скопје.1999.p.250

checked whether the individual departments acted according to the appropriate instructions and directions proposed by the Federal Council and the professional and legal services. Finally, the version of the legislative proposal as such, will be proposed in the Federal Assembly. However this proposal may be subjected to another consideration in which only minor corrections by the competent department will be allowed, made upon prior consent of the Council[10]. If it is about amending and supplementing a certain law, the fact whether the new legal provisions correspond to the existing legal text or not is taken into account in the co-reporting phase.
The submission of the bills and federal decisions by the Federal Assembly will always be followed by a submission of a report, the content of which will include the basic objectives of the law, the general policy that should be implemented with it, and the financial plan.
The Federal Council does not often use the right to propose laws and federal decisions on its own initiative, however its participation in the legislative procedure as an authorized proposer, compared to all others, is undoubtedly the highest[11]. According to Treneska, "the federal council has a dominant role in initiating the legislative procedure, and this authorization serves it as a first-class means of power"[12]. On the other hand, when the proposal for enacting a law originates from other entities, or when the legislative initiative originates from another authority, the Federal Council has the role of a grid-lock through which the legislative proposals pass. The charm of this constitutional authorization allows the Federal Council to participate indirectly in the creation of the state policy, as well as to directly participate in the legislative process even when it does not appear in the capacity of an authorized proposer[13].

2. Parliamentary Initiative

If we start from the number of entities that can propose a law, the parliamentary (legislative) initiative may appear in two basic forms: individual and collective. Although, usually the MP, as an individual, appears in the capacity of an authorized proposer, the possibility of the legislative proposal being submitted by several entities cannot be excluded. Thus, each MP (or group of MPs), any legislative house (the National Council or the Council of Cantons) and the parliamentary committees for issues within their competence are the holders of the legislative initiative in Switzerland.
Parliamentary (legislative) initiative in Switzerland can be direct and indirect. The experience indicates to more frequent implementation of an indirect legislative initiative, that is, a procedure of enacting laws initiated by the use of two basic instruments: a proposal (motion) and a request (postulate). The immediate (direct) parliamentary initiative did not experience significant affirmation in practice.

2.1 The *immediate (direct) parliamentary initiative* implies the possibility for the authorized proposers to submit a bill or to submit a proposal for an enactment of a concrete law.

[10]Data can be found at: www. bk.admin.ch/themen/gesetz/00050/index.htlm?lang=fr#
[11]Николић. *Законодавна процедура у југославији са посебним освртом на Швајцарско право*. Институт за упоредно право. Београд.1997.p.35
[12]Тренеска.*Извршната власт во демократските системи*. Матица македонска. Скопје.1999.p.256
[13]The authorization of the Federal Council in the legislative area to independently determine the date of entry into force of the law, when this will not be determined by the Federal Assembly is an unusual solution in the comparative constitutional law. In such cases, the Federal Council, independently, guided by its own reasons, delayed the entry into force of the adopted laws, e.g. some acts enacted by the Federal Assemby did not enter into force for more than 6 years. Јовичиќ. *Уставни и политички системи*. Службени гласник. Београд.2006. p.224

This means that they can submit a fully developed legislative proposal (Bill), but also that they can submit a proposal (request) in "general form" for an enactment of a certain law. In the first case, the competent parliamentary committee, after studying the legislative proposal, can change and supplement the legal text, and even propose a completely new content of the bill (counter-proposal), and in the second, the competent parliamentary committee prepares a legislative proposal in compliance with the "general request", whose further "advancement" will be decided by the "priority" legislative house. The initiative must be submitted to the president of the legislative house in writing, and it can be accompanied by an explanatory exposé intended for the competent parliamentary committee. If one of the two legislative houses appears at the federal assembly as an authorized proposer, the right to legislative initiative will be exercised by submitting the legal proposal to the other legislative house. On the other hand, if a certain parliamentary committee appears as an authorized proposer, the prepared legislative proposal is submitted to the president of the legislative house for a preliminary opinion.

It seems that the direct legislative initiative is a rarely used instrument in Switzerland. This is due to several factors. On the one hand, the constitutional position of the Federal Assembly and the functional dependence of the Federal Council to this authority enable encouraging and supplementing the action of the Council in the legislative sphere. On the other hand, it would not be wrong to say that the following of the " line of simpler work done " by the MPs and the possibility to order or ask the Council to draft a bill, results in a greater application of the instruments of direct legislative initiative.

2.2 The *indirect parliamentary initiative* is carried out through two basic instruments: proposal and request. The proposal (motion) is an act of the Federal Assembly that requests the Federal Council to submit a bill, to undertake a specific measure or to submit a concrete decision to achieve a specific goal. From the perspective of the legislative procedure, by submitting this act, the Federal Council undertakes an obligation to prepare a bill and submit it to the Assembly. This original solution leaves open the question of whether its implementation represents a parliamentary (legislative) initiative in the true sense of the word.

The request (postulate) is the second instrument with which the direct parliamentary initiative is implemented. With this act, the Federal Council may be required to determine whether a bill should be submitted to the legislative authority or whether a certain measure should be adopted. The request, contrary to the term by which it is denoted, does not represent an act that has a mandatory character. The rules of procedure of the assembly determine that the request constitutes a right to formally request the Federal Council to examine whether a measure should be adopted. It is more an act that gives directions to the work of the Federal Council, than an act that has an imperative nature and that will bind it. Although the request does not represent a legislative initiative in the true sense of the word, its application may lead to the submission of a concrete legislative proposal and the initiation of a procedure for an enactment of a law. However, the fact that it requires the Federal Council to assess whether a legislative proposal should be submitted to the legislative authority or not raises the question of whether in this particular case it will be possible to talk about a parliamentary initiative or whether the Federal Council will appear as an authorized proposer this time as well. We cannot be wrong if we conclude that the aforementioned instrument is just one more link in the chain that make the Federal Council a real legislator. Bryce. J would say "legally the Federal Council is a servant to the legislative authority, but in practice it has as much power as the English cabinet, so it can be said that it listens as much as it commands"[14].

[14]Ц.Брајс.*Савременедемократије*.Ікњига,Београд.1931.р.558

3. Right to Legislative Initiative of the Cantons

The citizens and the cantons are the constitutive stakeholders of the Swiss Confederation. Regardless of their size and number of population, the Swiss cantons enjoy equal constitutional and legal status.

According to the Constitution, the cantons have a right to legislative initiative. The Constitution of Switzerland regulates the cantons' right to legislative initiative in the area of federal legislation through two provisions of Articles 45 and 160. These principle provisions have been specified by the laws of the Cantons. Usually, the entities that are its holders are determined through the provisions of the constitutions of the cantons. Following the solutions offered by the federal constitution, the cantonal constitutions grant this right to the citizens, but there are also solutions that bind this right to the holders of the legislative or executive function.

Although the use of the legislative initiative by the cantons is modest, it must be acted upon if it is submitted to the Federal Assembly. The initiative will be considered accepted if both legislative houses declare themselves affirmatively regarding it. In such a case, it will be submitted to the Federal Council with a request for it to provide its opinion and draft a bill.

4. Mechanisms for the Indirect Initiation of the Legislative Procedure (Right to Petition and Right to Legislative Initiative of the Cantons)

The initiative and the referendum are forms of direct democracy. Switzerland is undoubtedly a country with the most developed forms of direct democracy. It can rightly be considered as their "motherland". These forms are numerous, foreseen at all levels of state organization and are often applied in practice[15].

However, the citizens in Switzerland do not have a right to legislative initiative. Namely, it means that formally and legally they do not have the right to submit a bill to the Federal Assembly. Although they do not have a right to a legislative initiative, the citizens' referendum declaration on a specific federal law makes them one of the main legislative stakeholders.

The idea of introducing a citizen's initiative for enacting or amending federal laws has been considered several times. In 1958, a referendum was held to amend the constitution, which provided for the introduction of citizens' initiative in the legal matter, but even despite the citizens' referendum declaration, this request was rejected. There are two basic reasons cited against a citizen's initiative. Firstly, it is not simple to prepare the complete text of a draft law (reasons of a technical nature) and secondly, the introduction of a citizen's initiative on the subject of federal laws would be contrary to the federal principle. Thus, at a federal level, citizens may propose a revision of the federal constitution, but not an amendment or enactment of federal laws.

However, although the constitution of Switzerland does not regulate the issue of legislative initiative by the citizens, they have the opportunity to submit a proposal for an enactment of a law using two basic instruments. These mechanisms leave the possibility for the citizens to indirectly initiate the enactment of a certain federal law. Firstly, they include the right to petition, which is a constitutionally guaranteed right of the citizens (Art. 33) and secondly, the right to

---

Taken from Тренеска.Рената.*Извршната власт во демократските системи*. Матица македонска. Скопје.1999.p.258)

[15]Јовичиќ. *Уставни и политички системи*. Службени гласник. Београд.2006. p.227

submit a proposal for the adoption of a law indirectly through the legislative initiative of the cantons.

- Namely, according to the Constitution, every citizen has a right to petition to any state authority. This means that every citizen may ask the Federal Assembly to enact a certain law or to amend another. Such a request, contained in the petition, has the same treatment as any other complaint or petition to any other authority and must be acted on. This means that the competent Committee on Petitions in the legislative authority has been obliged to act on it. The approval of the petition in the Federal Assembly does not require consent of both legislative houses. The adopted petition is further forwarded to the Federal Council by using the instruments of an indirect parliamentary initiative (proposal or request).
- Cantons can act as authorized proposers of a federal law. Therefore, the right of the cantons to legislative initiative within the individual cantons is the second way through which citizens can exercise the right to propose adoption of a law.

These instruments for indirect initiation of the legislative procedure have not experienced particular practical application. Therefore, in modern conditions, it would not be wrong to state that from the point of view of the entities-holders of the legislative initiative in Switzerland, the legislative procedure is widely set, but it would also not be wrong to state that the Federal Council still has a dominant role as authorized proposer.

III. RIGHT TO LEGISLATIVE INITIATIVE IN REPUBLIC OF NORTH MACEDONIA

The legislative initiative represents the right of certain entities, within the framework of the constitution and the foreseen legislative procedure, to submit a proposal to the competent authority for an enactment of a law[16].
The 1991 Constitution of the Republic of Macedonia determines three holders of the right to legislative initiative. Namely, the constitutional provision of Article 71 provides for that every MP, the Government and at least 10.000 citizens with the right to vote, have the right to propose enactment of a law[17]. This means that only these entities can be authorized proposers of the legislative proposal (Bill). In this manner, the Constitution establishes the principle of equality of the parliamentary initiative, the initiative of the government and the initiative of a certain number of electors in the process of initiation of the legislative procedure.
In theory, there are difficulties in the attempt to classify the Macedonian model of legislative procedure, from the aspect of the established classifications of the traditional parliamentary law, made according to the entities that can appear as authorized proposers. Thus, the aforementioned constitutional solution makes the Macedonian model of legislative procedure a cocktail of legislative initiative of the parliament, legislative initiative of the government and legislative initiative of at least 10,000 electors.

[16]Nikolić. Pavle. *Zakonodavna procedura u Jugoslaviji sa posebnim osvrtom na svajcarsko pravo*. Isntitutzauporedno pravo.Beograd.1997.p.28
[17]1991 Constitution of the Republic of Macedonia, Article 711, paragraph 1

The entities initiating the legislative procedures are usually motivated to such an action by the demands of the citizens, their unions and associations, interest groups, etc. Therefore, the claim that in locating the proposal for an enactment of a law, the boundaries of the Parliament must be exceeded and the intention to adopt a law must be localized in the requirements of these entities, is correct. Hence, in an attempt to specify the entities that can impose the request to adopt a certain law, the Macedonian constitutor amended Article 71 with the provision in paragraph 2, according to which, "any citizen, group of citizens, institutions and associations can submit an initiative for an enactment of a law to the authorized proposers"[18]. Each of these entities, in realizing their intention to enact a certain law, must provide a so-called authorized "agent" who will propose the enactment of the law to the legislative authority.

In this manner, the two constitutional provisions of Article 71 try to make a distinction between the authorized proposers of the legislative proposal on the one hand, and the entities from which the request may originate, i.e. the entities that can emphasize the need for the enactment of that law, on the other hand. It seems that although inventive, still this solution does not correspond to the accepted theoretical opinions. Thus, the theory insists on the use of the term "initiative" to denote the legislative initiative, that is, to denote the right of certain entities to submit a bill. The Macedonian constitutional solution, on the other hand, with the term "initiative" does not determine the authorized proposers of the legislative proposal, but the original and possible sources of the future law.

1. Parliamentary Legislative Initiative

In theory, the point of view that "according to the concept of traditional parliamentarism, "reputable citizens" have the primary authority to initiate legislation, within the scope of their parliamentary rights and duties" is most common[19]. Members of Parliament are originally authorized to propose enactment or amendment of laws, as elected representatives of the citizens who exercise legislative power in the representative body. However, in comparative parliamentary law the parliamentary legislative initiative is not limited only to the right of MPs to propose laws. Thus, although usually the MP as an individual appears in the capacity of an authorized proposer, the possibility of the legislative proposal being submitted by a group of MPs, a parliamentary working body, a committee or one of the two legislative houses in the bicameral parliaments has not been excluded[20].

The parliamentary initiative in the Republic of North Macedonia, guided by the constitutional solution, is bound exclusively by the right of each Member of Parliament to submit a proposal for the adoption of a law. In this manner, the parliamentary initiative is individual and formally

[18]1991 Constitution of the Republic of Macedonia, Article 711, paragraph 2

[19]Пејић. *Парламентарно право-француски, немачки, британски српски и пример европског парламента*. Правен факултет Ниш, центар за публикације. Ниш.2006.р.158

[20]Namely, the USA model of legislative procedure binds the right to legislative initiative exclusively to the members of parliament and recognizes only parliamentary legislative initiative. The Swiss model of legislative procedure accepts the solution for the existence of individual and collective parliamentary legislative initiative. Thus, every Member of Parliament, group of members of parliament, working bodies for issues within their competence and any legislative chamber (National Council and Council of States) have the right to propose the adoption of laws.The legislative procedure in France begins with the legislative initiative of the government or one or more MPs (individual and collective parliamentary initiative).

[21]Rules of Procedures of the Assembly, Article 134

and legally limited only to the right to legislative initiative of the MPs. This restrictive constitutional solution for the parliamentary legislative initiative guides not only the citizens or their associations and institutions, but also the working bodies of the Assembly, to look for a future "parliamentary agent" who will formally submit the legal proposal. In the context of the aforementioned, it can be noted that the relatively narrowly placed parliamentary initiative in the Macedonian Assembly does not correspond to the effort of the Macedonian legislator to transform the Assembly from the so-called "talking" to the so-called "working" assembly. On the other hand, although this authorization has not been limited to the working bodies of the Assembly, the procedural provision of Article 134 subtly extends the parliamentary legislative initiative to the parliamentary groups as well, establishing that "if the proposer of a law is a group of MPs, then one MP shall be determined as the representative of the proposer"[21]. This procedural provision transforms the individual parliamentary initiative into a collective one. That is why, "the right to legislative initiative is individual, but it is not contrary to its essence for the MPs to act in groups and collectively propose and support a certain law"[22]. However, even though the provision of the Rules of Procedure of the Assembly leaves the possibility for the parliamentary groups to speak in the capacity of proposers of the law, it still remains restrictive towards the committees and working bodies of the Macedonian Assembly, which despite the tendency to strengthen their position in the attempt to rationalize parliamentary work, remain without the authority to propose laws.

If we emphasize the fact that less than 10% of the enacted legislative proposals today were submitted by the MPs, then the thesis that "the Macedonian Assembly shares the fate of modern parliamentarism and it is a place where the decisions made within the Government, that is the party leaderships of the ruling parties, are legalized and legitimized only "has been confirmed[23].

2.2 Legislative Initiative of the Government of the Republic of North Macedonia

The reduction of the number of individual legislative initiatives of the MPs at the expense of the proposals submitted by the government is a modern trend in the developed democracies. The possibility for the government, as a holder of the executive function, to take an active role in the legislative process as early as at the stage of initiating the legislative procedure and submission of the legislative proposal is a special characteristic of the systems in which there is no strict separation of the functions of the state authorities and in which there is no complete separation of the legislative from the executive power[24]. This situation in the modern parliamentarism is due to and rests on two basic factors:

- The need for the development of complex legal projects by experts and authorities reduces the possibility for MPs to do it independently. Namely, the complexity of the legal projects often imposes the need for cooperation and engagement of a large number of government ministries, experts from the relevant field and distinguished experts from

[21]Rules of Procedures of the Assembly, Article 134

[22]Пејиќ. *Парламентарно право-француски, немачки, британски српски и пример европског парламента*. Правен факултет Ниш, центар за публикације. Ниш.2006.р.159

[23]Силјановска. *За македонскиот модел на организација на власта*. Зборник во чест на Проф.д-р Владимир Миков (во подготовка) .Скопје.2008.р.13

[24]Пејиќ. *Парламентарно право-француски, немачки, британски српски и пример европског парламента*. Правен факултет Ниш, центар за публикације. Ниш.2006.р.158

practice, which increases the total costs related to the preparation of the legislative proposals, which MPs are not able to accomplish individually. In this manner, although there is no theoretical restriction on the MPs to submit a bill, in practice they are almost completely limited in this intention.

- The initiation of the legislative process in the parliament by submitting legislative proposals by the government is the main instrument through which it implements its general policy. In media res, the government's authority to submit legislative proposals is a basic mechanism for translating the policy into normative acts adopted by the parliament and an instrument through which the government can formalize its political programme.

The 1991 Constitution provides for that the Government is one of the main authorized proposers of laws. The set of data according to which the government submits 80%- 90% of the total number of legislative proposals[25], the fact that the submission of the proposed laws is an instrument for fulfilling the programme for which the mandate was entrusted by the citizens and the fact that, unlike the representative body, it has greater professional capacity for the preparation of complex legal projects supports the aforementioned that the modern tendencies of the modern parliamentary law do not bypass the Republic of North Macedonia.
In the context of the above, it has also been stated that, although it is not provided for de jure, the de facto authority of the government to propose laws is the basic instrument through which it directly influences and controls the work of the Assembly. It can be expected the handling of the submitted government proposals in the Assembly to consume most of the time of its work. This phenomenon is not due to insufficient own activity, lack of inventiveness or lack of initiative of the Macedonian MPs. On the contrary, it is only the result of the phenomenon that the Macedonian Assembly, like all other parliaments, is only a place where the decisions previously made in the government acquire the commanding force and imperative character of a law.

3. Legislative Initiative of 10,000 Electors

If we accept the opinion that democracy is best achieved if the citizens are familiar with and involved in the policy-making process, then the constitutional provision, which enables the initiation of the legislative process directly by 10,000 electors, is evaluated as an inventive solution of the Macedonian constitutor. On the other hand, the experience of modern democracies about the "endemic" forms of direct and semi-direct democracy relativizes the good criticism of this solution, and the Macedonian experience questions its expediency[26].
Although this constitutional solution leaves an opportunity for an activist relationship of the citizens and their organisations and associations in the so-called policy-making process, it seems that the partnership of the civil sector in initiating the legislative procedure is missing. The data from the annual reports on the work of the Assembly only confirm the finding that despite the

[25]See: Годишни извештаи на Собранието на Република Македонија. http://www.sobranie.mk/mk/default.asp?vidi=izvestaj

[26]If the experience of Switzerland, which is considered the cradle of direct democracy, is emphasized as an example, it can be concluded that the direct participation of the citizens in the legislative process is not implemented at this stage of the legislative procedure. Namely, the Swiss citizens can indirectly, but not directly, initiate the legislative procedure through the right of petition in the Federal Assembly (which has the same treatment as any complaint and petition submitted to the state authorities) or through the legislative initiative of the cantons.

constitutional possibility, citizens rarely appear or do not appear at all as authorized proposers of laws[27]. The fact that this instrument is not particularly frequently used, as well the passive attitude of the citizens, not only in the process of initiating the legislative procedure but also in the preparation, development and modelling of future legislative solutions, leaves open the question of the expediency of this progressive constitutional solution.

4. Content of the Bill

The original idea of what will become a law in the future is at the core of every legislative initiative. Traditional parliamentary law provides for that the legislative initiative can be submitted as a fully developed legislative proposal, an idea with more or less developed theses, or as a request to adopt a law on specific issues or a specific social area. In this manner, the theory, contrary to the contemporary reality, provides for a wide possibility for the implementation of the parliamentary legislative initiative.

The Rules of Procedure of the Assembly of the Republic of North Macedonia, in the provisions of Articles 135 and 136, clearly specify the elements that should be included in the content of the bill, so that it is subjected to three successive readings in the parliamentary phase of the legislative procedure. Thus, the legislator specified that "the bill contains the name of the law, an introduction, the text of the provisions of the law and an explanation"[28]. If the bill has not been prepared in accordance with the given provisions, the President of the Assembly will ask the proposer to do so before submitting it to the MPs. If the proposer does not harmonize the bill with the provisions of the Rules of Procedure within 15 days from the request of the President of the Assembly, it will be considered that the bill has not been submitted.

The procedural provisions of Article 135 provide for that the introduction of the legislative proposal submitted by the authorized proposers should contain: the assessment of the situation in the area that should be regulated by the law and the reasons for its adoption. If we take into account the fact that every adoption and implementation of the laws has an appropriate financial implication, it is clear and it can be expected that the procedural solution according to which the introduction of the legislative proposal must, as well, contain the assessment of the financial implications of the bill to the Budget and other public financial resources, the estimation of the financial means needed for the implementation of the law, as well as the way of securing them. In addition to these elements, the Rules of Procedure provides for that the introduction of the legislative proposal may also contain an overview of regulations from other legal systems and compliance of the legislative proposal with the *acquis communataire*, an overview of the laws that should be amended by the adoption of the law, as well as an overview of the regulations to be adopted for the purposes of the implementation of the law. In the event the legislative proposal contains provisions for harmonization with the law of EU, the introduction also states the information of the source act of the European Union with its full name, number and date.

The bill should be explained, and its explanation should contain a clarification of the content of its provisions, the interconnection of the solutions contained in those provisions and the consequences that will arise from them.

---

[27] In the last 7 years this right of legislative initiative was not exercised. See: http://www.sobranie.mk/mk/default.asp?vidi=izvestaj

[28] Rules of Procedure of the Assembly of the Republic of Macedonia Article 135 paragraph 1

If the bill is submitted to amend and supplement a previously enacted law, the text of the provisions of the existing law, which are amended or supplemented, is also submitted in addition to the bill.
The bill prepared in accordance with the provisions of the Rules of Procedure is submitted to the President of the Assembly. He/she immediately, or within 3 working days from the day of submission at the latest, submits the legislative proposal in written or electronic form to the MPs, thus starting the legislative procedure. In the event the authorized proposer of the law is not the Government, the President of the Assembly forwards this legislative proposal to the Government so that it could provide an opinion about it.
In this manner, any proposal that does not originate from the government must pass the so-called government instance before being considered and debated in the Parliament and its working bodies. If the Government does not submit an opinion on the specific bill, the Assembly and its working bodies take actions related to it even without the Government's opinion.
This procedural solution seems to prevent the delay of the legislative process and its possible obstruction by the Government. Although rational, this instrument is neither a guarantee nor a confirmation that the bill will be supported by the Government and thus enacted in the parliamentary phase of the legislative process. It only represents a confirmation that the non-submission of an opinion by the Government on the specific legislative proposal, whose proposer is not the Government itself, will not hinder the realization of the rest of the procedural actions from the parliamentary phase of the legislative procedure.
The next stage of the legislative procedure is the stage for the first reading of the bill, that is, its consideration in the working bodies of the Assembly. Finally, whether the submitted bill will see the light of day depends on the implementation of the later stages of the legislative procedure and the will of the parliamentary majority.

IV. CONCLUSION

The right to legislative initiative represents the right to submit legislative proposals (bills) to the legislative authority to be examined. The legislative initiative is a constitutionally guaranteed right to propose laws. Proposing the law is the first step of any legislative procedure. Fundamental question related to the right to legislative initiative is which authorities have the competence to propose the law. Thus, comparative and historical experience, note different solutions for the entities who are the holders of this right. However, the comparative parliamentary law points to the government and MPs as the most frequent authorized proposers. Macedonian and Swiss model of legislative procedure are an example of a broad setting of the right to legislative initiative and the possibility of a larger number of entities to act as authorized proposers of a law. If we compare Macedonian and Swiss model we can conclude that the right of legislative initiative is broadly defined. In both countries the executive and parliament remain main authorities that have the right of legislative initiative. The exercise of the legislative initiative by executive power is certainly more frequent. However, the main difference in previously mentioned systems is normative solution and exercise of the constitutionally guaranteed right to propose laws by the citizens. In Swiss model, citizens can not exercise the right to legislative initiative directly, but through Right to petition or Right to legislative initiative of the Cantons. On the other hand, in Macedonian model, 10000 citizens with the right to vote are authorized subject to propose a bill. It must be emphasized that this is one very progressive solution, but unfortunately this constitutionally guaranteed right of 10.000 electors is

not used in praxis. Exercising this right presupposes a good knowledge of the matter for which the bill is being drafted, strong activism on the part of the citizens and strong technical and professional expert support for the preparation of the bill. Achieving that is possible with adequate financial support.

Bibliography:

1. Adonis. Andrew, "*Parliament today*", Manchester University press, Manchester, 1993.
2. Alder. John, "*General Principles of Constitutional and Administrative law*", Palgrave Macmillan,Hampshire,2002.
3. Alder. John," *Constitutional and Administrative law*",PalgraveMacmillan,Hampshire,2007
4. Blackburn. Robert and Kennon. Andrew, "*Parliament Funcitons, Practise and Procedure*", Sweet and Maxwell Ltd, London, 2003.
5. Bogdanovskaya. I "*The legislative bodies in the law-making process*", http://www.nato.int/acad/fellow/97-99/bogdanovskaia.pdf
6. Loewenber. Gerhard, Squire. Peverill, Kiewiet.D.Roderick, "*Legislatures-Comparative Perspectives on Representative Assemblies*", The University of Michigan Press, USA, 2005.
7. Muller.Wolfgang and Saalfeld.Thomas, "*Members of parliamentin Western Europe: Roles and behaviour*", Frank Cass and Co.Ltd, London, 1997.
8. Nikolić. Pavle. *Zakonodavna procedura u Jugoslaviji sa posebnim osvrtom na svajcarsko pravo*. Isntitutzauporedno pravo.Beograd.1997.
9. Ryan, Stanley.M "*Parlamentary Procedure- Essential principles*", 1985.
10. Slk.Paul and Walters. Rhodri, "*How Parliament Works*", Pearson Education Limitted,Essex,1998.
11. Treneska –Deskoska Renata. *The Parliament of republic of Macedonia- ,, House" or ,, Cemetery" of democracy?!"*. Law Review. Vol.4 Issue 1.Skopje .2013.
12. Тенеска-Дескоска. Рената, "*Конституционализмот и човековите права*", Правен факултет "Јустинијан Први"", Скопје, 2006.
13. Vasovic, Vučina, "*Savremene demokratije- tom I* ", Służbeni Glasnik, Beograd,2006.
14. Vasovic. Vučina, "*Savremene demokratije- tom II*". Službeni glasnik,Beograd, 2006.
15. Zuccihini.Francesco, "*Delegating Parliament in a Devided Government*", Universitå di Milano, Milano, 2003.
16. Декоска Рената, Ристовска Марика, Трајковска-Христовска Јелена. *Уставно* право. Просветно дело. Скопје.2021
17. Јовановић.Б. *Доношење закона*. Изадавачка књижарница Геце Кона. Београд.1923.
18. Пејић. *Парламентарно право-француски, немачки, британски српски и пример европског парламента*. Правен факултет Ниш, центар за публикације. Ниш.2006.
19. Силјановска. *За македонскиот модел на организација на власта*. Зборник во чест на Проф.д-р Владимир Миков.Скопје.2008.
20. Стојановић. *Уставно право*.књига II. Ниш.2007.
21. Стопчев. *Конституционо право*.Ciela. Софија.2002.
22. Тренеска.Рената. *Извршната власт во демократските системи*. Матица македонска. Скопје.1999.