

Each complex organisation is faced with the problem of delegation of authority. The more complex the state organism is, the greater the necessity to transfer competences and decentralise power. Delegation of power occurs when a certain superior body authorises another body to issue regulations that it itself could issue. Such a regulation is immediately equipped with the same legal value as if it were issued by an organ that delegated the competence for its issuance. Delegation does not constitute an authorisation to issue a regulation of lesser legal power. With the current complexity of state institutions it is impossible to imagine a fully centralised law-making system that would regulate all the issues belonging to the functions of a modern state. The process of extension of state functions, i.e. the diversion from the concept of a state as a „night watch” to the concept of a state active in various spheres of social life inevitably leads to the growth of state organs and the quantity and detailness of the established law. Due to this phenomenon a general problem emerges: which issues cannot be delegated? This topic is understood as a problem from within the scope of constitutional law and provides for constitutional limitations of delegation, as a political problem connected with the determination of possible benefits brought by delegating law-making competences.

The concept of a representative democracy means that people’s sovereignty is realised through its delegation to political representatives: citizens entrust their source law-making competences with their representatives. A general dilemma arises whether is it possible to fully trust delegates? A consequence is the following question: how is delegation binding in a representative democracy? Delegation is connected with the risk of losing control over the delegated competences, as well as the risk of acting against the will of those who delegate. The said risk is limited through the responsibility of the delegates, i.e. the defined measures of their control and dismissal. The problem of delegation also occurs in the context of European integration, as it involves transferring of law-making competences onto the supranational level.

The objective of the research is providing an answer to the question of the essence and functions of law-making delegation within the constitution of a representative democracy. This entails the necessity to reflect on the nature of the relationship between the nation (sovereign) and state authority organs, the relationship between legislature and executive power in the implementation of constitutional competences, as well as the meaning of the constitution and constitutional distribution of power. The answer to the above issues requires reconstruction of the historical development of law-making delegation. Moreover, the authors of the project wish to capture the diversely determined changes in the perception of a representative democracy itself. Comprehensive research on law-making delegation within the constitution of a representative democracy requires consideration of three dimensions of the discussed phenomenon: historical-legal, dogmatic-legal and philosophical-legal. The first will answer the question on how the law-making delegation was regulated in the selected countries and how it actually operated, as well as what were its consequences. The second will provide description of regulations and interpretation of the functions of law-making delegation in modern constitutions of selected countries. The third will provide a conceptual analysis and evaluation criteria of the subject matter in question from the point of view of principles of representative democracy, hence it will allow a critical depiction of the phenomena with the consideration of historical and dogmatic research results and formulation of law-making delegation models, which would contribute to an increase of efficiency of democratic institution with preservation of its underlying principles, as well as would indicate threats related to the delegation of competences that may result in a distortion of democratic institutions.