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**SOCIOLOGICAL AND LEGAL ASPECTS OF THE MEMBER
OF PARLIAMENT MANDATE IN THE REPUBLIC OF
MACEDONIA-BASIC THESES FOR INTERDISCIPLINARY
RESEARCH - *PRO FUTURO***

Abstract

The text titled “Sociological and Legal Aspects of the MP’s Mandate in the Republic of Macedonia” mainly observes the scientific research way of treating the MP’s mandate, especially from the aspect of sociological and legal research which is insufficient in the Macedonian modern society and science. Practice points out that there is a huge

disagreement between the formal and the real and that the electors and the citizens, and especially the ethnic groups, are in unequal position.

There is supremacy of particular parliamentary functions compared to some others, such as for example the function of the President of the Assembly and some other cited in this text. The normative function of the Assembly of the Republic of Macedonia is not consistently executed, because the adopted regulations, especially the legal regulations are pending and, after they are previously selected, they are not published in the Official Gazette of the Republic of Macedonia in due time.

There are many open issues related to the execution of the MP's mandate and the overall functioning of the Assembly of the Republic of Macedonia, as a holder of the legislative function of the parliamentary system of the Republic of Macedonia.

INSTEAD OF THE FOREWORD

The insight in the modern Macedonian sociological and legal scientific database allow us to see that the nature of MP's mandate is scarcely discussed, meaning that it has been insufficiently researched.

According to the 1991 Constitution of the Republic of Macedonia, numerous normative and institutional changes were introduced in the Republic of Macedonia as a newly established, independent, unitary and internationally recognized state. First of all, changes related to the ownership title bearers, that is, changes in the economic system as well as changes in the political and social system.

In the last mandate of functioning of the delegated Assembly of the Republic of Macedonia as a federal unit of the Socialist Federal Republic of Yugoslavia, mostly in 1990, before its dissociation, numerous changes were made as prerequisites for the future changes within the transition, being a period of transition from one socioeconomic and political formation to another one.

By 1991, the Assembly of the Socialist Republic of Macedonia (which was one of the six federal units and the two autonomous provinces within the Socialist Republic of Serbia) was tricameral parliament, and the parliamentary system (that is, delegate system) was grounded on the principle of unity of the authority.

Regarding the new concept of MP's mandate, in the newly established Macedonian state especially relevant are the following fundamental values of the Constitution of the Republic of Macedonia which are determined in Article 8 Paragraph 1, such as "rule of law" (Line 3), then, "division of the state power to legislative, executive and judicial power" (Line 4), as well as "the political pluralism and free direct and democratic elections" (Line 5). T h e very fact that during the last 25 years there is a lack of comprehensive discussions on the category of mandate, on its sociological or even legal nature, is an important segment for activation of the scientific public for preparation of relevant projects, all of these in order to research the acting of the elected representatives in the public life and certainly, their communication with the citizens and electorate.

This paper is intended to sketch the major directions or theses for the future project, for the project *pro futuro*, especially from the aspect of the sociological sciences (general sociology and the special sociological disciplines, such as the sociology of law), the constitutional law and the political system. In addition, because of the complexity of the very concept, we support an interdisciplinary approach which we consider to be necessary for recognition of the institution of mandate, and especially, the MP's mandate. We hold that for the study of this matter, besides the use of the secondary base of information and data, it is necessary to provide a relevant experience evidence through direct empirical research, database from the

social media, that is, to develop a methodological framework for e-research, which would provide data from “the virtual community which is increasingly becoming important in the Macedonian socio-political life”.

There are various aspects, but in this occasion we will focus on the sociology and its principles, the constitutional – legal and political system (as a system of norms and ways of its realization).

The sociological aspect is of high importance because it treats and analyzes all phenomena and related processes which occur within the modern democracy which principles become also generally valid for the post-socialistic countries, especially those from the European Union, as well as the countries from the so-called Western Balkan.

In fact, it is about the institutional changes which refer to the civil democracy and civil society, which have different institutional forms, hence, distinctive from those which are dominant as a theory and practice of the modern capitalist countries.

Generally viewed, according to almost all sociologists, the democracy is grounded mainly on the principles such as: sovereignty of the people, the principle of equality of all people, as well as the personal freedom of the citizens. There are different forms of democracy which depends on the type of the society. Several types of democracy predominate: direct, referendum and indirect or representative democracy, which is the subject matter of this paper.

Based on the insight into the empirical archive, there is deficiency of projects and scientific publications related to the parliamentary mandate and the activity of the MPs (formerly delegates). Therefore, we can indicate the newest publication of Institute for Sociological, Political and Juridical Research within the Sts. Cyril and Methodius University in Skopje, according to which records of its 50 years’ activity, there is a small number of scientific-research projects and published studies from this area.

As an example of the deficiency of projects and scientific publications related to the MP’s mandate and the activity of the MPs (previously delegates), we can point out the latest publication of the Institute for Sociological, Political and Juridical Research within the Ss. Cyril and Methodius University in Skopje, according to which records of the activities in the last 50 years, there is a small number of scientific-research projects and published studies from this field. Most often, in the last 20 years the scientific-research activities in the field of law and politics are mostly directed toward the study of the electoral system, the local self-government, firstly as a constitutional category, and later as a legal institution, and, certainly, of the public opinion.

Because we make efforts to research the topic in an interdisciplinary way, it would be useful if a relevant pilot research would be conducted as a kind of introduction,

which would be intended to get knowledge of particular phenomena, processes and relationships as they function in reality and which would be a significant input for developing a scientific research set of instruments.

First, we should set the following theses of the *PRO FUTURO* research:

1. To define the sociological nature of the parliamentary mandate, especially in terms of the development of the parliamentary system in the modern state of the Republic of Macedonia.
2. Then, to define the legal nature of the parliamentary mandate within the modern parliamentary democracy and the civil society in terms of multi-ethnicity.
3. Finally, to define the political leadership in Weber's sense of word which refers to the charismatic government, by which the risk of total bureaucracy is avoided.

THE SOCIOLOGICAL NATURE OF THE MP'S MANDATE

Today the mandate, especially the MP's mandate which is performed in the Assembly of the Republic of Macedonia, is scarcely discussed, especially from sociological and social aspects. The representatives of those local self-governments which are elected and in this mandate by, and originate from the opposition parties are often a target of verbal attacks.

For the empirical research of the mandate the sources and type of information and data are of key importance. It includes utilization of the classic media, as well as the electronic sources which are generally related to the operation of the Assembly of the Republic of Macedonia and the parliamentarian groups within it. In addition, we should take into account the socio-demographic structure of the MPs, the database regarding the activity of the MPs, their contacts and communications with their political party and the bodies of the Assembly, the voters, local communities and alike. According to the Constitution, MPs have the same rights, but according to their position in the Assembly they are not in position to act equally (compared to the President of the Assembly and his deputies and the coordinators of the parliamentary groups). It seems that the position of the MPs is not equal, which should be empirically confirmed.

We should mention that regarding the activity of the MPs there is a difference, and we could use a wide range of sociological methods and techniques in this analysis. In our opinion, we could use mixed research methods which would include both the quantitative and qualitative methods, because it would make possible to get insight in the major trends or directions of functioning of the mandate, as well as to

comprehend why they are developing in such a way. In addition, of key importance is the analysis of the content of the written material, as well as the legal framework which covers the key concept of mandate.

Depending on the methodological framework of the very research, it can consider the following research questions:

- To which extent the MPs are independent and personally neutral in relation to the parties that have nominated them?
- What is the position of the independent candidates in relation to the electorate and the citizens?
- What is the position of the MPs who come from the minority ethnic groups?
- What is the position and how the young and female –MPs act? How regularly they attend the sessions and how active are they?

“The so-called disagreement between the normative and the real” is a real motive for the sociological research in all domains, starting from the very beginning of the pre-election, election process and determination of the electoral units and other assumptions about the parliamentary body, especially of the Assembly of the Republic of Macedonia. “Conflict of interests” is also a relevant occurrence which in the conditions of the so-called young democracy, but also within the so-called small state according to its geographic area and number of population, is not possible to systematically eliminate, but yet, there should be a tendency of its decrease.

The very fact that there is no awareness that the MP’s function is not an employment relationship, creates a situation for more frequent application of a long-lasting mandate, held especially by one and same person. It is also a case with numerous other functions in the bodies, committees etc. within the Assembly.

Certainly, it is not only about the above cited segments and issues, but maybe this social phenomenon should be more widely and extensively studied. However, in general, all segments mean relevant scientific theoretic definition, problem setting, and, certainly, empirical explanation and elaboration.

THE LEGAL NATURE OF THE MP’S MANDATE

The legal nature of the MP’s mandate, according to the applied law in the Republic of Macedonia comes from the norms of the Constitution and the Rules and Procedures of the Assembly of the Republic of Macedonia which regulate the way of execution of the function, as well as the relation toward the citizens and electors, and also toward other subjects.

According to Article 62, Paragraph 3 and 4 of the current Constitution of the Republic of Macedonia the MP represents the citizens and in the Assembly he/she makes a decision upon his/her own conviction. The MP cannot be recalled but he/she can resign. The MPs are elected for a period of four years. According to the Constitution, the mandate of a person who has been previously a MP cannot be limited. According to this norm, some of the MPs have held such a position even 16 sequential years (4 mandates). Such presence and acting of some MPs in the Assembly of the Republic of Macedonia should be analyzed from the aspect of their efficiency.

Let's emphasize. According to Jean-Jacques Rousseau, "The better the constitution of a State is the more do public affairs encroach on private in the minds of the citizens. Private affairs are even of much less importance, because the aggregate of the common happiness furnishes a greater proportion of that of each individual." (p. 117). However, the author advocates recall of the representatives by the citizens. According to him, the executive power is not subject to the Social agreement, but to a law. In addition, the executive power is a servant to the people.

However, the eminent professor of Constitutional Law, Jovan Đorđević PhD underlined that "nobody was born to rule and has neither personal nor inherited right to conquer or occupy a governing position. It is the basic proposition of the entire democratic and political thought about the state, politics and governing" (p. 719).

In the "Constitutional Law and Political System" the content related to the mandate is placed in the chapter devoted to the Assembly of the Republic of Macedonia (page 375). This part does not contain appropriate definition of the mandate, but it indicates the opinion that "the MPs in the Assembly of the Republic of Macedonia represent the citizens in the Assembly, and they make decisions upon their own conviction". It is furthermore said that such mandate is free and representative. The authors also emphasize the following:

- MPs represent the citizens in entirety, not only their electoral unit,
- MPs enjoy independence in regard of their electorate and make decisions upon their own conviction,
- MP's mandate is irrevocable.

In our opinion, prior to determination of the nature of the MP's mandate, it is necessary to accept an appropriate and generally valid definition of the mandate.

The very expression "mandate" was originally defined and used in the economy. Later the word mandate acquired new meaning in the legal theory and political practice, where a question is posed about the legal nature of the mandate granted by the electorate to the elected person.

Furthermore, there is constantly important question: what is the relationship between the electorate and the elected representative? Does this relationship ends after the election, or it lasts for the entire mandate of that representative?

Depending on the nature of that relationship, we can distinguish two kinds of mandates: representative (free) mandate, and imperative mandate.

According to the concept of the representative mandate, the elected representatives represent the entire population, and the electorate has the right only to elect them. Today, the MP's mandate is almost present in all electoral systems. It is also in effect in the constitutional system of the Republic of Macedonia. However, it is a prevailing constitutional institution in most of the countries, compared to the imperative mandate.

According to the concept of the imperative mandate, the elected representatives keep a close contact with their electorate and they are obliged to give them an account for their work during their mandate. The electorate has the right to control the efficiency of their representatives as well as the right to recall them, in case they are not satisfied with their work.

Taking into account the empirical data, we hold that today when the MP's mandate is prevailing, the citizens have no possibility to completely execute their right of representative democracy, because the interests of the parties and a number of interest groups are dominant.

In fact, this kind of parliamentary and MP's mandate reduces the possibility for the citizens to influence the execution of the MP's function.

In general, this kind of MP's mandate (representative mandate) is more acceptable for many countries.

We, the authors of this paper, hold that the imperative mandate is more suitable for execution of the democratic rights of the citizens, because the representatives are closely connected to their electorate and the citizens. This kind of mandate allows the electorate to have a right to control the work of their representatives. In case they are not satisfied with the work of their representatives, they can recall them before their mandate is expired. Based on the above, this system is more suitable ground for application of various elements and practices of the immediate democracy.

According to the Constitution of the Republic of Macedonia, the Assembly of the Republic of Macedonia acts as a representative body of the citizens and it is a holder of the legislative power of the Republic. Accordingly, the representative represents the citizens and in the Assembly he/she makes a decision upon his/her own conviction. The representative cannot be recalled. The mandate, according to the constitutional provisions is representative one and it lasts for four years, during which time the representative cannot be recalled. However, he/she can resign.

According to the Constitution of the Republic of Macedonia, the representative democracy, especially regarding the institution of mandate, is very rigidly expressed, because there is no limitation of the mandate, except in few particular functions, which can lead to autocratic governance and can cause prevalence of the majority party (-es) in the Assembly, that is, the legislative power, followed by the other two powers: executive and judicial powers.

In the recent years there are atypical occurrences in the Republic of Macedonia which were not noticed so far as parliamentary routine. For example, in the previous several years the Assembly was usually elected after two consecutive years, wherein the mandate was prolonged by a decision of the ruling parties. Then, in the last two years, the representatives (MPs) of the opposition parties did not participate in the operation of the Assembly.

Many years back there is a small number of independent MPs in the structure of the Assembly. It would be interesting to see the socio-professional structure of the MPs. It would be also interesting to analyse the socio-demographic features of the MPs regarding their age, origin, education etc.

The MPs in Macedonia are trying to find their place within the larger coalitions according to their dominant ethnic origin (Macedonian and Albanian).

According to the principles of the electoral legislation, many years back the importance of the smaller ethnic communities quoted in the Preamble of the current Constitution of the Republic of Macedonia is marginalized.

We should mention that the institution of mandate is not related only to the Assembly of the Republic of Macedonia, but also to other representatives of institutions, such as the executive power (officers), judicial power and the local self-government.

The mandate, besides all those powers, is also a present category in the institutions, that is, non-economic public services, in the non-governmental sector.

In the recent years, the mandate of particular positions, such as director, dean etc, that is, in the public services, is arbitrarily prolonged. The reasons for that are probably financially motivated, then, there is a desire for self-importance, but also, certainly, under the influence of the dominant party structures, and even of the executive power.

It seems that the rule and the governance in conditions of representative democracy is very attractive activity for many persons.

According to the historical experience, the long-term mandates and unlimited mandates present a solid ground for creation an oligarchic and non-democratic governing.

Generally, all of the above presented can be taken into account as a segment for a theoretical definition of the concept, and also for setting a relevant hypothetical

framework or research questions which should be part of the empirical research. In the context of the study of the institution of mandate, we should also have in mind all other mandates from the sphere of the public power and governance.

ABOUT THE POLITICAL LEADERSHIP

In general, we do not set thesis about the leadership which limits the government bureaucracy, especially in Weber's sense of word. It is necessary for them to be articulated within the empirical research. The political leadership can be analyzed through the dynamics of the conflict and the power. That is, to empirically measure the influence of the political leadership through the real social changes, through the satisfaction and the fulfillment of the promises i.e. the projected expectations of the collectivity itself. (Burns, 1978; Koenen-Iter, 2005; Hariman, 1995).

FINAL CONSIDERATIONS

Based on all above cited, as well as the empirical records, we hold that it is necessary to take into account the following activities during the preparation of a concept and a project for scientific study of the institution of mandate:

- It is necessary to initiate a continual scientific research of the operation of the Assembly of the Republic of Macedonia as a legislative power.
- To initiate a scientific study of the organs of the executive power.
- To initiate a research on the functioning of the judicial power.
- To initiate a continual research on the functioning of the local government, first of all of the representative democracy and immediate democracy.
- To initiate a continual research on the functioning of the public services and non-governmental sector, at central and local levels.
- To initiate a study of the leadership in general. Also to conduct a comparative research on the different types of leadership, especially at central and local level.

The research of these phenomena will contribute to get immediate insight of the manner in which the institution of mandate functions in practice, as well as to get insight in the advantages and disadvantages of this institution, all in order to properly change some of its segments because of its better and more successful functioning.

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