

THE QUESTION OF PUBLIC PARTICIPATION IN THE PROCEDURE FOR AUTHENTIC INTERPRETATION OF LAWS

*Gordan Struić**

ABSTRACT

Authentic interpretation of laws is an interpretation of legal provisions that, due to their lack of clarity or misinterpretation in their application, is provided by the parliament. Unlike the legislative procedure, which is conducted, as a rule, in two (exceptionally three) readings, a proposal for giving an authentic interpretation is discussed in one reading. Starting from the understandings of some authors that the act of authentic interpretation of laws is contrary to the principle of democratic pluralism, and that it lacks the necessary level of democratic control and citizen participation, the author examines whether the Croatian parliamentary law enables public participation in the procedure for authentic interpretation of laws and, if so, what legal instruments can be used to implement it in parliamentary practice. To this end, the paper analyzes several relevant constitutional, legal, and procedural provisions of the Croatian parliamentary law, with reference to a parliamentary practice. Given the fact that the procedure for authentic interpretation in the Republic of Croatia, the Republic of North Macedonia, the Republic of Slovenia and the Republic of Serbia is regulated in a similar way by the rules of procedure of their respective parliaments, the relevant regulations of the latter three countries on the possibility of public participation in this procedure are analyzed as well. It was concluded that Croatian parliamentary law enables public participation in the procedure for authentic interpretation, through the instru-

* Gordan Struić, M.A., University Specialist in Comparative Politics, and PhD Candidate at the Faculty of Political Science, University of Zagreb, Republic of Croatia; Advisor in the Office of the President of the Croatian Parliament (Speaker's Office); correspondence address: Trg. sv. Marka 6, 10000 Zagreb, Republic of Croatia; e-mail: gordan.struic@gmail.com; <http://orcid.org/0000-0001-6528-4436>.

ments of petition, information and involvement in working groups and working bodies, and the same instruments, with certain specifics, are recognized in the parliamentary law of the latter three countries.

Keywords: authentic interpretation, parliament, public participation, legislative procedure

1. INTRODUCTION

Authentic interpretation of laws is an interpretation of certain legal provisions that, due to their lack of clarity or misinterpretation in their application in practice, is provided by the parliament as a legislator. Given that the parliament clarifies the original meaning of the legal provision for which it was prescribed, such an interpretation is considered as an integral part of the interpreted law from the moment it enters into force, with retroactive (*ex tunc*), and binding effect *erga omnes*.¹ The legislator gives an authentic interpretation of laws in a procedure to which the provisions of the parliamentary rules of procedure on the law-making procedure apply *mutatis mutandis*. However, in relation to the ordinary legislative procedure – which is usually conducted in two (exceptionally three) readings – a proposal for an authentic interpretation is discussed in just one reading. Some authors pointed out that the act of authentic interpretation of laws acts contrary to the principle of democratic pluralism, which should be based, *inter alia*, on the application of fundamental procedural guarantees of legitimacy of the legislative procedure; it is emphasized that the act of authentic interpretation “seeks to circumvent the regular legislative procedure, tries to promote specific political interests, without the necessary level of democratic control and without citizen participation”.²

¹ Gordan Struić, “Vjerodostojno tumačenje zakona u hrvatskom parlamentarnom pravu od 1947. do danas,” *Hrvatska i komparativna javna uprava* 16, no. 3 (2016): 556, <https://doi.org/10.31297/hkju.16.3.3>.

² Siniša Rodin, “Demokratsko-pluralistička kritika instituta tzv. vjerodostojnog tumačenja,” *Informator* 53, no. 5337-5338 (2005): 1.

Furthermore, some authors pointed out, for example, that Article 90, paragraph 4 of the Constitution of the Republic of Croatia³ (hereinafter: Constitution) provides that laws and other regulations shall not have retroactive effect; that the interpretation of legal provisions is not inherent in the legislature, but in the judiciary, which violates the principle of separation of powers (Article 4, paragraph 1 of the Constitution); that the legislator has no constitutional power to give authentic interpretation of laws, because power to give such interpretations is prescribed *explicite* exclusively by the parliamentary rules of procedure.⁴ However, in contrast to the latter criticisms, which have already been analyzed in the Croatian legal literature,⁵ and which have already been ruled⁶ by the Constitutional Court of the Republic of Croatia (hereinafter: Constitutional Court), the question of public⁷ participation in the procedure for authentic interpretation of

³ The Constitution of the Republic of Croatia of 22 December 1990, Official Gazette 1990, No. 56, item 1092. Amendments to the Constitution were published in the Official Gazette 1997, No. 135, item 1944; 2000, No. 113, item 2224; 2001, No. 28, item 487; 2010, No. 76, item 2214; 2014, No. 5, item 93.

⁴ Miljenko Giunio, "Ustavnost i vjerodostojnost autentičnog tumačenja zakona u hrvatskoj praksi," *Pravo u gospodarstvu* 44, no. 5 (2005): 3–34.

⁵ For example, Teodor Antić, "Vjerodostojno tumačenje zakona," *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* 36, no. 1 (2015): 619–644; Miljenko Giunio, "Ustavnost i vjerodostojnost autentičnog tumačenja zakona u hrvatskoj praksi," 3–34; Siniša Rodin, "Demokratsko-pluralistička kritika instituta tzv. vjerodostojnog tumačenja," 1–4; Gordan Struić, "Vjerodostojno tumačenje zakona u hrvatskom parlamentarnom pravu od 1947. do danas," 553–585.

⁶ The Constitutional Court in decision of 14 November 2007 (No. U-I-2488/2004, Official Gazette 2007, No. 133, item 3832) expressed the view that Article 71 of the Constitution, which vests the legislative power in the Croatian Parliament, implies its power to determine which legislative acts (and in which form) it will adopt, and that the act of authentic interpretation is the so-called interpretive law. In addition, bearing in mind that the authentic interpretation of laws is an abstract, not a concrete interpretation that would refer to an individual case, such an interpretation does not encroach on the judiciary, which means that there is no violation of the principle of separation of powers. Also, the Constitutional court expressed the view that authentic interpretation, in principle, is about its apparent retroactive effect, because such an interpretation only determines the true meaning of the provisions of the law in force.

⁷ In the absence of a generally accepted definition of the concept of public, it is worth noting that the Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Acts of 21 November 2009 (Official Gazette 2009,

laws has not yet been in the focus of research attention, and it was mentioned only secondarily.⁸

In this context, the paper examines whether the positive Croatian parliamentary law⁹ enables public participation in the procedure for authentic interpretation of laws and, if so, which legal instruments can be used to implement it in parliamentary practice. Namely, the parliament, “as a legislative body of the constitutional state, essentially represents the struggle for an effective form and instruments of publicity”,¹⁰ realizing its functions in public, following procedural rules provided by the parliamentary rules of procedure to ensure that the discussion of individual topics takes place in public, in conditions of real openness and public accessibility, with the possibility of participation of as many stakeholders as possible during all phases of the legislative process.¹¹ Having in mind the above, after the first, introductory part, the second part briefly outlines the normative framework of the procedure for authentic interpretation of laws, and the third part generally discusses the importance and roles of public participation in decision-making processes. The fourth part analyzes several relevant provisions of the Constitution, laws, and rules of procedure, with reference to a parliamentary practice based on available data

No. 140, item 3402) defines that interested public consists of “citizens, civil society organizations (informal civic groups or initiatives, associations, foundations, funds, private institutions, trade unions, associations of employers), representatives of the academic community, chambers, public institutions, and other legal entities performing a public service, or who might be affected by the law, other regulation or act which is being adopted, or who are to be included in its implementation”. To include as many addressees as possible under the mentioned term, in this paper, the stated definition will be adhered to, and the term “public” will be used in the presented sense.

⁸ See Gordan Struić, “Pitanje totalitarne naravi autentične interpretacije zakona kao relikta prošlosti,” in *Identiteti – kulture – jezici, Godišnjak Filozofskog fakulteta Sveučilišta u Mostaru: Nasljeđa totalitarizama u suvremenom društvu*, ed. Dražen Barbarić et al. (Mostar: Filozofski fakultet Sveučilišta u Mostaru, 2018), 55–68.

⁹ These are constitutional norms, norms of the so-called organic and ordinary laws, as well as the norms of the parliamentary rules of procedure. See Arsen Bačić, “Konstitucionalizam i parlamentarno pravo,” *Vladavina prava* 3, no. 6 (1999): 129–155.

¹⁰ Zvonko Posavec, “Javnost i demokracija,” *Politička misao* 41, no. 1 (2004): 8.

¹¹ Gordan Struić, “Uloga i način uređenja javnosti u hrvatskom parlamentarnom pravu od 1947. do 1953.,” *Pravni vjesnik* 33, no. 2 (2017): 102, <https://doi.org/10.25234/pv/5111>.

on the Croatian Parliament's website. After the consideration of relevant regulations of the three former Socialist Federal Republic of Yugoslavia (hereinafter: SFRY) countries which, similarly to the Republic of Croatia, regulate the procedure for authentic interpretation of laws by their parliament – the Republic of North Macedonia, the Republic of Slovenia, and the Republic of Serbia – the concluding remarks are presented in the sixth, final part of the paper.

2. PROCEDURE FOR AUTHENTIC INTERPRETATION

The power of the Croatian Parliament for giving an authentic interpretation of laws is not explicitly stated in the Constitution, but its *ius interpretandi* derives from Article 81, subparagraph 2 of the Constitution which prescribes its power to adopt laws¹² and Article 159 of the Rules of Procedure of the Croatian Parliament¹³ (hereinafter: Rules of Procedure) which prescribes that the Croatian Parliament, on the basis of rights and powers established by the Constitution and by the Rules of Procedure, shall, *inter alia*, enact laws and give authentic interpretations of individual provisions of laws. The elaboration of the procedure for authentic interpretation is regulated by the provisions of Articles 208-210 of the Rules of Procedure. To that procedure, in accordance with Article 208, paragraph 2 of the Rules of Procedure, the provisions governing the legislative procedure shall apply accordingly,¹⁴ with a total of four stages of

¹² Also, see the view of the Constitutional Court expressed in decision of 28 September 2004 (No. U-II-1265/2000, accessed December 11, 2020, <https://sljeme.usud.hr/usud/praksaw.nsf/fOdluka.xsp?action=openDocument&documentId=C1256A25004A262AC1256F1E00350B68>) and decision of 14 November 2007 (No. U-I-2488/2004, Official Gazette 2007, No. 133, item 3832).

¹³ Rules of Procedure of the Croatian Parliament of 28 June 2013, Official Gazette 2013, No. 81, item 1709. Amendments to the Rules of Procedure were published in the Official Gazette 2016, No. 113, item 2469; 2017, No. 69, item 1610; 2018, No. 29, item 589; 2020, No. 53, item 1061; 2020, No. 119, item 2337; 2020, No. 123, item 2382.

¹⁴ In accordance with the view of the Constitutional Court expressed in decision of 23 April 2008 (No. U-III-4827/2005, Official Gazette 2008, No. 55, item 1926), it is understood that the legal provisions are applied in accordance with the nature of a particular procedure, "which means that they do not always have to be applied nor do they have to

proceeding with the submitted proposal. In the first phase, a proposal for an authentic interpretation of the law is sent to the competent body to assess its validity; in the second phase, the opinions necessary to assess the validity of said proposal shall be submitted; the third phase consists of an assessment of validity; the fourth phase consists of a debate at a session of the Croatian Parliament (plenary session) and the adoption of its decision.¹⁵

Pursuant to Article 209, paragraph 1 of the Rules of Procedure, the procedure for authentic interpretation of laws begins with the submission of a proposal to the President of the Croatian Parliament. It shall contain the title of the specific law, as well as the specific provision whose interpretation is proposed, grounds for interpretation, sources of the needed means, and a draft text of the authentic interpretation. In doing so, said proposal must be submitted exclusively by authorized sponsors of laws, i.e. by any member of parliament (hereinafter: MP), deputy club, parliamentary working body, or the Government of the Republic of Croatia (hereinafter: Government). Subsequently, the President of the Croatian Parliament submits a proposal to the Legislation Committee, the competent working body,¹⁶ and the Government (when the Government is not the proposer) to assess the validity of the proposal. In accordance with Article 209, paragraph 3 of the Rules of Procedure, the competent working body and the Government must submit their opinion on the proposal within 30 days, and if they fail to do so within the prescribed period, it shall be deemed that they agree to that proposal. After obtaining opinions on said proposal, or after the expiry of the

be applied literally”. See also the view of the Constitutional Court expressed in decision of 23 November 2006 (No. U-III-2601/2004, accessed December 11, 2020, <https://sljeme.usud.hr/usud/praksaw.nsf/fOdluka.xsp?action=openDocument&documentId=C12570D-30061CE53C1257230003DE270>).

¹⁵ Gordan Struić, “Postupak za autentično (vjerodostojno) tumačenje zakona u hrvatskom, makedonskom, slovenskom i srbijanskom parlamentarnom pravu i praksi,” *Pravni vjesnik* 32, no. 3-4 (2016): 142.

¹⁶ According to Article 3, subparagraph 2 of the Rules of Procedure, it means “any working body of Parliament that monitors, debates and assumes a position on issues of a particular topic under its competence (...)”.

30-day period, the Legislation Committee shall assess¹⁷ whether the proposal is well-founded, and inform the Croatian Parliament of its position within 30 days, which will finally debate on a proposal in one reading¹⁸ and make a decision. Bearing in mind that the act of authentic interpretation of a law is the so-called interpretative law, in accordance with Article 254, paragraph 2 of the Rules of Procedure, the Croatian Parliament shall adopt a decision by the same type of majority vote by which that law, whose provision is interpreted, was enacted, and interpretation shall be published in the Official Gazette, and in the bulletin¹⁹ of the Croatian Parliament.

Focusing only on the mentioned provisions, it would not be clear whether there is a place for public participation in the procedure for authentic interpretation of laws. So, it is necessary to consider other provisions of the Rules of Procedure and relevant regulations. But, prior to that, it must be examined whether – given that it is (only) an interpretation of the law by the legislator – it should be possible for the public to participate in this procedure. The answer to this question should be given after the insight into the very importance and role of public participation in the decision-making process.

¹⁷ Each working body, including the Legislation Committee, shall make its decision “by majority vote if the majority of all members are present at the meeting” (Article 50, paragraph 1 of the Rules of Procedure), and this applies to the assessment of validity, and to the opinion on the proposal as well.

¹⁸ As follows from the explanation in Final Draft of the Rules of Procedure of the Croatian Parliament of 19 June 2013 (accessed December 11, 2020, <http://edoc.sabor.hr/DocumentView.aspx?entid=14368>), the reason for conducting one reading – in relation to the ordinary legislative procedure with two (exceptionally three) readings – may be found in that the latter number of readings in authentic interpretation “would not, as a rule, have a particular impact”. For a detailed description of the ordinary legislative procedure, see Articles 171-203 of the Rules of Procedure.

¹⁹ Pursuant to Article 280, paragraph 2 of the Rules of Procedure, the website of the Croatian Parliament shall be considered its official bulletin.

3. IMPORTANCE AND ROLES OF PUBLIC PARTICIPATION

In the rich literature dealing with the importance and roles of public participation in the decision-making process, some authors²⁰ point out two main views on political participation and democracy. The first one is instrumental, in which participation plays only a marginal role which is reduced to the election of political leadership. Furthermore, it is argued that participation is resorted to, as a rule, only by a vocal minority, who cannot be trusted to represent us all,²¹ and that it is based on an optimistic view of citizens motivated by their wishes to act for their own community, and that they can be educated to act for the common good.²² On the other hand, the importance of public participation in the decision-making process is emphasized with regard to its educational role through personal development of individuals, integrative role through their stronger community affiliation, and real contribution to good governance,²³ leading to a significant increase in democratic legitimacy of the legal system.²⁴ In addition, public participation is considered to strengthen confidence in the legislature, increasing the possibility of influencing the quality of legal solutions with a consequential contribution to their more effective application in practice.²⁵

At the same time, legitimate and effective democracy presupposes active citizenship that develops through involvement in public debates and

²⁰ See Ank M. B. Michels, "Citizen Participation and Democracy in the Netherlands," *Democratization* 13, no. 2 (2006): 323–339, <https://doi.org/10.1080/13510340500524067>.

²¹ Anne Phillips, (*O)radanje demokracije* (Zagreb: Ženska infoteka, 2001), 49.

²² John F. Freie, "Participatory democracy," in *Encyclopedia of Community: From the Village to the Virtual World, Volume 1*, ed. David Levinson, and Karen Christensen (Thousand Oaks: Sage, 2003), 162.

²³ See Carole Pateman, "Participatory Democracy Revisited," *Perspectives on Politics* 10, no. 1 (2012): 7–19, <https://doi.org/10.1017/S1537592711004877>.

²⁴ Marijke Malsch, *Democracy in the Courts: Lay Participation in European Criminal Justice System* (Ashgate: Surrey, 2009), 3.

²⁵ Gordan Struić, and Vjekoslav Bratić, "Sudjelovanje javnosti u zakonodavnom postupku: primjer Odbora za financije i državni proračun Hrvatskoga sabora," *Hrvatska i komparativna javna uprava* 17, no. 1 (2017): 134.

political decision-making to determine social goals,²⁶ and the realization of such a model in practice can be achieved through a number of instruments, including referendums, civic initiatives, and petitions, as well as all other various contemporary forms of action that are based on the need to provide information, participation, counseling, and oversight.²⁷ In this context, the real link between democracy, participation, and the public becomes more visible, since the absence of an effective democracy, which is fulfilled, *inter alia*, by consensus and broad participation,²⁸ may prevent an effective public from identifying important or controversial issues in the process of implementation of its critical function, as well as in initiating the process of finding solutions, considering the offered options and their alternatives, and in striving to make compromises.

Therefore, it can be concluded that, despite the different views of some theorists on the importance and role of public participation in the decision-making process, there are advantages that arise from it. Also, the real application of the model of legitimate and effective democracy that presupposes the action of the public in socio-political life necessarily requires the existence and application of various legally regulated instruments that enable participation in decision-making processes; therefore, even in cases when a legislator provides an authentic interpretation of a specific norm, clarifying its true meaning for which it was guided in the time of prescribing. This undoubtedly achieves the necessary level of democratic control guaranteed and implied by public participation in decision-making processes, which is why it is worth to further examine whether such instruments exist in the positive Croatian parliamentary law.

²⁶ Pero Maldini, *Demokracija i demokratizacija* (Dubrovnik: Sveučilište u Dubrovniku, 2008), 147.

²⁷ Carole Pateman, "Participatory Democracy Revisited," 14.

²⁸ Pero Maldini, "Postkomunizam i postdemokracija: kriza demokracije i mjerila demokratičnosti," in *Demokracija i postdemokracija*, ed. Anđelko Milardović, and Nikolina Jožanc (Zagreb: Pan liber i Institut za europske i globalizacijske studije, 2013), 212.

4. PUBLIC PARTICIPATION AND AUTHENTIC INTERPRETATION

In recent years, a number of documents have been adopted at the international level in the form of codes, recommendations, etc., with principles aimed to create a supportive environment for public participation in decision-making, such as the Code of Good Practice for Civil Participation in the Decision-Making Process,²⁹ Recommendation CM/Rec(2009)1 of the Committee of Ministers to member states on electronic democracy (e-democracy)³⁰ or Guidelines for civil participation in political decision making.³¹ In addition, a significant number of acts on that matter have been adopted in the Republic of Croatia as well, such as the Law on the ratification of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters,³² the Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Acts³³ or the Right of Access to Information Act³⁴ (hereinafter: RAI).

Recent research findings on the legal framework for public participation in the legislative process through the activities of working bodies of the Croatian Parliament in the period of four consecutive parliamentary

²⁹ Council of Europe, Code of Good Practice for Civil Participation in the Decision-Making Process, Strasbourg, 1 October 2009, accessed December 11, 2020, <https://rm.coe.int/16802eed5c>.

³⁰ Council of Europe, Recommendation CM/Rec(2009)1 of the Committee of Ministers to member states on electronic democracy (e-democracy), Strasbourg, 18 February 2009, accessed December 11, 2020, <https://rm.coe.int/09000016805d1b01>.

³¹ Council of Europe, Guidelines for civil participation in political decision making, Strasbourg, 27 September 2017, accessed December 11, 2020, <https://rm.coe.int/t/090000168097e936>.

³² Law on the ratification of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of 8 December 2006, Official Gazette – International Treaties 2007, No. 1, item 2.

³³ Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Acts of 21 November 2009, Official Gazette 2009, No. 140, item 3402.

³⁴ Right of Access to Information Act of 15 February 2013, Official Gazette 2013, No. 25, item 403. Amendments to the Right of Access to Information Act were published in the Official Gazette 2015, No. 85, item 1649.

convocations³⁵ show that the Constitution, the Rules of Procedure and the RAIA enable public participation in the legislative process by using petitions, information and consultation, involvement in working groups and working bodies, and the same legal instruments may be applied in the parliamentary procedure of adopting the Central budget.³⁶ With this in mind, it should be first examined whether the instruments of public participation in the legislative process and the budgetary process are applicable in the procedure for authentic interpretation of laws as well – especially given that, according to Article 208, paragraph 2 of the Rules of Procedure, the provisions pertaining to the procedure to enact laws shall be applied accordingly to the procedure for authentic interpretation of laws – or that procedure does indeed take place without the participation of citizens.

4.1. Instruments of public participation

Pursuant to Article 172, paragraph 1 of the Rules of Procedure, the right to propose a law belongs to any MP, deputy club, parliamentary working body, or the Government, i.e. the same circle of authorized applicants who have the right to submit a proposal for giving an authentic interpretation of laws. Although it follows that citizens and other representatives of the public do not have the right to propose bills, nor the right to submit a proposal for an authentic interpretation of laws, they may use their constitutional right to petition under Article 46 of the Constitution. Namely, the right to petition enables everyone to file their petitions, complaints, and proposals to the state and other public bodies, but also to receive their response. On this constitutional basis, they can formulate their proposal as an initiative for submitting a proposal for an authentic interpretation of laws and send it directly to the parliamentary working body,³⁷ or any other authorized submitter of such a proposal. Therefore,

³⁵ Gordan Struić, and Vjekoslav Bratić, “Sudjelovanje javnosti u zakonodavnom postupku: primjer Odbora za financije i državni proračun Hrvatskoga sabora,” 147–149.

³⁶ Gordan Struić, and Vjekoslav Bratić, “Public participation in the budgetary process in the Republic of Croatia,” *Public Sector Economics* 42, no. 1 (2018): 67–92.

³⁷ If it is submitted to the working body, in accordance with Article 44, paragraph 8 of the Rules of Procedure, the working body may hold a discussion at its session on the submitted initiative. If it is sent to the Croatian Parliament, the President of the Croatian Par-

the right to petition is not only an instrument of public participation in the legislative (and the budgetary) process, but also in the procedure for authentic interpretation of laws.³⁸

Furthermore, citizens and other representatives of the public may exercise their right of access to information guaranteed by Article 38, paragraph 4 of the Constitution and by Article 6 of the RAlA, according to which the information is available to “any Croatian or foreign natural and legal person in accordance with the terms and conditions and the restrictions of this Act”. Given that the objective of the RAlA consists in enabling and ensuring constitutionally guaranteed right of access to information and of its re-use “through openness and the public nature of the actions of public authorities” (Article 3), it is important to underline Article 10, paragraph 1 of the RAlA according to which public authorities – hence, the parliament as well – are obliged to publish, “in an easily browsable manner”, laws and other regulations (related to their scope of activity) on their website, as well as their general enactments and adopted decisions affecting the interest of beneficiaries, draft laws and other regulations, etc. Also, it is worth to emphasize Articles 279-288 of the Rules of Procedure, according to which the Croatian Parliament “shall inform the public of the work of the Parliament and decisions made therein, and of all matters debated therein” (Article 279, paragraph 1), and the Rules on Public Access to Proceedings in the Croatian Parliament and its Working Bodies,³⁹ which regulate issues such as attendance by citizens, representatives of their associations, NGOs as observers at plenary sessions and sessions of working bodies, di-

liament will refer it to the chairperson of the competent working body, who shall be obliged to inform the applicant on the outcome of such initiative within a period not exceeding three months.

³⁸ Citizens, their organizations, and associations were explicitly prescribed by the Rules of Procedure the right to submit the initiative for an authentic interpretation of laws in the period from 1982 to 1992. However, following the adoption of the Amendments to the Rules of Procedure of the House of Representatives of the Parliament of the Republic of Croatia (Official Gazette 1992, No. 89, item 2308), their right to such an initiative was no longer prescribed by the Rules of Procedure, but arose from their constitutional right to petition.

³⁹ Rules on Public Access to Proceedings in the Croatian Parliament and its Working Bodies of 20 May 2005, Official Gazette 2005, No. 66, item 1286.

rect transmission and recordings of such sessions, the Parliament's website, etc. It should be also emphasized that the provisions on the right of access to information are not limited to legislative procedure, and the procedure for authentic interpretation, but generally apply to all parliamentary work.

Although some authors⁴⁰ firmly link the right of access to information in the legislative process with the right to public consultation, which is prescribed by Article 11, paragraph 1 of the RAIA – according to which all state bodies are required to “conduct public consultations prior to the adoption of acts and subordinate legislation, and in the adoption of general acts or other strategic or planning documents where these affect the interests of citizens and legal persons” – in the procedure for authentic interpretation of laws it would not be applicable, and the reasons for this can be found in the very nature of the institute. Namely, as it was pointed out in the introduction, with the authentic interpretation of laws, the parliament only clarifies the original meaning of a particular provision of the law, and it is considered as an integral part of the interpreted law from the moment it enters into force. Therefore, a proposal for an authentic interpretation of laws is not about amending, or enacting a new law, but about interpreting the provision of the adopted law that is its integral part. Thus, that instrument of public participation in the legislative process essentially could not be applied to the procedure for authentic interpretation of laws.

In the legislative process, the public can be involved in individual working groups and working bodies, as the Rules of Procedure (in Article 53, paragraph 1) provide for the possibility of establishing sub-committees and special working groups within the framework of the working body to consider topics within its competence, and to prepare proposals on these topics, as well as to compile reports and draft acts, and for that purpose it may include citizens as experts on specific issues. Furthermore, there is a possibility to include scientific and other organizations and experts to prepare a certain act or consider a certain issue within the scope of the working body, but only if the financial resources are

⁴⁰ See Gordan Struić and Vjekoslav Bratić, “Sudjelovanje javnosti u zakonodavnom postupku: primjer Odbora za financije i državni proračun Hrvatskoga sabora,” 147–149; Gordan Struić and Vjekoslav Bratić, “Public participation in the budgetary process in the Republic of Croatia,” 67–92.

provided for that (Article 52 of the Rules of Procedure). In addition, the working body may invite public employees, scientists, professionals, as well as other persons to meetings to obtain their opinions on topics that will be discussed at the session (Article 57, paragraph 1 of the Rules of Procedure), and up to six public employees, scientists, and professionals may be appointed by the Croatian Parliament to working bodies with all the rights that members of working bodies have, except the right to vote (Article 57, paragraph 3 of the Rules of Procedure). Finally, participatory elements can be noted within the institute of public hearing⁴¹ (Article 52.a of the Rules of Procedure) which the working body may organize to obtain expert opinions, or to conduct a wider discussion on the draft act, certain solutions contained in a particular draft or valid act, or to clarify a particular issue of public interest. Bearing in mind that in the procedure for authentic interpretation the discussion is held at the session of the competent working body and the Legislation Committee, relevant provisions that regulate public involvement in working groups and working bodies in the legislative process are applicable in the procedure for authentic interpretation as well.

From what was stated above, it can be concluded that the positive Croatian parliamentary law enables public participation in the procedure for authentic interpretation of laws. Furthermore, it is worth noting that, almost entirely, the instruments of public participation in the legislative process are applicable in the procedure for authentic interpretation of laws, with the exception of public consultation which, due to the described nature of an authentic interpretation, would not be applicable in that procedure. However, the relevant regulations do not identify any other, special instruments of public participation in the procedure for authentic interpretation of laws. On this normative basis, using the information available on the Croatian Parliament's website, it would be worthwhile to refer to the parliamentary practice related to the issue of public participation in the procedure for authentic interpretation of laws.

⁴¹ The institute of public hearing was introduced into the system of the Croatian parliamentary law with the adoption of the Amendments to the Rules of Procedure of the Croatian Parliament (Official Gazette 2018, No. 29, item 589).

4.2. *Parliamentary practice*

In the period of almost 30 years, i.e. since 1992, when the first authentic interpretation of laws⁴² was adopted until today,⁴³ 35 acts regarding authentic interpretation of laws have been adopted. It should be emphasized that this is the total number,⁴⁴ of which the parliament passed 18 acts of authentic interpretation and 17 decisions by which it rejected to provide an authentic interpretation. Although these acts of authentic interpretation do not contain information on the applicants, some of this information is publicly available on the Croatian Parliament's website. From the e-Doc database (edoc.sabor.hr) it can be seen that data are available for 18 out of 35 acts regarding authentic interpretation of laws (51.43%), from the period of 5th convocation of the Croatian Parliament (since 2004) to the current, 10th convocation (2020). Having in mind this methodological note, from the available data it can be determined that the largest number of proposals was submitted by MPs (9 or 25.71%), followed by the Government (4 or 11.43%), and deputy clubs (4 or 11.43%), and one proposal was submitted by the working body (2.86%).

In the available draft acts of authentic interpretation of laws, no clear data were found on the applicant of the initiative for submitting a proposal for an authentic interpretation. In the Draft decision on not-giving an authentic interpretation of Article 41, paragraph 1, and Article 42 of the Law on Ownership and Other Real Property Rights,⁴⁵ the appli-

⁴² Authentic interpretation of Article 48, paragraph 4 of the Labor Relations Act (Official Gazette 1990, No. 19, item 377; 1992, No. 19, item 426) of 4 June 1992, Official Gazette 1992, No. 34, item 870.

⁴³ Status on date: 11 December 2020.

⁴⁴ Only those acts of authentic interpretation of laws whose proposals were discussed and voted on were taken into consideration. Although the Croatian Parliament's e-Doc database contains the Draft decision of 23 May 2016 on giving authentic interpretation of Articles 110, 111 and 112 of the Security and Intelligence System of the Republic of Croatia Act (Official Gazette 2006, No. 79, item 1912; 2006, No. 105, item 2371) (accessed December 11, 2020, <http://edoc.sabor.hr/DocumentView.aspx?entid=2002740>), that document was not included in this analysis because it was not discussed and voted on, which is an integral part of the procedure for authentic interpretation of laws.

⁴⁵ Croatian Parliament, Draft decision of 27 May 2010 on not-giving an authentic interpretation of Article 41, paragraph 1, and Article 42 of the Law on Ownership and

cant (MP) stated that the direct reason for submitting the proposal was a specific case of two citizens, but from the explanation of the proposal it is not possible to deduce whether the citizens addressed the applicant (and in what way), or if it may have been done by someone else on their behalf, etc. Similarly, in the Draft decision on giving an authentic interpretation of Article 35 of the Pension Insurance Act,⁴⁶ the applicant (deputy club) cited an example of a citizen who suffered damage due to a misinterpretation of a provision of the law, but from the explanation of the proposal it was not possible to deduce whether this citizen addressed (and in what way) the applicant, or if it was done by someone else, etc. However, regardless of the fact that the proposals for an authentic interpretation did not provide clear information on the applicant of the initiative, the fact that the direct reason for the submission of a proposal was a specific case of citizens, together with the constitutional, legal and parliamentary procedural basis, indicates a very wide window of opportunity for real participation in this procedure.

On the other hand, there are certain examples from parliamentary practice that show that not all specific cases of individual citizens have ultimately resulted in a submission of a proposal for an authentic interpretation. In this context, available acts of parliamentary working bodies published on the Croatian Parliament's website with information on the work of parliamentary committees (www.sabor.hr) may serve as a valuable source of relevant information. Although they do not contain information that would show, for example, which instruments of participation, in addition to petitions, were used in each case – e.g. whether a special working group was established within the working body, which included citizens as experts for certain issues; whether scientific and other organizations and ex-

Other Real Property Rights (Official Gazette 1996, No. 91, item 1596; 1998, No. 68, item 817; 1999, No. 137, item 2122; 2000, No. 22, item 402; 2000, No. 73, item 1578; 2001, No. 114, item 1883; 2006, No. 79, item 1917; 2006, No. 141, item 3195; 2008, No. 146, item 4021; 2009, No. 38, item 837; 2009, No. 153, item 3751), accessed December 11, 2020, <http://edoc.sabor.hr/DocumentView.aspx?entid=7223>.

⁴⁶ Croatian Parliament, Draft decision of 28 May 2015 on giving an authentic interpretation of Article 35 of the Pension Insurance Act (Official Gazette 2013, No. 157, item 3290), accessed December 11, 2020, <http://edoc.sabor.hr/DocumentView.aspx?entid=18645>.

perts were involved and how; whether all appointed members of the working body (i.e. public employees, scientists, and professionals) participated in the discussion; and whether a public hearing was organized – these acts reveal information about the applicant of the initiative, its content, as well as the outcome. With this in mind, it is worth mentioning the example of a citizen who filed a submission to the War Veterans Committee requesting that the Committee, as an authorized applicant, submit a proposal for an authentic interpretation of Article 35 of the Act on the Rights of Croatian Homeland War Veterans and Their Family Members.⁴⁷ However, the Committee found that, due to the clarity of the provision of said article, there was no reason for authentic interpretation, but the “emphasis should be placed on the consistent implementation of Article 35 of the Act by the competent authorities”,⁴⁸ so the Committee unanimously concluded not to submit a proposal for an authentic interpretation.

Another example is the initiative for submitting a proposal for an authentic interpretation of Article 22, paragraph 7 of the Croatian Radio-Television Act,⁴⁹ which was submitted by the interim director general of Croatian Radio-Television (HRT) to the Committee on information, informatization and media. The members of that Committee agreed that there is no need to initiate a procedure for authentic interpretation of Article 22, paragraph 7 of the Act, because it “clearly regulates the procedure for electing the president and three members of the HRT Supervisory Board”,⁵⁰ so the Committee unanimously concluded that the initiative was not going to be accepted. As it was previously mentioned, the ini-

⁴⁷ Act on the Rights of Croatian Homeland War Veterans and Their Family Members of 30 November 2004, Official Gazette 2004, No. 174, item 3010. Amendments to the Act on the Rights of Croatian Homeland War Veterans and Their Family Members were published in the Official Gazette 2005, No. 92, item 1834; 2007, No. 2, item 184; 2007, No. 107, item 3140.

⁴⁸ Croatian Parliament, the Statement of 4 February 2009 of the War Veterans Committee on the Initiative and Petition on Violations of the Right to Priority Employment of Veterans of the Homeland War, accessed December 11, 2020, www.sabor.hr/hr/radna-tijela/odbori-i-povjerenstva/ocitovanje-odbora-za-ratne-veterane-na-inicijativu-i-predstavku.

⁴⁹ Croatian Radio-Television Act of 3 December 2010, Official Gazette 2010, No. 137, item 3515.

⁵⁰ Croatian Parliament, the report of 2 February 2011 on the HRT initiative for providing authentic interpretation of Article 22, paragraph 7 of the Croatian Radio-Television

tiative was submitted by an interim director general of a body founded by the Republic of Croatia, and has the status of a public institution,⁵¹ and its importance stems from the fact that it is an example of addressing the authorized applicant for providing authentic interpretation by using the right to petition as one of the instruments of participation, as well as an example of acting of the working body in cases where considered provision is not unclear in its view so there was no reason for authentic interpretation.

However, even in the latter examples of non-acceptance of the initiative by the competent working body, the applicant has several options. For example, the applicant could turn to another authorized submitter of a proposal for an authentic interpretation (e.g. MP or deputy club), or resort to another instrument of public participation, such as encouraging the working body to organize a public hearing under Article 52.a of the Rules of Procedure, or even use some of the instruments of public participation in the legislative process to initiate certain amendments to the law whose provision is considered unclear. Moreover, in cases of using the latter instruments, the applicant would have the opportunity to initiate a different formulation of the content of the provision, shaping it more precisely than it would be possible in the procedure for authentic interpretation of laws.⁵²

Act, accessed December 11, 2020, www.sabor.hr/hr/radna-tijela/odbori-i-povjerenstva/izvjesce-odbora-za-informiranje-informatizaciju-i-medije-o-52.

⁵¹ See Article 1, paragraphs 1-2 of the Croatian Radio-Television Act of 3 December 2010. Having in mind that Article III, paragraph 2 of the Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Acts of 21 November 2009 under the concept of the interested public include public institutions as well, this case is also an example of public participation in the procedure for authentic interpretation of laws.

⁵² The Constitutional Court in decision of 14 November 2007 (No. U-I-2488/2004, Official Gazette 2007, No. 133, item 3832) expressed the view that the institute of authentic interpretation of laws “must remain within the limits of legal interpretation”, from which it follows that it may not substantively amend the provisions of the law to which it refers.

5. COMPARATIVE LEGAL PERSPECTIVE

Comparative parliamentary law reveals various examples of the regulation of authentic interpretation of laws. For example, some countries establish this institute at the constitutional level, without any special provisions in their parliament's rules of procedure (e.g. Belgium⁵³ and Greece⁵⁴), while some other countries do not explicitly mention parliamentary *ius interpretandi* in their constitutions, but they instead do it in their parliament's rules of procedure (e.g. Slovenia⁵⁵ and Croatia). Furthermore, there are countries that regulate this matter by particular law and rules of procedure (e.g. Serbia⁵⁶), or by their constitution and rules of procedure (e.g. North Macedonia⁵⁷), and some of them do not explicitly mention neither the *ius interpretandi* of the parliament nor special procedure for

⁵³ See the Belgian Constitution, coordinated on 17 February 1994, as amended, accessed December 11, 2020, www.dekamer.be/kvvcr/pdf_sections/publications/constitution/GrondwetUK.pdf, and the Rules of Procedure of the Belgian House of Representatives of 2 October 2003, as amended, accessed December 11, 2020, http://www.lachambre.be/kvvcr/pdf_sections/publications/reglement/reglement_UK.pdf.

⁵⁴ See the Constitution of Greece of 11 June 1975, as amended, accessed December 11, 2020, www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf, and the Rules of Procedure of the Hellenic Parliament of 22 June 1987, as amended, accessed December 11, 2020, www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/Standing%20Orders%202.docx.

⁵⁵ See the Constitution of the Republic of Slovenia of 23 December 1991, as amended, accessed December 11, 2020, <http://pisrs.si/Pis.web/pregledPredpisa?id=USTA1#>, and the Rules of Procedure of the National Assembly of 2 April 2002, as amended, accessed December 11, 2020, <http://pisrs.si/Pis.web/pregledPredpisa?id=POSL34#>.

⁵⁶ See the Law on the National Assembly of 26 February 2010, accessed December 11, 2020, www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/zakon/2010/9/1/reg, and the Rules of Procedure of the National Assembly of 28 July 2010, as amended, accessed December 11, 2020, www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/poslovnik/2012/20/1/reg/.

⁵⁷ See the Constitution of the Republic of North Macedonia of 17 November 1991, as amended, accessed December 11, 2020, www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspix, and the Rules of Procedure of the Assembly of the Republic of North Macedonia of 18 July 2008, as amended, accessed December 11, 2020, www.sobranie.mk/rules-procedures-of-the-assembly-ns_article-rules-of-procedure-of-the-assembly-of-the-republic-of-macedonia-precisten-tekst-2013.nspix.

authentic interpretation in its constitution and parliamentary rules of procedure, but certain interpretive rules derive from constitutional principles and practices (e.g. Italy)⁵⁸.

Given the difference in approach to the regulation of this matter, but also having in mind the fact that the procedure for authentic interpretation of laws in four republics of the former SFRY – Croatia, North Macedonia, Slovenia and Serbia – is regulated in a similar way by the rules of procedure of their respective parliaments,⁵⁹ it would be worthwhile to briefly review the relevant regulations of the latter three countries concerning the possibility of public participation in said procedure.

In accordance with Article 194, paragraph 1 of the Rules of Procedure of the National Assembly, and Article 107, paragraph 1 of the Constitution of the Republic of Serbia,⁶⁰ the right to submit a proposal for an authentic interpretation of laws belongs to every authorized proposer of the law: any MP, the Government, an assembly of an autonomous province, or at

⁵⁸ Teodor Antić, “Vjerodostojno tumačenje zakona,” 627–628; Gordan Struić, “Postupak za autentično (vjerodostojno) tumačenje zakona u hrvatskom, makedonskom, slovenskom i srbijanskom parlamentarnom pravu i praksi,” 135.

⁵⁹ See Gordan Struić, “Postupak za autentično (vjerodostojno) tumačenje zakona u hrvatskom, makedonskom, slovenskom i srbijanskom parlamentarnom pravu i praksi,” 133–156. The institute of authentic interpretation of laws was first introduced by the Constitution of the Federal People’s Republic of Yugoslavia (hereinafter: FPRY) of 31 January 1946 (Official Gazette of the FPRY 1946, No. 10, item 54), after which it was introduced in the Constitution of the People’s Republic of Croatia of 18 January 1947 (Official Gazette 1947, No. 7, item 12), and then in the later Croatian constitutions (until 1990) and parliamentary rules of procedure. In other republics of the former SFRY, an authentic interpretation of laws was prescribed at the constitutional and procedural level as well, but since their independence, only four of the former republics of the SFRY retained this institute, while Montenegro (2010) and Bosnia and Herzegovina (2015) abandoned it. See Gordan Struić, “Vjerodostojno tumačenje zakona u hrvatskom parlamentarnom pravu od 1947. do danas,” 576–577. In the parliamentary rules of procedure of these four countries which regulate the institute of authentic interpretation, all four previously described phases (*supra*, part 2 of this paper) of acting on proposal for an authentic interpretation of laws coincide.

⁶⁰ See the Constitution of the Republic of Serbia of 8 November 2006, accessed December 11, 2020, www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/ustav/2006/98/1/reg.

least 30.000 voters.⁶¹ A similar provision can be found in Slovenian Rules of Procedure of the National Assembly in Article 114, paragraph 1 which provides that only authorized proposers have the right to submit a proposal for an authentic interpretation of laws: the Government, any MP, the National Council, or at least 5.000 voters. However, a far wider circle of authorized proposers is provided by Article 175 of the Rules of Procedure of the Assembly of the Republic of North Macedonia which gives this right to any MP, the Government, the Constitutional Court, the Supreme Court, the Public Prosecutor, the Ombudsman, the mayor of the municipality, the mayor of the City of Skopje, as well as to the municipality council, but not to the citizens. Although the Serbian and Slovenian rules of procedure list a group of voters as one of the submitters of a proposal for an authentic interpretation, this right does not belong to an individual citizen,⁶² and none of the rules of procedure of the three parliaments stipulates that individual citizens can file the initiative for submitting a proposal for an authentic interpretation. Such a possibility, similarly to Croatia, arises from their constitutional right to petition (Article 56 of the Constitution of the Republic of Serbia, Article 45 of the Constitution of the Republic of Slovenia, and Article 24 of the Constitution of the Republic of North Macedonia).

In addition to the general provisions on the publicity of the work of parliaments in their rules of procedure (in Serbia Articles 255-261; in Slovenia Articles 100-106; in North Macedonia Articles 225-234), and the constitutional right to access information (in Article 51, paragraph 2 of the Constitution of the Republic of Serbia, Article 39, paragraph 2 of the Constitution of the Republic of Slovenia and Article 16 of the Constitution of the Republic of North Macedonia), special attention should be paid to other normative guarantees that can be used by the public in the procedure of authentic interpretation of laws, within the work of parliamentary working bodies.

⁶¹ The right to propose laws within their competence belongs to a Civic defender and the National Bank of Serbia as well (Article 107, paragraph 2 of the Constitution of the Republic of Serbia).

⁶² However, a citizen, a group of citizens, institutions, and associations, in accordance with Article 133, paragraph 1 of the Rules of Procedure of the Assembly of the Republic of North Macedonia, may file an initiative to the authorized proposer for adoption of a law.

In Serbia, the Rules of Procedure of the National Assembly stipulate that the President of the Assembly may, upon the proposal of a working body, engage scientific or professional institutions, as well as individual scientists and professionals to consider certain issues within the competence of the National Assembly (Article 43); they have the right to participate, upon the invitation, in the work of working bodies (Article 74, paragraph 5). In addition to this general provision,⁶³ the Environmental Protection Committee may allow attendance or participation of citizens and their associations at a session to deliberate on certain environmental issues (Article 63, paragraph 2), and the Security Services Control Committee may consider citizens' proposals and petitions addressed to the National Assembly related to the work of security services (Article 66, paragraph 1, subparagraph 9). Similar to the Croatian Rules of Procedure, working bodies may organize public hearings to obtain information or expert opinions on proposed acts, or to clarify certain provisions from a proposed or valid act, or issues that are important for the preparation of a draft act or some other issue within the competence of the working body, or to monitor the implementation and application of the law, i.e. to realize the oversight function of the National Assembly (Article 83).

In the Slovenian National Assembly, there are also important mechanisms, which guarantee the possibility of participation within the working bodies. Pursuant to the Rules of Procedure of the National Assembly, if a representative of a civil society addresses a certain proposal, initiative or question to a competent working body, it shall be informed about it⁶⁴ (Article 41, paragraph 3), and it may invite experts and representatives of the interested public to obtain information which could be useful, as well as organize public presentations of their opinions and views (Article 46, paragraph 1). Also, the working body may invite them to a session to obtain their explanations, opinions, and views regarding any individual issue on the agenda (Article 51, paragraph 2). In addition to these gen-

⁶³ Almost identical provision is contained in Article 27, paragraph 14 of the Law on the National Assembly.

⁶⁴ If an external expert or a legal person participate in the drafting of the draft law, this information shall be included in the introduction of the draft, pursuant to Article 115, paragraph 3, subparagraph 8 of the Rules of Procedure of the National Assembly.

eral provisions, in the procedure for discussing EU affairs, the competent working body may also invite the public (experts, civil society, business, and associations) in cases when a certain issue on the agenda is related to their work (Article 154e, paragraph 2).

Similarly, according to the Rules of Procedure of the Assembly of the Republic of North Macedonia, the working body may invite to a session, *inter alia*, scientists, professionals, public employees and representatives of organizations, institutions and associations to obtain their views on certain issues on the agenda (Article 122, paragraph 2). Furthermore, the working body may organize public debates on a draft law of broader public interest (Article 145) and prepare a report on the outcome of the public debate, and the initiative to debate certain issues may be raised, among others, by citizens' associations (Article 124, paragraph 3). Besides that, special attention should be paid to external members of the working body. Namely, Article 119, paragraphs 2-3 stipulate that the working body may have two members who shall participate in the work of the working body without the right to vote. They are elected from among scientists and experts; one of them shall be elected upon a proposal made by the parliamentary majority and the other by the parliamentary minority, provided that they are not members of a political party. It is very similar to a Croatian parliamentary model from Article 57, paragraph 3 of the Rules of Procedure, which provides for the possibility of appointing public, scientific, and professional employees to working bodies who have all the rights of other members of working bodies except voting rights. However, in the Croatian model, there is a slightly larger number of external members (up to six), and candidates can be nominated by a much wider circle of authorized persons: from professional institutions, professional associations, and civil society associations, all the way to individuals (Article 57, paragraph 4).

The parliamentary law of the three considered countries of the former SFRY shows that instruments of public participation in the procedure for authentic interpretation of laws (right to petition, information and involvement through the work of parliamentary working bodies) coincide with those in the Croatian parliament, with noting that the Serbian and Slovenian rules of procedure specify a group of citizens (voters) as one of the authorized submitters of a proposal for an authentic interpreta-

tion of laws. Although some of the instruments contain certain specifics that differ from each other in three considered rules of procedure, such as the instrument of public involvement through the work of working bodies – which includes e.g. the possibility of organizing public hearings in Serbia (Article 83), or public presentations of experts' opinions and views in Slovenia (Article 46), or external members of the working body elected from among the scientists and experts in North Macedonia (Article 119) – there are common elements, such as the possibility of inviting experts and scientists to a session of the working body in all three rules of procedure (Article 122 in North Macedonia, Article 43 in Serbia, and Article 51 in Slovenia).

6. CONCLUSIONS

Starting from the understanding of some authors that the act of authentic interpretation of laws is contrary to the principle of democratic pluralism, which “seeks to circumvent the regular legislative procedure, tries to promote specific political interests, without the necessary level of democratic control and without citizen participation”,⁶⁵ the aim of this paper was to examine whether the positive Croatian parliamentary law enables public participation in the procedure for authentic interpretation of laws and, if so, which legal instruments can be used to implement it in parliamentary practice. On this basis, especially bearing in mind that the question of public participation in the procedure for authentic interpretation of laws has not yet been the focus of research attention, and it was mentioned only secondarily in the literature, it was important to consider the legal framework for the procedure for authentic interpretation of laws, as well as to explain the importance and role of public participation in decision-making processes. It was pointed out that public participation has a number of advantages, and that the real application of the model of legitimate and effective democracy requires the existence and application of legal instruments that enable public participation in the decision-mak-

⁶⁵ Siniša Rodin, “Demokratsko-pluralistička kritika instituta tzv. vjerodostojnog tumačenja,” 1.

ing process, and, therefore, in the procedure of authentic interpretation of laws.

After analyzing the provisions of the Constitution, Rules of Procedure and RAIA, it was found that the positive Croatian parliamentary law enables public participation in the procedure for authentic interpretation of laws through instruments of petition, information and involvement in working groups and working bodies. All these instruments coincide with those in the legislative process, with the exception of public consultation, which – due to the very nature of the institute of authentic interpretation of laws – is not applicable in the procedure for authentic interpretation, but in the legislative (and budgetary) procedure. Although publicly available proposals of acts of authentic interpretation of laws did not provide clear data on the initiators of such proposals, from the described examples, it can be concluded that certain cases of individual citizens were indeed a direct reason for the submission of a proposal by the authorized applicant. Furthermore, in publicly available acts of working bodies related to certain initiatives, no data were found that would reveal, for example, which instruments of public participation, in addition to petitions, were used in individual cases, but at the same time, these acts can reveal information about the applicant of the initiative, its content, as well as its outcome. Examples from parliamentary practice show that not all initiatives resulted in the submission of a proposal for an authentic interpretation of laws by authorized applicants. However, the applicant who did not succeed with the initiative can: refer to another authorized proposer, use another instrument, or simply take the initiative to amend the law whose provision is considered unclear. It follows that the positive parliamentary law provides a wide-open legal window of opportunity for the public to have influence on an unclear provision, both in the direction of its interpretation and its amendment, and such a broad possibility of participation in parliamentary reality has a strong potential to create a stimulating environment for involving as many stakeholders as possible in the process of decision-making.

In view of the above, it can be concluded that the current Croatian rules of procedure on the authentic interpretation of laws contain a solid legal basis that does not require any significant intervention. Therefore, it would not be necessary, or even desirable, to amend it by prescrib-

ing all possible legal instruments of public participation in the procedure of authentic interpretation of laws. Namely, the latter approach would unnecessarily burden the text by repeating the valid provisions of the Constitution, the Rules of Procedure, or RAIA, resulting in legal over-norming and other unfavorable outcomes indicated by the rules of nomotechnics.⁶⁶ In this regard, it is worth emphasizing the importance of the Uniform Rules on the Methodology and Legislative Technique for the Drafting of Acts Enacted by the Croatian Parliament.⁶⁷ The purpose of these rules is to ensure a uniform methodology and a nomotechnical harmonization of the wording of parliamentary acts in order to eliminate potential irregularities leading to insufficient clarity, and misinterpretation in their application, which could, consequently, reduce the need to resort to the authentic interpretation of laws.⁶⁸

Finally, the paper referred to the regulation of this matter in the parliamentary law of the three republics of the former SFRY, which, as well as Croatia, regulate the institute of authentic interpretation of laws: North Macedonia, Slovenia, and Serbia. After reviewing the relevant regulations of the parliamentary law of the three latter countries, it was concluded that the public participation in the procedure of authentic interpretation of laws may be achieved by using the right to petition, information and involvement through the work of parliamentary working bodies. This means that said instruments of public participation in the procedure for authentic interpretation of laws coincide with those in the Croatian parliament, with noting that the Serbian and Slovenian rules of procedure specify a group of citizens (voters) as one of the authorized submitters of a proposal for an authentic interpretation. Following the above, the possibility of public participation in the procedure for authentic interpretation of laws is not only a Croatian parliamentary *specificum*, but is also present

⁶⁶ For example, increasing the text of regulation and its opacity in application, causing monotony of apperception, and even confusion and doubt. Mihajlo Vuković and Đuro Vuković, *Znanost o izradi pravnih propisa: nomotehnika* (Zagreb: Informator, 1997), 135.

⁶⁷ Uniform Rules on the Methodology and Legislative Technique for the Drafting of Acts Enacted by the Croatian Parliament of 19 June 2015, Official Gazette 2015, No. 74, item 1410.

⁶⁸ Gordan Struić, “Vjerodostojno tumačenje zakona u hrvatskom parlamentarnom pravu od 1947. do danas,” 582.

in comparative law. Although there are a few more issues on this topic that deserve attention – such as the closer comparison of the instruments of participation in this procedure in the four countries of the former SFRY that regulate this institute, and especially their parliamentary and constitutional court practices, with further possibility of examining some other countries whose parliamentary law and practice recognize this institution as well – these issues should be covered by special research which goes beyond the scope and purpose of this paper.

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