

LOCAL GOVERNANCE

ideas, concepts, experiences and goals for the future

Editors

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Introduction

The aim of this volume is to fuel a discussion in the area of research on the multi-faceted phenomenon of governance, understood as co-deciding, multi-band and multi-level policy-making on the local level. The effective inclusion of a growing number of stakeholders into public affairs and decision-making – is one of the most important tasks for modern democracies. It is also a prerequisite for modern and effective management – recommended by international institutions and gradually engraved in cultural norms, procedural models and practical activities – specific and locally established. That is why governance is particularly important in the management of local affairs.

It is at the local level – where it would seem that the rulers are closest to the ruled – the chances of creating good and lasting relations between them should be relatively high. Yet it is often this level that lacks in participation, transparency, coalition building and responsiveness – all of the essential features of good governance. The local level is certainly closer to the people. Yet it is more vulnerable to a variety of deficits – of expertise, human resources, institutionalised civil society, as well as of money. It is also vulnerable to the power of local elites, idiosyncratic networks of interests and simple overwhelming power of the strong leaders. A variety of circumstances and particular conditions make instances of local good and – for that matter – bad governance practices particularly illuminating, making local-level governance a subject of particular interest to scholars.

Following the guidelines of the European Commission, we would like to jointly review the scope of validity – at the local level – of the five principles of good governance: openness, participation, responsibility, efficiency and coherence, which are to be the key components of designing public policies in line with the idea of governance (EU, 2001). The analysis of processes, procedures or the specificities of participation at the local level is important for at least three reasons.

1. First of all, it is indispensable to constantly evaluate the claim that institutions of participatory democracy serve to reduce the deficit of legitimacy of decisions made in the political system. Do institutions of participatory democracy (in local context) reduce legitimacy deficit?
2. Secondly, it is worth examining to what extent and in what circumstances increasing the number of active participants of the political system can actually improve decisions made in it. Does improving participation numbers (quantitative dimension of democracy) also serve the better quality of policymaking?
3. Thirdly, it is necessary to review the prevailing stance in the contemporary literature that efforts to build participative institutions permanently in the local political system serve to decentralize the processes of exercising public authority. Does institutionalisation of participatory methods on local level actually decentralise the political power?

To answer these questions, we invited scholars with valuable expertise in a variety of areas to contribute to this collection. Their papers provide a wide ranging outlook on different topics, yet together – with a common motive and goal – they draw a fascinating picture of many features of local governance all over the world. Overarching themes and threads lead to an interesting conversation between the authors.

Andrzej Piasecki (Pedagogical University of Krakow) in his paper *Polish Local Government vs. Central Government in 1990–2019. Selected Political Issues* provides a valuable summary of many twists

and turns in the evolution of Polish self-government. What is particularly noteworthy in this description is the presentation of this evolution on the background of Polish politics, highlighting the fact that the development of any institutions is determined by political struggle, conflicts and calculations of political prospects. This paper will be particularly useful for anyone who seeks a comprehensive summary of the historical and political background of our decentralisation model – for students and scholars alike. It aptly reveals how – to paraphrase Nietzsche – any system does not have essence; it has history. In this instance, it is the history of party-political struggle.

Dominik Sieklucki (Jagiellonian University) in his paper titled *Institutional Forms of Citizens' Participation in the Process of Making Public Policies* presents a scrupulous catalogue of citizens' participation forms on the local level. He describes their characteristics as well as limitations. Among many, particularly valuable insights of this paper is the highlighting of the unnecessary complexities of those forms; complexities that make them practically less useful and less empowering than they could have been. This is particularly amplified by a sort of 'assumption of competence' that plagues Polish administrative and policymaking system – where rules of the game are made with the presumption that all potential participants are familiar with them and are competent in their policies or/and policies in general. This detracts new participants of policymaking from actual engagement, profiting the pre-existing policy network insiders.

Aneta Krzewińska (University of Lodz) in her paper *Restrictions Related to the Use of Deliberation when Making Decisions at the Local Level* presents valuable critique of the classical concept of deliberation as an idea to be implemented in the Polish context. She observes that in many ways this traditional notion of deliberation – as oriented on consensus – is problematic, too abstract and even outdated as often barely compatible with more innovative public discussion techniques. The author creates a catalogue of Polish social and systemic determinants that limit the feasibility

of deliberation. This critique of supposed universal applicability of classical deliberation is supported by literature concerned with the issue of cultural differences in the default public discourse (Gambetta, 1998), since the very notion of deliberation is a product of a specific political culture. This author challenges the notion that quantitative expansion of deliberative participation is viable without its adaptation to the local context.

Magdalena Gurdek (Humanitas University in Sosnowiec) in her paper titled *Local Community Participation in the Debate on Commune Condition* provides an interesting analysis and discussion on the functioning of the relatively new institution of local governance in Poland, introduced in 2018 – the debate on the report on the condition of the municipality that precedes the municipal council's vote of confidence for the municipality executive (president, mayor or vogt). The paper provides a valuable insight into roles (and entitlements) of inhabitants in the functioning of local authorities. The author presents this institution as an inconspicuous yet very promising for local democracies, discussing its problematic aspects and proposing some remedies.

Michał Zabdyr-Jamróz (Jagiellonian University Medical College) in his paper entitled *Deliberative Governance for Health in Local Context: Prospects for Health Impact Assessment (HIA) in Spatial Planning in Poland* focuses on prospects of introducing the notion of health in all policies in Polish urban and rural planning. In so doing he aims at addressing the issue of Polish "ugly suburbs" (Sroka, 2018). HIA is a deliberative governance technique aimed at not only considering health issue in policies and investments that are not primarily oriented on health. It is also specifically designed to engage inhabitants in public participation and a sort of 'civic science' in order to search for potential health risks and health promotion prospects in all sectors of policymaking. The paper contains a detailed proposition for institutionalising HIA into procedures of establishing revitalisation programmes – basing on current Polish legal regulations and international good practices. The author also presents potential organisational design of HIA in

the Polish systemic context. Following prospects of HIA in Poland the author – sharing many of Aneta Krzewińska's concerns about public deliberation – presents potential threats and opportunities of implementing these and other forms of deliberative governance in the local context.

Dawid Sześciło and Bartosz Wilk (University of Warsaw) in their paper *Shaping Co-Production of Public Services through Local Laws. The Case of Local Initiative in Poland* deal with a very interesting form of governance, where the very production of public services is participatory. A local initiative functions in Poland since 2010 and supplements other instruments of direct democracy (such as Citizens' Budget). It involves citizens submitting an idea for a small project (e.g. fixing or upgrading public amenities) and declaring their own contribution: material, financial as well as their own labour. In this instance the initiative strongly resembles the original idea of 'subbotnik' (*czyn społeczny*) – voluntary unpaid work for the public benefit – that originated in the Soviet Union, but quickly devolved into compulsory burdensome labour. By this example the authors show how certain institutions associated with the socialist ideas (despite being not well-known) can actually undergo a renaissance in the democratic system by being allowed to fulfilling their original intent and values.

Przemysław Baciak (University of Humanities and Economics in Lodz) devoted his paper *ICT as a Tool for Engaging Citizens in Local Policy-Making and Decision-Making Processes* to the role of information and communication technologies (ICT) in governance. Departing from the enthusiastic narratives about them, the author engenders a more sober approach that emphasises their character as a tool for good as well as bad practices. Particularly interesting are remarks on the Public Information Bulletin as "data smog", resembling the old practice (known in the UK since 1978 as "the Rhodesia solution") of "non-informing informing", i.e. of fulfilling the legal requirement of publishing public information but in a way that to the recipient is effectively inaccessible non-communication. The author, however, does not dismiss ICT and observes that its

many failures can indicate their shallowness or susceptibility to manipulation but are not the reason to neglect their usefulness to democracy. What is essential is to select tools carefully, make them user friendly and functional as well as avoid data smog, misalignment and exclusion.

Jacek Sroka and Joanna Podgórska-Rykała (Pedagogical University of Krakow) in their paper *The Inclusive Methods in an Exclusive Club – About the Character of Some Conditions Hindering Co-Deciding in Local Communities* deal even more with problematic issues of local governance. They describe Polish examples of the processes indicated by John Dryzek when a “more democratic state” leads to a “depleted civil society” and, effectively, “less democratic polity” (Dryzek, 2005). This includes, above all the “game trap” – the co-optation of social movements’ leaders into the local establishment, into the elites of power. These authors share cautiousness of the previous authors towards deliberative participation, observing that Poland still lacks in the area of social experiences, attitudes and social institutions of political participation that are pretty much essential to move local governance forward. The problem the authors observe is a sort of hijacking of social and political inclusion by the elites who consider themselves gatekeepers of “rational”, “intelligent” participation. These elites still persist in the outdated views on the supposed antagonism between rational policymaking and broad participation. They are not aware how much biases and irrationalities drive their own positions. And this social imaginarium persists and spills over. People themselves are overwhelmed with top-down media apparatus of “manufacturing consent” (Herman and Chomsky, 2010) that suppresses their meaningful political action.

Monika Augustyniak (Andrzej Frycz Modrzewski Krakow University) in her paper *Participatory Management in Local Government in Poland and France – in Search of a Normative Model* compares the functioning of participatory budgets in these two countries. Interesting conclusions support the hypothesis of the decisional atrophy of deliberation (Zabdyr-Jamróz, 2019). It turns out that “merely”

consultative forms of participation – with properly developed practices and rules – may bring greater deliberative qualities in improving policymaking than many forms of citizens' co-decision that are too strict in their design. In this instance, French participatory budgets – despite being *de iure* less powerful than the Polish ones – contain solutions that guarantee better conditions for participatory governance. The author concludes that the aim of such institution should be a better collaboration between citizens and public officials and not a complete replacement of administrators with citizens in decision-making. These remarks correspond to the notion of pragmatic model of administrative responsiveness that goes beyond the traditional antagonism between strictly citizen-driven or expertise-driven approaches (Liao, 2018).

Justyna Wasil and Monika Sidor (Maria Curie-Skłodowska University in Lublin) in their paper *Effectiveness of Chosen Participation Tools as a Form of Governance – Lublin City Case Study* present a very interesting and thorough description of participatory spacial planning practices. The authors observe that there are multiple factors that increase public participation in spacial planning, some of which are not considered consensus-oriented (as they should). Among these there is the actual conflict – antagonism between stakeholders that mobilises participation. “The case of Lublin supports the theory that the more imposed a solution in the process of consultations, and the more complicated the contention and the higher number of local actors (especially affluent ones), the greater the civic activity of ordinary inhabitants”. These conclusions can lead to a variety of interpretations but are undoubtedly important if we want to design our spaces in a way that is more conducive to a good life in our common spaces.

Karol Bieniek (Pedagogical University of Krakow) in his paper *State Centred Tradition in Turkish Politics* decided to tackle a supposedly divergent subject but in fact shedding light on the potential conditions of local governance. Long-lasting Turkish tradition of statist centralisation – combined with elitist secularism and military *coup d'états* as guarantees of the *status quo* – has been replaced

with populist religious regime that – even though still centralised – derives its legitimacy not from the military but from the will of the people. Judging on the political declaration of the current Turkish president, it appears that within this condition the secular elite’s unaccountability is supposed to be replaced with the doctrine of citizen-driven model of accountability of public administration (Liao, 2018). This does not mean that Turkey enters a state of true democratic governance but at least it enters a stage that Western countries passed decades ago – a stage of popular mobilisation as a basis for legitimacy. This might have interesting consequences for the future development of local administration in Turkey.

The collected papers provide an interesting and wide-ranging outlook on the current state of governance on the local level. The authors engage in an interesting discussion. While in some instances their observations and approaches are divergent, they mostly converge in many conclusions – reaching them even from different starting points. This very fact, as well as highly interesting descriptive content should make this book a valuable read for scholars, students and interested laypeople alike.

Editors of the volume

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Polish Local Government vs. Central Government in 1990–2019. Selected Political Issues

Abstract: The paper focuses on the most significant political conflicts between the central and local authorities which have occurred in Poland in the last thirty years. These have concerned political, financial and economic issues. However, from a general point of view, they have been systemic conflicts in which the competences of the central authorities and territorial self-government have been the key area of fighting. The paper is an attempt at evaluating the political transformation of 1989–1990 in terms of decentralisation of the state and the stability of local democracy, while considering the subsequent stages of its development until 2019. A detailed analysis has covered the developments which have occurred after 2015 and which evidence the return to centralisation and marginalisation of the local democracy. Next to the review of the selected political issues (legal, political and economic system – in local terms), there are also recommendations so important from the point of view of external observers seeking experience in relation to state reforms. The base of sources includes analyses by Polish local governments as well as acts of law, statistical data, documents and press reports.

Key words: local government, central government, authority, politics, conflicts, public governance

Revival of Local Government and First Constraints (1990–1997)

The revival of territorial self-government in Poland in 1990 was part of large political transformation that covered the economy (by departing from socialism and creating a free market), the foreign policy (breaking away from the influence of Moscow and refocusing on the West), the internal policy (freedom of speech, creation of new parties, democracy, rule of law) and the symbolism (change of the name and the national emblem of the state). As concerns public administration, as early as in the 1980s, a group of university scholars developed drafts of such solutions, which had been used in the West for a long time, also referring to Poland's pre-World War II traditions (1918–1939). These solutions assumed having independent local government administration with legal (and constitutional) subjectivity next to central administration, which would allow acting on an equal footing in courts when in conflict with the government. It was also important to provide local communes with their own property and rights to manage their own finances, which would strengthen the separateness of local governance from the central administration. In political terms, local elites chosen in democratic elections, independent of the central government, focusing on the inhabitants of their communes, elected and paid by them were of significant importance (Trembicka 1999). The concept of how to develop territorial self-government in Poland was developed by Prof. Jerzy Regulski (2000) who, in 1989–1990, was a minister responsible for administrative reforms. It was his competences and perseverance that paved the way for creating a solid basis for self-governance in Poland. In his pioneering work, while being a minister, he had to struggle not only against manifestation of defiance by people of the old regime, but also against members of the government he was a member of. His associates from the Council of Ministers quickly understood that strong territorial self-government meant weakening of the central authorities. Therefore, the implementation of the local government

reform in 1990 was slightly curtailed, but anyhow Polish territorial self-government was then provided with more competences than it was the case in other former Eastern Bloc countries. The legal basis was provided in the Act on Territorial Self-Government of 8 March 1990, and the political profile of the new authorities was determined by the first democratic election in the post-war history of Poland, held on 27 May 1990. After years, it was assessed that against various forms of political transformation, the local government reform was the most successful, and the new local elites performed one-off decommunization to the larger extent than it was the case at the central level.

The local government reform was stalled with the fall of the government led by Tadeusz Mazowiecki (December 1990). Nonetheless, ministers in the subsequent Solidarity-led cabinets (1991–1993) prepared plans of creating local government *poviats* and decreasing the number of *voivodeships*. On the other hand, newly elected councillors and commune heads were disappointed with the low pace of transferring property by the central government and the shortages in the financing of the local administration. The 1993 parliamentary election was won by post-Communist groupings that abandoned the plans of their predecessors. However, they could not cancel the local government reform, nor could they strengthen the importance of post-Communist politicians among the authorities in towns and communes. Thus, political pluralism was strengthened already at the outset of the new political system in the local Poland, forcing compromise and collaboration of politicians from various political options, who sometimes would forge a single front in their conflicts with the central authorities (Nawrot and Pokładecki 1992: 282).

However, the years 1993–1997 were marked by numerous political conflicts among the local government circles, which were represented on the national level by the National Assembly of Territorial Self-Government, established as early as in 1990 (Jagielski 1991). However, this organisation did not have any special rights; it was rather a platform of collaboration of local government members

representing various political groupings, and after 1994 (second local government election), it became dominated by a post-Communist peasant grouping, Polish People's Party (PSL). At that time, the central government postponed taking over schools by communes, imposed a special programme of additional obligations on the largest cities, and focused on reforming the central authorities by transforming the Ministry of Internal Affairs into a large Ministry of the Interior and Administration. The local government lobby (which was represented in the Polish parliament by the liberal and democratic Freedom Union) managed to push through entering the local government commune into a newly adopted Constitution (1997) (Mordwiłko 1994). The inaction of the left-wing and people's coalition ruling in 1993–1997 resulted in the unification of the central and right-wing opposition associated with the Solidarity and in the inclusion of the issue of decentralisation on the election agenda of those groupings (their election slogan read: "We are going to seize power to give it back to people"). The parliamentary election in 1997 showed the strength of the local government circles. Out of 600 candidates, around 12% had experience in commune councils, and after voting in the Sejm and the Senate, as much as 15% of the parliament members had previously been councillors. This meant that councillors had more-than-average election efficiency. The new central and right-wing government was implementing the plan of reforming education and health care; however, it was to be based on the second stage of the reform of local government and administration.

Subsequent Stages of Local Government Reforms (1998–2002)

In 1998, the governmental plans of a new territorial and administrative division of Poland assumed the establishment of 12 large regions (with central and local administration) and some 300 poviats (with local administration only). Those plans stirred up

many local protests organised by local government members from towns which could come out of the reforms as losers (previously, there were 49 regional capitals). A contingent issue was also the membership of smaller local communes to a specific region. The governmental plan was criticised by the strong opposition, and the first bill was vetoed by President Aleksander Kwaśniewski (Emilewicz and Wołek 2000: 175). As a result, 16 regions and 308 poviats were created. The establishment of additional (and thus weak) regions diminished the significance of the reform. Deep conflicts also divided Polish local elites and resulted in a sharp division among political parties at the level of regions and poviats and the largest cities, which had not been seen before. Curtailing the competences and finances of the new poviats and regions was another weakness of the reform (Miszczuk 2003: 131).

Nonetheless, the local government reform of 1998 constituted the largest expansion of the local administration independence. As of 1 January 1999 (the first day of existence of the new poviats and voivodeships), the number of local government employees was higher than the number of the central administration ones. The number of councillors increased (to 65,000), and those politicians who had lost the parliamentary election stood a chance of winning tickets for councillors of voivodeship local assemblies. Like in 1990, the reform of local government and administration was ranked best, especially against the background of other inaptly implemented changes while reforming education, health care and social insurance. In consequence, the central government was becoming weaker (as of 2000, it was a minority government), and local politicians were gaining in importance.

Having developed such a local electoral system (also for local government elections), large parties were gaining significance in central politics so that their candidates for councillors from local election committees had greater chances. In this respect, the opposition left-wing party would collaborate with the ruling right-wing coalition. Therefore, since 1998, local council politicians were largely subordinated to their headquarters. At the same time,

corruption, nepotism and other pathologies took their toll at all public management levels. Therefore, in 2001, a number of bills were passed in the Polish parliament that curtailed the independence of local authorities. It was prohibited to combine the function of a mayor with that of a deputy to the parliament. Councillors were prohibited to sit in companies with communal property and in tender committees, and bills were drafted to cut their numbers (especially in poviats and regions), totalling some 1/3, which was implemented as of the new term of office starting in 2002.

However, central authorities were unable to stop local politicians from gaining more power, who, using their local representatives and lobby, were capable of finding allies within different groupings and the circle of the country's president. Thus, in June 2002, a new bill was pushed through on direct election of commune heads. It abolished collective commune management and introduced one-person management by the commune head, who as of then had a broad range of competences, also acting as a one-person representative of the employer for hundreds or thousands of persons employed in local government units. At the same time, commune heads managed large budgets, which made them both managers and politicians (Piasecki 2006).

Although the left-wing party ruling Poland was against the new political system arrangement, it was unable to block the bill of 20 June 2002 on direct election of commune heads. Left-wing politicians were rightly expecting that such an election system would bring about defeat to their candidates. Against the background of that bill, the effectiveness of actions staged by the local government circles supported by the liberal Civic Platform (PO) could be seen, and it was this party whose candidates and representatives of local election committees most often came out victorious in the first direct election. In Warszawa, the victory was taken by Lech Kaczyński, a candidate of the conservative Law and Justice (PiS) party, who became president of Poland three years later. A new political quality stemmed from a situation in which in many communes, heads (mayors) did not have the absolute majority in the council. That

entailed compromise, tough negotiations, and sometimes (though seldom) destabilised the local political landscape. Cohabitation, however, concerned the minority of the communes, and with time, it turned out that the position of the commune head was so strong that they could pull over (temporarily or permanently) the majority of the councillors. For example, such a situation was observed in Kraków, the second largest city in Poland, where, since 2002, local government election had always been won by the same local politician with the smallest councillors' grouping in the council (Piasecki 2012).

The 2002 local government election for the first time so decisively showed the importance of territorial self-government in Poland. Many politicians, who earlier sat in the parliament, would seek to win the tenure of a city mayor, since that meant real power. However, the great majority of citizens were unwilling to elect a professional politician as their mayor, especially if such a person was connected with some party. As of then, political differentiation of local authorities had deepened even more. The Polish People's Party dominated in rural communes and in poviats. The Democratic Left Alliance (SLD) had the biggest influence in the regions. The liberal Civic Platform (PO) could only count on large cities and medium-sized towns. Such a political mix made it more difficult for the local government circles to use their potential, but also was hard to become dominated from the position of the central authorities. Each central government had to come to terms with the fact that power in territorial self-government was differentiated and independent. Furthermore, evolution indicated that such independence would be expanded and territorial self-government would be gaining in significance in issues of finance and economy in the country (Rubaj, Szkudlarek and Wiatr 2002).

In negotiations with the government, local government circles were represented by the Joint Committee, in which heads of the largest local government groupings sat next to governmental representatives: the Association of Polish Cities (ZMP), the Association of Polish Counties (ZPP) and the Union of Polish Metropolises (UMP).

In the Polish Sejm, about three hundred (out of 460) members had local government experience. Popular commune heads were frequently invited to run on tickets of various committees. Party leaders wanted to employ their popularity, but on the other hand, they were concerned about their independence; hence, they would often offer local government leaders worse places on their tickets that would win votes for the committee, but not a mandate for the local government candidate.

Sometimes, effective lobbying was hindered by the discrepancies among the local government representations. An example involved differences in the assessment of the bill on revenues of local government units in 2001. ZMP and ZPP called for its signing, whereas the Association of Rural Communes of the Republic of Poland (ZGW) was against. In the end, the [Polish] President vetoed the bill and in his argument, he took no notice of the arguments of either of the parties. Much better fared the efforts of local government representatives seeking to convince the central government about an error in the calculation of the educational subsidy in 2000, further to the obligations underlying the Teacher's Charter. ZGW managed to change the agenda of a meeting of the Joint Committee, and ZMP prepared professional papers. Local governments were successful, and the minister of education had to resign. Having successfully lobbied for taking over employment offices by poviats from the Ministry of Labour, ZPP also joined in those actions.

The position of territorial self-government (and its leaders in particular) was additionally strengthened by the fact that, at the beginning of the 21st century, the process of erosion of the existing political system started. In 2001, the centre-right coalition of Solidarity Electoral Action fell apart, and the largest post-Communist Democratic Left Alliance party (which used to co-rule Poland in 1993–1997 and 2001–2005) was substantially weakened in the following four years. New parties, the Civic Platform (PO) and the Law and Justice (PiS), were slowly gaining the largest influence on Poland's politics. Nonetheless, from the beginning, PO was much more in favour of decentralisation and strengthening of territorial

self-government. However, the beginning of the 21st century was marked by the engagement of the largest political groupings in the process of Poland's integration with the European Union. It was obvious that actions aimed at the accession had to involve local communities with their local government leaders.

Europeanisation and Modernisation (2003–2015)

Progressing negotiations with the European Union on the issue of integration and the prospect of the referendum forced the government circles to look for a partner in territorial self-government, which would clearly support the idea of Poland's joining the EU. President Aleksander Kwaśniewski, Prime Minister Leszek Miller and other representatives of the authorities on numerous occasions would stress the role of local government in direct communication of information on the EU to local communities. Therefore, the referendum campaign in 2003 was conducted relying on territorial self-government. Members of the parliament, members of the government and EU delegates visited each local government unit. The government launched some 5,000 jobs for graduates (one or two in each commune), whose task was to provide information on the [European] Union in local government offices.

In the period preceding the EU referendum (7–8 June 2003), formal accession (1 May 2004), and the first EU parliamentary elections that soon followed (on 11 June 2004), politicians and experts would often point to the experience of local communities concerning their functioning within the EU. It was emphasised that territorial self-government in Europe was the most effective initiator of local development and that in the first years after joining the [European] Union, local government units would be beneficiaries of enormous sums of money from structural funds.

During that period, an economic crisis and a decline in support of the left-wing (minority) government discouraged Poles from supporting any initiatives undertaken by the authorities. Nonetheless,

it turned out that the hopes attached to the European Union were higher than temporary economic constraints and resentment against the government. Local government authorities joined in to explain the process of integration and encouraged to participate in the referendum, trying to make such activities independent of governmental actions. Many municipal and commune councils issued appeals to participate in the referendum (Niedźwiedzki 2001).

The referendum's final result (59% turnout, 79% votes for integration) was the outcome of a number of factors, including the involvement of many local governments. A record-high support for the EU was seen in the communes of Western Poland (with around 90% of "yes" answers). That primarily followed from the benefits stemming from Polish-German cross-border collaboration. It was there where the process of Europeanisation of the local Poland started.

Communes' influence within the European structures was confirmed by the election of the European Parliament. More or less half of Polish European deputies had experience in working for communes' administration. Representatives of communes dominate among delegates from Poland to the European Committee of the Regions. Furthermore, the Association of Polish Cities is present in the Congress of Local and Regional Authorities (CLRA), in the Standing Committee for the Euro Mediterranean Partnership of Local and Regional Authorities (COPPEM) and in the United Cities and Local Governments (UCLG). Polish communes used to be members of various international organisations, also those of a modernisation-like nature, e.g. ten small Polish towns belong to *Cittaslow*, the International Network of Cities where living is good (Szelągowska 2014). Going back to Europeanisation, this term should be understood as a process of civilisation which has also produced a number of values, ideas and institutions. Poland's joining the European Union coincided with the beginning of an economic boom. Communes became beneficiaries of an advantageous synergy of political and economic changes. Commune communities positively felt the effects of subsidies for farmsteads,

the increase of real property prices, the opportunities to work in EU Member States and the new development chances for small and medium-sized enterprises. Employees of communes' offices had to enhance their qualifications, cooperate and coordinate their collaboration with EU partners, strengthen good relations among individual territorial communities and the government administration, and also display interactivity in relations with their background and improve institutional changes (Bartkowski 2008). Nonetheless, the primary factor affecting the growth of interest of Polish commune administration in the European Union were its instruments of the regional policy: the European Regional Development Fund, and especially the resources of the Cohesion Fund (Kierzkowski 2009: 28). All that contributed to strengthening the independence of the local government from the central government. Confronted with the central authorities, Polish communes could count on EU institutions and standards.

Having formally joined the EU, local governments of communes benefited from the new initiatives, becoming the major beneficiary of integration already in the first year of their membership (Kierzkowski 2009: 28). The issues of discrimination on the labour market were solved under the EQUAL programme. The LEADER+ programme supported the implementation of new rural development strategies. Under URBAN II, support and economic and social revitalisation of towns was provided. Certain elements of those initiatives were still used prior to the accession. It was, however, the National Development Plan 2004–2006 that facilitated the provision of EU structural funds as part of support for enterprises, development of a competitive economy and human resources.

Another National Development Plan (2007–2013) (2007: 3) incorporated the objectives of the Lisbon Strategy: broader use of knowledge and innovations contributing to the economic growth and enabling the European structural co-operation. Their implementation was carried out within sixteen Regional Operational Programmes, and also the Operational Programmes for: Infrastructure and Environment, Innovative Economy, Human Capital, Technical

Assistance, Development of Eastern Poland and the Programme of European Territorial Cooperation. Utilisation of the [European] Union funds was the priority for communes' local governments to which they subjected their budgets, and a number of their actions were adjusted to the EU standards. Calculations of communes' administration were simple: *My commune has committed to development taking into consideration the maximum employment of funds from EU sources* – was the questionnaire response of 84% of the commune heads.

As much as the process of Europeanisation of communes was running almost independently of the central authorities, the issue of modernisation of the local Poland engaged ministers and members of the parliament who, for obvious political reasons, would try to leverage on the successes of local development. It appears, however, that modernisation of the state that occurred in 2003–2015 was a common merit of the local and central government circles. It also marked one of the best periods of harmonious co-operation of representatives of these two entities.

Changes in standards brought about upgrading a number of state domains, and it was communal administration that was mostly involved in the implementation of that process. By way of a short example: the Act on Access to Public Information of 6 September 2001; the Act on Spatial Planning and Land Development of 27 March 2003; the Act on Public Procurement of 29 January 2004; the Act on Social Assistance of 12 March 2004; the Act on Digitisation of Operations of Entities Performing Public Tasks of 17 February 2005; the Act on Public-Private Partnership of 28 July 2005; the Act on Local Government Employees of 24 October 2008. Subsequent amendments of these acts would also activate administrative staff in each commune on many occasions. The best example here are the amendments to the so-called Waste Act made in 2011 and 2014.

It was, however, not the standardising conditions, but people that so much decided about modernisation. Therefore, the enhancement of communes' administration staff may be considered the most critical part of such modernisation (Piasecki 2010). That process

was manifested in the formation of a body of staff numbering close to 2,500 commune heads and mayors of towns and cities. Local government staff were also affected by a qualitative and quantitative change. This especially concerns the years 2006–2010. It was during the fifth term of office of local governments in communes that the implementation of projects supported by EU funds began. This resulted in an increase in the number of employees (in 2012, 252,000 persons worked in local governments). Employees of communes' offices would systematically enhance their qualifications. Most of them had a university background. Besides the increasing statutory requirements towards that group of professionals, there were also proposals of setting the ethical standards (2000).

Collaboration between the local and the central authorities in 2003–2015 also saw many small skirmishes, especially when the conservative Law and Justice party was in power (2005–2007). For example, at the beginning of 2007, confusion arose further to a small delay in submission of declarations of means by local government officials. Representatives of the government saw it as a chance of removing certain local leaders from offices, including, among others, the mayor of Warszawa. Those regulations, however, were cancelled by a judgement of the Constitutional Tribunal. The European Union, in turn, frustrated an attempt at strengthening the supervision exercised by the voivode, who, pursuant to the Act on Rules Governing Regional Policy of 6 December 2006, was granted the right to oversee the selection of projects co-financed under a regional operational programme. The government wanted the voivode to have a veto right in the event of establishment of documented irregularities during the project selection process. Following the European Commission's intervention, that regulation was mitigated.

Despite those conflicts, it was both local and central authorities that benefited from the process of modernisation and Europeanisation of Poland in 2003–2015. Consolidation of the state that followed in that period provided for the implementation of sustainable growth. Concurrently, at the local level, signs of a political change

of power started to emerge, marking a major pre-figuration of changes to come. As a result of the 2014 election, more often than it was in 2006 and 2010, young and non-partisan people fitted into monocratic bodies of communes. The phenomenon of fossilisation of the local government system of power in communes related to the continued domination of commune heads who had stayed in power for a few terms of office marked a challenge for local communities. Equally adverse consequences were brought about by the ageing of councils, the limited influence of social organisations on councillors, and their staying in the office for many terms.

Employees of the local administration must learn how to operate under the conditions of increasing transparency (Dolnicki 2015) development of deliberative democracy, activation (Tuziak 2014: 97 and 101) of various local circles (e.g. "urban movements") and combination of the process of Europeanisation with glocalisation (Bauman 1997; Guziejewska 2008). Communes' offices were faced with new issues: consequences of migration and demographic processes, empowerment of minorities, equality policy and importance of ecology. In those areas, local governments did not have a uniform position that would facilitate their negotiations with the government.

Local Government and Recentralisation of The State (2015–2018)

The 2015 presidential and parliamentary elections resulted in a fundamental change in the composition of political powers in Poland. The new president, Andrzej Duda, 43, doctor of laws, previously a presidential minister, member of the European Parliament, also had local government experience as a councillor of Kraków (and a mayor candidate in the 2010 election in that city). However, as a politician, he was very submissive towards the authorities of his parental party (PiS) and its Chairman Jarosław Kaczyński. It was the latter politician who, being just an ordinary member of the

parliament, amassed the largest political influence in his hands. His party won 37% of the votes; however, when translated into seats, it secured the absolute majority in the Sejm for the party, and thus Poland, for the first time since 1989, was ruled by one political grouping.

Ms Beata Szydło, who previously used to be a councillor and a small town mayor, became the Prime Minister. That, however, did not affect her pro-local government attitude. Like the president, the prime minister was primarily following the guidelines set by Jarosław Kaczyński, who had always been an opponent of decentralisation of the state. Anyway, towards the end of 2017, Madam Prime Minister lost her seat, and her successor Mateusz Morawiecki disclosed his attitude towards territorial self-government in the most blatant way in the 2018 local government election campaign. His involvement in supporting PiS candidates was much stronger than it was the case with previous prime ministers (Rutkowski 2018). Morawiecki went even as far as manifesting political bribery in his rally statements by promising additional aid from the state budget to those towns and cities in which PiS candidates would win.

In such political circumstances, relations between the central and local authorities saw numerous conflicts. Essentially, they involved domination of the ruling party in all structures of the state, the lack of understanding for the independence of local government institutions and the agenda of seeking to strengthen the central authorities at the expense of other political entities (including territorial self-government). A list of examples showing the implementation of the governmental programme of recentralisation is also an illustration of the methods of strengthening the central authorities at the expense of the local ones. In 2015–2018, it included, among others:

- Deprivation of voivodeship governments' supervision over agricultural extension centres and their transfer to the ministry of agriculture (August 2016). There are over 4,000 staff working in those structures and the annual budget is PLN 160 m.
- Increased governmental control over voivodeship funds for environmental protection (April 2017) by increasing the number of the ministry's representatives in supervisory boards.

- Establishment of a state company of Wody Polskie (Polish Waters) that took over all local government tasks in the scope of land improvement and water facilities. (July 2017).
- Forcing communes' local governments to incur additional expenditures further to the reform of the education system (abolishment of lower secondary schools) (Journal of Laws of 2017, item 60; Gniadkowski 2018).

Furthermore, there were financial conflicts that territorial self-government fought with almost each cabinet. After 2015, they radically aggravated and covered the disputed issues of the costs of fighting smog, activation of the unemployed and development of renewable energy sources. In many instances, the governmental actions forced local governments to incur additional costs. That was the case during the implementation of the 500+ Programme (subsidy for the second child and the subsequent children), which was carried out by communes' offices without the sufficient co-financing from the central budget. Another method of strengthening the position of the new government at the expense of local governments was related to credits in real property tax applied to certain state-owned enterprises (railways, post office), which depleted the communes' income. The government interfered in the operations of city guards by means of awarding special certificates. Voivodes were active, too, suspending resolutions of local governments and making their functioning more difficult under any pretext (Biskupski 2017). Voivodeship offices began taking over the competences of marshal's offices in the scope of management of EU funds. In the search for weaknesses of local governments' offices, the government employed secret services staging special inspections and controls. It was commune heads (town and city mayors) who most bitterly suffered from governmental dominance further to their salary cuts which happened in spring 2017.

Certain actions pursued by the government were almost invisible, often being seen only at the stage of preparing local government budgets. Others hit the headlines from the start, thus mobilising

local communities supporting their representatives in a conflict with the government. That was the case with the Act on Decommunization of 1 April 2016 (which was later amended numerous times), pursuant to which communes' authorities had to change the names of streets and memorial sites which (according to experts from the Institute of National Remembrance) evoked the Communist past. However, the problem was that the vast majority of names and memorials of that kind had already been removed, and those existing would not, by far, invoke clear negative associations and had numerous local connotations. As a result, a wave of protests and suits in administrative courts swept across Poland. It turned out that the central authorities could not effectively implement their plans. In Warszawa alone, the voivode (as a result of objections expressed by the city authorities) tried to change the names of 47 streets on his own, however, the attempt was blocked by the court (*Rzeczpospolita* daily of 19.09.2016; 1.08.2017; 29.05.2018, 25.06.2018; 29.06.2018).

As concerns other anti-local government actions, the government was defeated. The most spectacular defeat concerned the draft of the bill on the regional chambers of audit (RIOs). At the same time, it was the strongest attempt at limiting the local government independence by strengthening the control powers of RIOs. The chambers were to audit local governments in terms of their management. Chairmen of the chambers were to be appointed by the prime minister, whose decisions would be immediately enforceable (until then, local governments had the right of appeal against such decisions to courts). That would make it possible for the government to install administrative managers in towns or cities under any pretext. The bill was vetoed by the president and it was the first such significant veto of that politician (The bill on amending the Act on the Regional Chambers of Audit as at 13 July 2016). The government did not make another attempt at that reform, and local governments had proved to be successfully lobbying with the head of the state. The government also gave up on limiting the term of office of local government authorities

(commune heads and councils) to two years. The law will come into force as late as in 2028.

Resistance of local government circles against centralisation plans of the government was manifested not only in discretely seeking allies within the circle of the president and across various wings of the ruling grouping (which was made up of a coalition of one large party and two small right-wing and conservative parties). In January 2017, a Social Defence Committee of Local Governance was established under the initiative of marshals of the four regions with a political back-up from the Polish People's Party. Nonetheless, a true measure of the government's success in limiting the role of local governments was the election of commune councillors and heads that took place in autumn 2018. The ruling party suffered a defeat in large cities and medium-sized towns. It fared better at the level of poviats, especially in the eastern regions and in the elections of executive powers by councillors of voivodeship local assemblies. That allowed PiS politicians to seize power in nine (out of 16) voivodeships. PO politicians won in the first election round in Warszawa and several of the largest cities. The Civic Coalition won the election of mayors in 22 towns and cities, whereas Kaczyński's party won only in four (*Gazeta Wyborcza* daily of 8.11.2018). A tragic outcome of the anti-local government campaign conducted by the ruling party was the assassination of Paweł Adamowicz, Mayor of Gdańsk, in January 2019. It was carried out by a mentally unbalanced criminal, who stabbed the city mayor to death in front of the audience, while he was on stage during a charity event. The murderer was crying out loud slogans against PO and the mayor, who had been previously brutally attacked by the pro-government television.

Summary

The two-tier nature of the Polish administration (central and local government) is a permanent achievement of the political

transformation and it does not only provide for effective public governance, but also serves as a foundation of democracy. Conflicts between the central and local authorities exist in each state that follows such a division. These have been forever accompanied by a discrepancy of interests between the state capital and the peripheries, and those phenomena occur in almost each unitary state. However, nearly thirty years of history of Polish decentralisation shows the durability of that phenomenon, despite temporary constraints and changes.

The institutions of Polish territorial self-government are evaluated much better than the central administration. An average head of commune enjoys more trust of its inhabitants than cabinet members. Councillors have a larger support than members of the parliament. Two-thirds of the Poles believe that while taking decisions concerning the inhabitants, local authorities consider their opinions. As regards national issues, such opinion is expressed only by one-third of the population (Wspólnota 21.04.2018). The above data clearly shows how differently public authorities are assessed at the national and local level.

Local government officials try to avoid party-linked labelling. In extreme cases, they would even negate the plain truth that they represent the world of politics (Gniadkowski 2018). That is mainly driven by the willingness of dissenting from political conflicts associated with the parliament and political life leaders; however, it defies the fundamental logic of the state political system, which has turned territorial self-government into a *de facto* political institution. As concerns its semantics in social communication, territorial self-government is associated in the Polish language with procedures, local issues and boredom, while politics means fighting, conflicts, and divisions.

The current state of public affairs in Poland is indicative of the most serious crisis along the central government and local government lines. The 2018 election allowed the local (independent) circles and the opposition to maintain their important position in the Polish politics. Simultaneously, the ruling party has not

abandoned recentralisation of the state, postponing final actions until the period after the parliamentary election (autumn 2019). Such a phenomenon fits into many other anti-democratic processes visible in Poland and in many other countries in Europe and in the world.

Recommendations for upholding the process of state decentralisation and harmonious co-operation between the central and local government are not simple. Proper education at primary and secondary schools is necessary to strengthen stronger identification and participation at the local authority level. It would be advisable to make changes in the electoral system that would ease the parties' pressure on individual activists, while promoting their relations with the region from which they run. It would be also advisable to increase the financial and political independence of territorial self-government which would allow its representatives acting towards the central administration as partners and not petitioners.

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Institutional Forms of Citizens' Participation in the Process of Making Public Policies

Abstract: The aim of the article is to present institutions through which citizens participate in the decision – making process concerning public policies at the level of self (local) government in Poland. The author focuses on formal and legal institutions. He divides them into three categories – initiative institutions, consultative and advisory institutions and decisive institutions. In the group of initiative institutions, the analysis concerns the citizens' legislative initiative, local initiative and the right to submit petitions, complaints and motions. The second group of institutions includes consultations with residents, civic (participatory) budget, as well as communes' youth councils and communes' senior councils. The last category includes referendums and village and housing estate meetings. The article indicates the status, main features, procedural and political limitations of each institutions.

Key words: local-government, self-government, direct democracy, institutions, participation

Introduction

Contemporary democratic political systems have been establishing political and systemic solutions for decades, enabling citizens to

participate in the process of making public policies. This is due to the pursuit of achieving quite obvious profits in the form of increasing the legitimacy of decisions and the decision-making process, improving the quality, efficiency or effectiveness of decisions or involving citizens in the administration process. Modern tendencies in conducting public policies, expressed in terms of *governance* (currently often supplemented with adjectives such as *new, public or good*) (Kulesza, Sześciło 2013: 115–116) assume that this is not a typical participation characteristic of democracy in the form of regular, but also occasional speaking in the act of voting. As Jerzy Hausner (2008: 31–32) stated, a citizen apart from the traditional roles of the voter and the petitioner, they also take over the new roles of the client and the stakeholder. This means that participation understood as involvement in the process of determining the content of political decisions requires: activity at all stages of the decision-making process in the process in which the directions of public policies are determined, „transparent and responsive public bodies and moving from monocentric power systems to complex structures assuming the dispersion of power and the arrangement of relations between entities involved in the creation of public policies on the principles of partnership and trust.

The aim of the article is to present basic institutions enabling citizens to participate in the process of formulating public policies at the level of self (local)–government in Poland. It is not possible – due to the volume of the article – to present their full, comprehensive characteristics. My intention is to indicate their position in the system of self–government, essential features, opportunities created for citizens and limitations. The perspective for conducting the analysis is the concept of *governance*. Due to the complexity of the issues, this conceptual category is not the subject of consideration. In the most general terms, I treat it as a method (system) of policy-making (Izdebski 2007: 69), which is „non – hierarchical network of interactions and interdependencies that obtain between public and non–public actors and serve to coordinate collective action and collective problem–solving“ (Mazur 2015: 13). The solutions

functioning at the level of communes, powiats and voivodeships provided for in the generally binding law are the subject of analysis.

Basics of Participation in Local Government

From the point of view of the issue of citizens' participation in the process of formulating public policies, the following problems related to the political and systemic position of local government should be considered. Firstly, the perspective from which the issue of participation should be examined are the tasks of self (local)–government. According to art. 15 para. 1, art. 16 para. 2 and art. 163 of the Constitution of 2 April 1997, self–government performs a significant part of public tasks on the principle of decentralisation (in other words on its own responsibility and on its own behalf) and the whole system of separation of public tasks is based on the presumption of its competence, and within the system of local government, the competence of the communes. Institutions allowing participation in formulating public policies are therefore concerned a relatively extensive and varied catalogue of public tasks (Knosala 2009: 17–21).

Secondly, the participation of citizens in the decision–making process has been clearly exposed at the level of statutory regulations. The Act on Commune Self–Government in article 11, paragraph 1 (Dz.U. 2019 poz. 506) states that “the inhabitants of the commune shall take decisions in a general vote (through elections and referendum) or through the commune’s authorities”. This means that the citizens, not the bodies elected by them, constitute the competent decision – making entity in the communes (authority). It should be noted that this is a different construct than at the national level, where, according to article 4 para. 2 of the Constitution, direct exercise of power by citizens is treated as an additional (complementary) form to the representative decision–making system. An analogous political structure to the Act on Commune Self–Government was adopted in Article 8 paragraph 1 of the Act on

County Self-Government (The Journal of Laws 2019 Item 511) and Article 5 paragraph 1 of the Act on Voivodeship Self-Government (The Journal of Laws 2019 item 512).

Thirdly, the fundamental prerequisite for participation is the widest possible access to data and information (Szlachetko 2017: 72). It should be stressed that access to information is currently linked to the changes in public administration mentioned in the introduction, which emphasise its transparency and accessibility for citizens, as well as to technological progress which makes up the information society era. The development of modern communication and information technologies (ICT), which is increasingly important for access to public information, leads to the presentation of the *Open Government* concept (Kowalczyk, 2019, pp. 140–166), as a future model of public administration functioning, integrally connected with broad access to information. Legal bases related to access to public information are currently contained in numerous legal acts, among which the Act of 6 September 2001 (The Journal of Laws 2019 item 1429) occupies a key place. Moreover, the self-government acts (i.e. the Act on Commune Self-Government, the Act on County Self-Government and the Act on Voivodeship Self-Government) contain the principle of openness of operation of the bodies of each of the territorial self-government units. Within the meaning of the individual Act, openness means the right of citizens to participate in sessions of bodies constituting and meetings of their committees, the right of access to documents related to the implementation of public tasks, including the minutes of meetings.

Fourthly, it should also be noted that, regardless of the legal possibilities to gain access to information and guarantee the possibility of participation, the actual activity of citizens is also an important issue (Stasikowski 2019: 88). This problem is not discussed in the article.

Forms of Participation in the Local Government

Nowadays, citizens have at their disposal a comprehensive and diverse catalogue of institutions allowing them to participate in

local politics. Their full listing is a difficult task. Therefore, for the sake of clarity of analysis, it is necessary to indicate the main ways of classifying them, together with the indication of specific examples.

The basic division is to distinguish two main groups of institutions from the point of view of the criterion of impact on public policies. The first are decision-making institutions and the second are non-decision-making ones. An authority in the Polish local government is, e.g. a referendum on the dismissal of a local government unit before the end of the term of office. However, consultations are an example of a non-decision-making institution.

From the point of view of the criterion of the requirement to conduct the participating institutions can be divided into obligatory and optional ones. Obligatory institutions are those that must be applied or established under certain procedures. In this sense, the obligatory institution in certain cases (about which I am writing in the further part of the article) are consultations. This group also includes appeal referenda and civic budgets in cities with powiat rights. The examples of optional institutions are youth councils of municipalities and commune councils of seniors, which can be appointed in accordance with the Act on Commune Self-Government.

The third criterion used to classify forms of participation is the level of legal regulations. On this basis, three groups of institutions can be distinguished. The first ones are the institutions applied on the basis of general principles of the state system established in the Constitution of the Republic of Poland. Based on the findings of the constitutional law science, Martin Bożek pointed out that the basis for civic participation are the principles contained in Chapter I of the Constitution: democratic state, sovereignty of the nation and representation, decentralization of public authority, self-government, uniform state and the principle of subsidiarity enshrined in the preamble (Bożek 2012: 90). This seemingly most difficult to describe group includes various, grassroots, spontaneous forms of activity in the form of the use of ICT (e-mails, discussion groups), but also various tools or techniques of deliberative democracy. The second group includes institutions used on a statutory basis. These

include the solutions most often combined with participation and the most popular in practice. This group includes referendums, consultations, civic legislative initiative, petitions, youth commune councils, councils of seniors and participatory (civic) budget. The third group consists of institutions established in the statutes of communes, without any specific legal basis in legal acts of a higher order (statutes or Constitutions). An example of institutions of this nature can be the citizens' resolution initiative before the adoption of the Act of 11 January 2018 on the amendment of certain acts in order to increase participation of citizens in the process of election, functioning and control of certain public bodies (The Journal of Laws 2018 item 130). The right to submit draft resolutions to municipal councils was introduced in the statutes earlier (Dolnicki 2012: 114–115), without any statutory basis.

Other ways of classifying forms of participation are also proposed in the literature. Krzysztof Gawkowski (2017: 49) distinguishes vertical participation (cooperation with local government units) and horizontal participation (cooperation with other citizens and entities). The first covers the various institutions already mentioned, such as consultations or civic resolution initiative, and the manifestation of the second can be seen in informal communication mechanisms, joint ventures or cooperation within various sublocal communities (e.g. neighborhood or housing communities).

In turn, Beata Sadowska, Marta Szaja and Jolanta Włodarek (2019: 63–64) distinguish three forms of participation: one-sided (providing information to citizens by public authorities or vice versa), a communication tool with feedback, assuming a certain degree of interactivity (e.g. negotiations or consultations) and forms of engaged participation (various forms of joint activities of a partnership nature).

Taking into account the above mentioned classifications for the purposes of this article, I identify three groups of forms of civic participation in the definition of public policies at the level of local government, applying the criterion of influence on the content of political decisions. The first group includes initiative

forms, the second group includes consultative and advisory forms, and the third group includes decisive forms. As mentioned in the introduction, the analysis is limited to the forms provided for in statutory regulations. A detailed list of forms of public participation is presented in Table 1.

Table 1. Forms of civic participation in public policies at the local government level

	Types of entitlements	Forms of participations
1.	Initiative	<ul style="list-style-type: none"> ▪ civic resolution initiative ▪ local initiative ▪ the right to submit petitions, complaints and applications
2.	Consultative and advisory	<ul style="list-style-type: none"> ▪ consultations ▪ participatory budget ▪ youth commune councils ▪ commune seniors councils
3.	Decisive	<ul style="list-style-type: none"> ▪ referendums ▪ village and housing estate meetings

Source: own elaboration

Finally, it is worth noting that forms of participation can also be classified on the basis of objective criteria, distinguishing specific policies pursued by local and regional authorities. This classification, however, is auxiliary (complementary) to the others. On this basis, one can, for example, distinguish forms of participation in local government security policy, spatial planning policy, environmental protection, education policy, etc.

Initiative Institutions

The group of initiative institutions includes a total of three solutions, which combine the fact that through them citizens can submit proposals for actions or decisions to local government bodies.

These institutions are initiatives in the sense that they initiate specific actions on the part of the relevant public authorities.

The first of them is the citizens' resolution initiative. As mentioned earlier, uniform solutions to local government acts in this respect were implemented by the Act of 11 January 2018, although some communes had already introduced a resolution initiative before. According to the regulations in force, a group of inhabitants, as defined by law, may submit a resolution to the body constituting the project (details are given in Table 2).

Table 2. Statutory regulations concerning the citizens' resolution initiative

Local government unit	Minimum number of inhabitants entitled to submit a project of a resolution	Procedures according to the Act of 11 January 2018
Commune up to 500 inhabitants	100	First reading of the project at the nearest session after the submission of the project, but no later than 3 months after its submission. Detailed procedures related to civic projects are defined by the body which constitutes the resolution.
Commune up to 20 000 inhabitants	200	
Commune with more than 20 000 inhabitants	300	
County up to 100 000 inhabitants	300	
County with more than 100 000 inhabitants	500	
Voivodeship	1 000	

Source: own elaboration based on Act of 11 January 2018 (The Journal of Laws 2018 item 130)

It should be noted that the provisions of the self-government acts are quite general, referring at the same time to the resolutions of the bodies constituting local government units with regard to the regulation of specific procedures. At the statutory level, the

subject matter of civic projects and the detailed requirements to be met by such projects were not specified.

The scope of using the citizens' initiative for legislative purposes will probably be the subject of research in the future. This institution may be used by citizens both to solve a new problem and to correct already made decisions. The latter situation occurred, for example, in 2019 in Rzeszów, where a civic project concerning the place of dangerous waste storage was rejected by councillors and the proposed project was intended to change the resolution already adopted on this matter (Jakubowski 2019).

The second institution from this group, i.e. the local initiative, was introduced in 2010 by amending the Act of 24 April 2003 on Public Benefit Activity and Volunteerism (Ostaszewski 2013: 110). It is assessed in the literature as revolutionary from the point of view of co-production of public services (Sześciło 2015: 133–134). It consists in the fact that the inhabitants of a local government unit may independently or through a non-governmental organisation submit an application (within the meaning of the Administrative Code) to the bodies of this unit for the implementation of a public task. If the application is accepted, the executive body of the local government unit concludes a contract for a definite period of time with the applicant concerning the performance of a public task. On the basis of the contract, the applicant may participate in the performance of the task through social work, benefits in kind or in cash. According to Article 19b of the Act of 2003, the scope of tasks that can be performed in this form is quite broad and includes, among others, construction, extension or repair of roads, education, education and upbringing, activities in the field of physical culture and tourism or public order and safety. In total, a local initiative can be used in more than ten public policies. This institution can be used at the level of communes, powiats and voivodships (Kisała 2014: 445). Dorota Fleszer carried out a detailed analysis of legal regulations concerning the local initiative, emphasizing the innovativeness of this institution (2019: 39–47).

The practical application of the local initiative was assessed by the Supreme Audit Office (NIK), which carried out an audit covering the years 2015–2017 in a group of 600 randomly selected communes (NIK 2018). The audit showed that the local initiative is not a popular institution because only 50 controlled communes (11.5%) used it to carry out public tasks. On the other hand, all projects undertaken within the framework of the local initiative have been successfully completed. These included, e.g. making a film promoting one of the communes, building a roadway and building a water supply system. The audit also showed that some communes did not establish procedures allowing for the application of local initiatives (NIK 2018: 8–11).

The third institution is the right to submit petitions, complaints and applications. This institution was established in Article 53 of the Constitution, which stated that “Everyone shall have the right to submit petitions, proposals and complaints in the public interest, in his own interest or in the interests of another person – with his consent – to organs of public authority, as well as to organizations and social institutions in connection with the performance of their prescribed duties within the field of public administration. The procedures for considering petitions, proposals and complaints shall be specified by statute”. Initially, general regulations concerning petitions were included in the Act of 11 July 2014 on petitions (The Journal of Laws 2014 item 1195) and in the scope of complaints and motions in the Code of administrative procedure (The Journal of Laws 2018 item 2096). The aforementioned Act of 11 January 2018 added provisions concerning the submission of complaints, motions and petitions to all three local government acts. In accordance with the identically formulated provisions of law, the decision-making body shall examine complaints against the activities of the executive body of the unit and its organisational units, as well as complaints against petitions. To this end, the decision-making body is obliged to establish a committee of complaints, motions and petitions (which, apart from the review committee, became the second obligatory committee in the decision-making bodies) and to define the principles and procedures of its operation in the

statute of the unit. These regulations have been in force since the local government's term of office commenced in 2018.

Consultative and Advisory Institutions

The second group of institutions has been defined as consultative and advisory. All four forms of participation qualified to this category are linked by the fact that they can be used to take a position on the actions and decision-making processes of local government units involved in formulating public policies.

The basic institution of such a nature is consultation with citizens. In the literature on the subject (Ofiarska 2014: 276; Smarż 2016: 216; Ura 2012: 216) it is noted that their main objective is to obtain the opinion of residents on the outcome of a specific case or decision made by public authorities. With regard to consultations, four important issues should be pointed out. Firstly, they occur at all three levels of local government. Secondly, this is a non-decision-making institution from a formal point of view. This means that local government bodies are not obliged to take into account the opinion expressed by the inhabitants in the decision-making process, although it should be noted that consultations perceived from a political and social perspective serve not only to identify the position of citizens, but also (or above all) to take it into account in the content of the decision. Thirdly, in certain cases indicated by the Acts on Commune and County Self-Government, consultations are obligatory. Generally speaking, consultations with the inhabitants of a commune or powiat are obligatory as part of the procedures related to the establishment, liquidation or change of boundaries of commune and powiat self-government units. Fourthly, the forms of consultations are specified in the resolutions of the bodies constituting local government units (sometimes in the statutes). In practice, they are highly differentiated and most often take the form of meetings, gatherings, methods used in opinion polls or sometimes voting. According to research, modern communication and information

technologies are increasingly used to conduct consultations and disseminate information about them (Bohdan 2014: 313 – 322).

The second institution is the participatory (civic) budget. Due to the specific subject of this solution – which is the possibility to indicate the objectives of spending a part of public money – it has been distinguished as a separate category of consultative and advisory institutions, but it should be noted that self-government acts define the civic budget as a special form of consultation. Moreover, self-government acts define this institution in an identical way, indicating that within the framework of the civic budget, the inhabitants decide each year in a direct vote on a part of the budget expenditure of a given unit (commune, powiat, voivodeship). The civic budget was first established in Poland in 2011 in Sopot (Bulinski 2018: 90). The aforementioned Act of 11 January 2018 gave the civic budget the status of a statutory institution, applied at all levels of self-government. In the literature on the subject, the gradual popularization of the civic budget is assessed as a visible sign of the implementation of solutions typical of the governance concept (Korolewska, Carchewka-Bartkowiak 2015: 123). Civic budget in all local government units except for the city with powiat rights is an optional institution. In towns with powiat rights – according to the provisions of the Act on Commune Self-Government – it is an obligatory institution and the amount of at least “0.5% of municipal expenditure included in the last submitted report on budget execution” must be allocated within the civic budget (Article 5a, paragraph 5 of the Act on Commune Self-Government). Detailed issues concerning the requirements to be met by projects submitted under the civic budget, rules for their submission, evaluation and proceedings are left to be resolved in resolutions of the bodies constituting local government units.

Youth commune councils and commune councils of seniors should also be included in the group of consultative and advisory institutions. It should be underlined that these institutions operate only in communes. The first of these institutions was introduced by the Act of 11 April 2001 (The Journal of Laws 2001 no. 45 item

497), and the second by the Act of 11 October 2013 (The Journal of Laws 2013 item 1318). It is worth noting that only three provisions of the Act apply to youth commune councils and six to commune councils of seniors. A comparative view of both institutions is presented in Table 3.

Table 3. Summary of the regulations of the Act on commune self-government concerning the youth commune councils and the commune councils of seniors

	Youth commune councils	Commune councils of seniors
Establishing procedure	The commune council at the request of interested communities	The commune council on its own initiative or at the request of interested communities
Tasks	Consultative, support and dissemination of the local government idea	Consultative, advisory, initiative, stimulating civic activity of the elderly
Composition	Young people	Representatives of older people, in particular representatives of non-governmental organisations and third age university bodies

Source: Own elaboration based on the Act on Commune Self-Government of 8 March 1990

According to the law, detailed regulations for both councils are to be included in their statutes adopted by the municipal councils. At the statutory level, there are two important differences between these institutions. Firstly, youth councils cannot be set up on the own initiative of the commune council. Secondly, the law limits the tasks of the youth communecouncil to consultative activities in comparison with the commune councils of seniors, which can also undertake initiative and advisory activities. In addition, the statutory provisions apply to both councils and contain ambiguous

regulations such as “interested circles” or not fully precise indication of who exactly should be a part of these bodies.

Decisive Institutions

The last, third group of institutions is called decisive, which means that they enable citizens to make direct decisions. There are two institutions in this category.

The first one, i.e. a referendum, is currently the most frequently used institution of direct democracy through which citizens resolve a particular public matter or indicate the preferred way of resolving it (Siekłucki 2019: 107). The system of local government in Poland is characterised by a relatively large number of cases in which a referendum is used. The types of local government referenda distinguished on the basis of the current Act on Local Referendum of 15 September 2000 (The Journal of Laws 2019 item 741) and the Act on Commune Self–Government are presented in Table 4.

Table 4. Self–government referendums

	Referendum on the dismissal of an organ		Referendum on self – taxation of inhabitants	Referendum on the establishment, liquidation, division, merger or demarcation of a commune	Referendum on the determination of the will of the inhabitants to resolve a specific case
	constituting	executive			
Commune	+	+	+	+	+
County	+	-	-	-	+
Voivodeship	+	-	-	-	+

Own elaboration based on the Local Referendum Act

Without approaching the complex issue of procedures for organising and determining the results of referendums (Dolnicki 2016: 81–86, 149–150, 206–207; Piasecki 2009: 351–363), it should be noted that the significance of a local government referendum for the decision-making process in public policies is not important. Firstly, because only two types of referendums (on self-taxation and determination of the will of residents to resolve a specific issue) can be applied in this area. Secondly, both types of referendums have formal and practical limitations. In the case of a referendum on self-taxation, it should be pointed out that it introduces the possibility of raising funds for the implementation of a public task in communes, but achieving a binding and conclusive result requires both a turnout of at least 30% and at least 2/3 of the votes in favour of self-taxation. Moreover, the legal qualification of self-taxation raises doubts, in particular the decision whether the benefit introduced by referendum is a tax (i.e. whether it is subject to execution) (Śliwa 2013: 89–104). In practice, the role of this referendum is not high. As the statistics of the Central Statistical Office show in the years 2001–2018, 35 referendums on self-taxation were held [GUS, Bank Danych Lokalnych 2019]. On the other hand, the second type of referenda, generally defined in Table 4 as concerning the determination of the will of residents to resolve a specific matter, according to the Act on Local Referendum covers two categories. The first according to art. 2 paragraph 1 pt. 2 concerns “the method of settling a matter concerning this community, which falls within the scope of tasks and competences of the bodies of a given unit”, and the second (Art. 2 paragraph 1 pt. 3) concerns referendums carried out in “other important matters related to social, economic or cultural bonds connecting” members of a given local government community (commune, powiat and voivodeship). In the case of this referendum, it should be noted that although it is easier to achieve a valid and binding result in this case than in the case of self – taxation, it requires a turnout of at least 30 % and more than half of the valid votes cast, but it does not produce direct, formal effects. A decision taken in a referendum requires action

on the part of local government bodies, including the issuance of appropriate legal acts. In other words, a referendum does not lead to a decision in the sense of issuing a legal act or decision, but is only a political imperative for further actions of the bodies of the entity. Community members, however, do not have formal possibilities to enforce specific actions from individual bodies, except for organizing an appeal referendum. According to GUS statistics, in the years 2001–2018, 227 such referendums were held (GUS, Bank Danych Lokalnych 2019).

The second institutions in this group are village and housing estate meetings. These are classic forms of direct democracy, where all inhabitants of a given unit who have active voting rights elect an executive body during a meeting and pass resolutions in voting to determine the directions of the units' activities. Rural meetings are an obligatory body in the villages, i.e. auxiliary units of rural communes. However, meetings of housing estate residents are optional in the sense that the Act on Commune Self-Government stipulates that the body constituting a housing estate (i.e. an auxiliary unit of a rural – urban or urban commune) is the housing estate council elected by universal suffrage.

Summary

Conducting public policies at the level of self-government in accordance with the concept of *governance* assumes active participation of citizens in the decision-making process. The basic condition for the civic activity is the creation of institutional possibilities for such participation. The general assessment of solutions in local government in Poland is not clear. On the one hand, a general look at the list of these institutions, their diversity and the possibility of using them at various stages of formulating public policies suggests that citizens have great opportunities for participation. On the other hand, however, the existing legal regulations have a number of limitations, mainly preventing citizens from making

final, direct decisions. In most cases, these institutions are of an initiative and opinion-forming nature. In this context, the results of research proving that participation at the local level in Poland is the most informational and consultative activity are not surprising (Kalisiak-Mędeńska 2015: 313).

The catalogue of institutions enabling citizens to participate in the process of creating public policies at the local government level requires not so much extension but, as it seems, first of all, empowerment of citizens through strengthening their position in the decision-making process. This may involve, for example, introducing referendums on the adoption, rejection or repeal of resolutions or linking a citizens' initiative to a referendum (managed, for example, in the case of rejection of a project by a decision-making body). Finally, one cannot fail to notice the excessive and sometimes unnecessary complexity of procedures within the institutions of direct democracy.

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Restrictions Related to the Use of Deliberation when Making Decisions at the Local Level

Abstract: This paper criticises deliberative democracy without references to philosophical background, but shows the problems which are related to the implementation of the appropriate the deliberative democracy procedures at local level. The author presents limitations of participation – one of dimensions of public governance directly related to including citizens in decision-making processes and tries to explain why people perceive public consultation as superficial or artificial. People’s resignation from involvement in public life discourages representatives of authorities from making further attempts to include them in decision-making processes. In order to prevent it we should be aware of what could hinder cooperation between citizens and representatives of the authorities, which elements of deliberative debates discourage prospective participants and which elements bring about lack of support of decision-makers.

Key words: deliberative democracy, deliberation, public consultations, good governance

Deliberative democracy¹, whether it is perceived as a political theory (Walzer 2006: 136), or a sociological idea (Baciak 2006: 137), stresses deliberation as a basis for any action, that is, a procedure enabling a group of "free and equal citizens" (Bohman 1998: 401) to make decisions on socially significant issues. Deliberative democracy is one of many concepts (see Held 2010) which arose as a response to the crisis of democratic procedures (primarily procedures of representative democracy²), but, as opposed to the others, apart from theoretical consideration it also offers certain practical actions and attempts of their applications. The democratic deliberative method *per se* is not clear and unambiguous, not only when its characteristics are taken into consideration, but also when cohesion of its applied terminology is concerned. The term deliberative democracy is referred to as discursive democracy, communicative, dialogue, deliberating democracy (which cannot be equated all the time). The necessity for deliberative democracy-based procedures is described in multiple ways. Risking simplification somewhat, two approaches can be singled out: a moderate and a radical one. The moderate version postulates to supplement existing democratic tools with deliberations, whereas according to the radical variety, common procedures of representative democracy (e.g. voting in elections) are to be replaced by deliberations by citizens. Another status is determined to recommendations from deliberations: for moderate

- 1 Deliberative democracy has been discussed in scientific discourse since 1980s, and Joseph Besette is regarded as its founder. The very first mentions of deliberative democracy can be found in the works on Athens democracy by Carol Poteman. The basis for its philosophical-political considerations referring to deliberative democracy are "the fullest concepts of deliberative democracy being relatively independent of each other" (Żardecka-Nowak 2008: 30) Jürgen Habermas and John Rawles (Wasilewski 2007a: 314).
- 2 Deliberative democrats argue that it is not enough when only representatives are engaged in debates on significant social matters. For the majority of people participation in democratic procedures means only voting in elections, so when the voter turnout is low, it results in little and superficial interest in social and political life. Therefore the majority is disinterested, disengaged in what goes on around, and debates conducted by representatives are superficial and dominated by marketing tricks used to extend the representatives' mandates in the next elections.

deliberative democrats confer them consultative nature (they may, but do not have to be implemented), while according to proponents of the radical approach, deliberation conclusions have to be executed. Both sides agree that deliberative democracy should be of inclusive character (including the biggest possible numbers of people in decision-making processes). However, 'moderate' advocates would tend to exclude those who do not obey deliberative rules or speak out against the democratic order, while 'radicals' postulate absolute equality for all options, views and representatives. Finally, deliberations are to be held on all issues (radical proponents of deliberative democracy) or only on important questions (moderate variety supporters).

What is deliberation itself? Deliberations are meetings (not necessarily face-to-face) conducted in accordance with predetermined rules, where consensus is eventually reached. Thus deliberative variety of democracy aims to strengthen democracy by means of increasing civil participation in it and by improving the quality of debates held. Let us look closer at the discussion based on deliberation principles. Deliberation procedure³ amounts to an in-depth and collective contemplation aiming to exchange ideas, sharing concepts for solving given issues, which typically should lead to working out a decision which is fair. It relies on a discussion of citizens free from coercion who impartially consider view of individual participants, present their reflections, discuss events

- 3 Discussion based on deliberation procedures can take various forms. Research on literature and websites which present deliberation processes results in two significant findings: 1) there are many different procedures using deliberation as a form of making decisions and an element of governance; 2) there appear some "flagship" procedures for this form of democracy, e.g. deliberative poll. Here are several examples: David Held discusses deliberative polls, deliberative days and civil panels (Held 2010: 319–323). However, John Gastil and Peter Levin in their edited book describe deliberative polls, consensus conference and planning cells, civil judgements, urban meeting of 21st century, deliberative urban planning [Gastil, Levine 2005]. *Participatory methods toolkit* (2005), which discusses consecutive steps in using different techniques applied in participatory decision-making processes, makes references to (apart from the above techniques) Charrete and The World Café procedure.

from their lives, share their fears, hopes and opinions concerning the subject in question. Obviously, not every discussion meets conditions of deliberation.⁴ Those features were discussed e.g. by Jürgen Habermas, who underlined that this discussion "(...) should obey principles which enable unbiased and cohesive views on practical matters" (Habermas 2005: 328). Referring to the concepts of Jürgen Habermas and John Dryzek, Jacek Sroka (Sroka 2009: 32–41) enumerates postulates which deliberation procedures have to fulfill and include:

- argumentative character of discussion – participants should use arguments in their statements and avoid emotional statements,
- all views, opinions and judgments need to be presented,
- freedom from coercion to participate in the debate and ensuring the right to be heard out,
- revising the same topic in subsequent discussions and flexibility of decisions, which can change due to new information obtained in new stages of deliberation,
- holding deliberation on every subject which raises controversy.

Typically, it is hardly possible to work out a decision which would satisfy all needs of all parties of the parties debating a given issue, therefore, it is said that deliberative democracy procedures rather aim to present a solution which is acceptable to the majority. Accordingly, deliberation leads to define areas of agreement (agreement was reached), areas of disagreement (without chances for agreement), and areas which remain open to dispute (postponed to be discussed 'later'). It should be stressed that decisions made in the course of deliberations are different decisions or perhaps even better decisions than those made without such thorough reflections. These effects are achieved thanks to the process of seeking

4 Other authors, e.g. Juchacz (2002: 148), Tully (2002: 218), Jakubiak-Mirończuk (2009: 4), Wasilewski (2007b: 26), Zgiep (2013: 52, 54), Bachmann (2004: 51), Walzer (2006: 137, 153), discuss different sets of features attributed to this type of discussions. Przemysław Baciak even argued that there are as many definitions of deliberation as theoreticians of deliberation (Baciak 2006: 137).

understanding and accepting other opinions and attempts to establish a common decision. The process results in transforming individuals' views which enables them to gain insight into complex problems, expose certain ideological approaches and particular interests, deconstruct stereotypical judgments, which impacts decision-making processes. Deliberation also offers added value by bringing the decision-making process closer to people directly affected by results of the decision, which contributes to higher legitimization of the decision.

Deliberation-based decisions could be made at every level, from an international (e.g. in United Nations Organization) to a local one (e.g. among inhabitants of a housing estate, street, community members). "Deliberation is a basis for multi-level public governance, without which current public policy would be hardly possible, not only in the European Union, but also in the whole world" (Sroka 2018: 22). Moreover, the focal point of deliberative democracy is the common good, which is defined in the course of the group work on a given problem. This approach assumes that society members will not seek to maximize their own benefits, but they will gain opportunities to realize their needs through satisfying cooperation with others. Thus public policy can be understood as a game which always results in positive effects, as an individual win will not necessarily entail another person's defeat, because the game benefits all the parties involved. Therefore, it seems crucial to find and encourage subjects to participate in the game and induce the authorities to share their competences in the decision-making processes.

Another step towards common decision-making is a practical application of governance concept in public administration, whose particular institutions and decision-makers notice subjects they need to care for.⁵ In addition, it is not only about knowing better what people need, and even less about asking about their needs, but rather to involve people in reaching decisions which will affect

5 It seems that one of significant purposes of public administration is serving people, e.g. by providing appropriate public services.

them. Involving citizens in decision-making processes realizes one of the five criteria of good governance described in the White Paper entitled *European Governance* defining the view of the European Commission (2001). The above criteria comprise: openness (that is transparency of administration), participation (that is the broadest possible inclusiveness of society members – as individuals and as groups – in administration works undertaken at every stage of public policy realization), defining a scope of responsibilities attributable to specific public institutions, effective and efficient realization of actions and achieving predetermined goals, joint administration of public policies from different levels.

Obviously, there is usually a gap between postulated rules of conduct and their practical realization, so let us take a close look at the factors which hinder broad application of deliberative discussions. The following part of the article deals with only one of dimensions of public governance directly related to including citizens in decision-making processes, namely limitations of participation. Most political debates in contemporary democratic systems are short-lasting and even if they allow participation of ordinary citizens, people often perceive it as odd, superficial or artificial. It can be illustrated by a case of social consultations when all decisions had already been made or consultation organizers know perfectly well that no postulates of consultation participants can be realized. It could deter citizens from involving in public life, voting in elections, reduce their interest in political, economic or social matters. It would not also support taking part in deliberations, even when their subject concerns most pressing problems. People's resignation from involvement in public life discourages representatives of authorities from making further attempts to include them in decision-making processes. Citizens' withdrawal from involvement and lack of encouragement from the authorities can result in forgoing the idea of the joint public governance. In order to prevent it we should be aware of what could hinder cooperation between citizens and representatives of the authorities, which elements of deliberative debates discourage prospective

participants and which elements bring about lack of support of decision-makers.

Factors Hindering Citizens in Their Participation in Deliberations

A wide range and attractiveness of procedures generated by proponents of deliberative democracy should encourage an optimistic approach to its prospective applications on every significant social matter and where including citizens' participation is needed. However, I do not share this attitude, particularly when it comes to applying these techniques in Poland. In my opinion, the factors which result in sporadic use of deliberative democracy procedures can be divided into two groups. The first one is related to Polish socio-political conditions, while the second refers to the procedures, and more specifically to assumptions imposed on deliberations.

To be precise, the first group of factors is related to a low level of social trust and weak social capital, low voter and referendum turnout, low response rate in public opinion surveys, low interest in local matters and social consultations, little experience in decision-making processes on social issues. If we are unable to define our position and cannot determine probability of occurrence of some events which cannot be predicted, we use social trust, assuming that others will act in accordance with our expectations. Robert Putnam claims that social trust is a constituent part of social capital and defines it as follows: "(...) I will do something for you now, without expecting anything in return, even though I do not know you, trusting however, that in some time you or somebody else will return me this favour" (Putnam 2008: 226). Piotr Sztompka (2005: 430–431) states that the factors which positively influence development of culture of trust are: historical heritage, legal stability, transparency of social organizations, durability of social order, subordination of authorities to rule of law, realization of rights and exercising obligations. Sztompka's list also comprises

personal features such as: personality characteristics (e.g. aspirations, activity, success-orientation, optimism) and individual capital resources (education, social connections, family support, health, spirituality, etc.).

In comparison to other European countries, Poland shows a rather low level of social trust. It is clear from *Social diagnosis* (results from 2015) that Poles take one of the last positions among the researched countries in terms of general trust (above Bulgarians and the Portuguese only), while the gap between Poland and Denmark (the leader) is as much as 54,8 percentage points.

General trust along with norms and relations enabling coordination and higher efficiency of social undertakings make up social capital. Social capital in Poland, similarly to trust, which can be interpreted as its indicator, is quite low. *Social diagnosis* says that "Tendency to form associations (...) rapidly decreased from 30,5% in 1989 (World Value Survey) to 14,8% and has remained at this level (in 2015 at 13,4%)" (*Social diagnosis 2015*: 353). An average Pole belongs to 0,14 organization, while e.g. a Swede belongs to 2,6, a Dane to 2,5 and Norwegian to 2,4 organizations (*Social diagnosis 2015*: 353–354). It should also be added that 54% of respondents had never taken part in any civic actions, e.g. never signed a petition, did not participate in social demonstrations or protest against anything.

Low level of social trust in Poland is related to small involvement of citizens in non-governmental organizations actions and low quality of social capital. Robert Putnam (2008: 230–231) describes interrelations between these elements: "(...) people, who trust other citizens, more often take voluntary jobs, pay more for charity purposes, more often engage in politics and local organizations, show higher willingness to work as jury members, more frequently donate blood as honorary blood donors, are more reliable tax payers, are more tolerant to minorities and display more civic virtues". Last but not least, it is probably easier to encourage them to participate in deliberations.

Low social and civic activity is also related to low turnout in elections and referendums, particularly local ones. If we examine

turnout in elections since 1989 it turns out that it was the highest in presidential elections (68% in 2nd round in 1995, when Aleksander Kwaśniewski and Lech Wałęsa were running for President), and lower turnout in parliamentary elections (the turnout exceeded 60 % only in the first free elections in 1989) and even lower in local self-government voting (except self-government elections in 2018 when the turnout was approx. 55 %, however, it is not certain whether this trend continues). In addition, only two out of five referendum results were binding: in the constitutional referendum (without the threshold of 50 % turnout) and in the referendum on joining the EU. The election and referendum turnout in Poland is decidedly lower than in other European countries (especially than in the countries of 'old' democracy) and merely part of citizens usually take part in the vote. Therefore, it is hardly possible to expect inhabitants of our country to devote much more of their private time than in the case of elections (several hours or days) to participate in social consultations and/or deliberations.

"An assumption that there is a similarity between acts of participation in opinion polls and voting leads to forming a hypothesis that absence in both of these areas coexists and is conditioned by the same mechanism" (Grzeszkiewicz-Radulska 2009: 18). Factors influencing a decline to take part in the survey or vote (which might play a role in declining to participate in deliberations) are: fear of crime related to opening the door to a stranger (or the poll researcher), growing political apathy ("decreasing norms regarding civic rights, (erosion) of the idea of social cooperation and activity for the common good" (Grzeszkiewicz-Radulska 2007: 187), growing need for privacy, saturation of the market with public opinion polls and/or social consultations.

CBOS research from 2015⁶ shows that 49 % respondents share a view that people like them have influence on local and community matters (Hipsz 2015). Researchers of this subject state that local level involvement steadily increases. However, it seems to me that

6 The survey was conducted by means of CAPI technique on a representative sample of adult Polish citizens in the middle of 2015.

this statement is illusory, at least in the case of Łódź, because having actively participated in social consultations and having observed local inhabitants' involvement in the city matters it might be concluded that only a group of city activists take part in majority of events. Local decision-makers in Łódź⁷ more frequently listen to residents' decisions, however, high turnout is attracted only to consultations on interesting and controversial issues. Substantially lower turnout is seen in systematically held consultations, e.g. on the city budget (Krzewińska 2015). Insignificant activity of inhabitants on the local level can stem from – as discussed by Anna Olech – different reasons: "(...) it is attributed to a generalized, multigenerational experience of the system, namely PRL legacy" (Olech 2013: 111); it is related to lack of suitable paradigms of voluntary involvement for the benefit of the community; it is accounted for by constraints on the job market and difficulty in satisfying basic needs of life; it correlates with the process of aging of society, which also affects reduced involvement in public matters, but also increases digital exclusion and access to information on local matters (Olech 2013:111–112).

Insufficient interest in social matters, weak participation in consultations and other types of meetings where opinions are shared result in few opportunities for an average citizen to learn and exercise participation in discussion. Multi-year practices of making decisions which did not take into consideration opinions of people directly affected by them, raise distrust and level of withdrawal from civic sphere of life. The situation even gets worse by lack of systematic actions to increase "discussion culture" in Polish schools. School subjects which enable to take part in public debates, teach argumentation techniques and present opinions are still conducted only within sporadic projects. Models of such classes for children

7 In the last several years the City Hall of Łódź has held many social consultations, while there were merely 4 in 2013, the number grew to 10 in 2014 and 2015, 8 in 2016, 14 in 2017, 11 in 2018 and 11 social consultation scheduled in 2019 [<http://uml.lodz.pl/konsultacjespoleczne> (accessed on: 10.09.2019)].

and teenagers can be found in American schools, which underline discussion and even deliberation skills.⁸

Deliberative procedures as such and rules for their implementation can also discourage people from taking part in deliberations. The venues where deliberation are usually held are often strange to discussion participants and do not support the debate. It is hard to find suitable rooms, which could be used to hold such meetings, and which would not be negatively associated with some institutions and which could be rented. The place where deliberation is held sometimes refers to its subject under discussion (the session room of the Town Hall of Łódź for discussions on urban planning for the city), but it does not always put participants at ease, where they would feel comfortable.

Many scientific or social undertakings are organized as somewhat part-time activity, relying on passionate work of devoted activists who are allowed to perform experimental exercises such as deliberations, on condition that they are cost-free. Without any or on a small budget, it is hardly possible to provide participants with maximum conveniences: comfortable space free from institutional associations, suitable quality of materials, top-rate experts supporting participants in the course of discussions, reimbursement of commuting expenses or payment of subsistence allowance.

Deliberation procedures assume various ways of recruiting participants, however, they do not specify or adjust those methods to conditions in which deliberations are to be held. It is difficult to find specific tips which systematically present all available recruitment techniques, which additionally enable to increase chances to successfully complete the procedure of finding participants in deliberations. These recruitment skills seem to be 'magic' as

8 An example of such undertaking is a project of instructing deliberation procedures on socially significant issues realized by three non-governmental organizations from the United States of America in several countries named *Deliberating in a Democracy in the Americas* (DDA). http://www.dda.deliberating.org/index.php?option=com_content&view=section&layout=blog&id=5&Itemid=37&lang=en (accessed on: 5.10.2019).

typically less advanced recruiters should be instructed by more experienced ones. It is my impression that this area is the weakest link in organization of deliberations, particularly when our selection is not governed by any criteria, be them random or purposeful. It should be stressed, however, that people who are open and socialize easily, looking for new experiences and knowledge, are more willing to engage in deliberations than people who are reserved and less sociable. An extra strengthening feature are skills and experience in public speaking and discussing.

It seems that only crucial issues for a given group can convince people to devote their free time for a discussion. Therefore, a competent formulation of the deliberation topic and assurance that its results are important and socially vital might raise interest in participation in the deliberation. If the deliberation topic is not enough perhaps other ways should be used, e.g. reflections on the EU and its role in the world are probably not interesting enough, but underlining exceptional character of the first European deliberative survey and funding an attractive weekend trip to Brussels could attract participants. Many deliberations can attract by the topic which directly affects life of participants and appeals to their emotions. The phenomenon known as NIMBY (*Not In My Back Yard*), related to opposition to some investments (burdensome ones, such as building a fast road, or decreasing a sense of security, e.g. a refugee centre, or lowering prestige of neighbourhood, e.g. building a hospice), while expressing a conviction which investments are necessary, but their location should be different. Although such events are negatively perceived, they could increase residents' activity and create local leaders (Michałowska 2008).

Deliberation procedures are very strict on its participants as, on the one hand, they enforce sticking to principles and overcoming personal habits, while on the other hand, they encourage to discuss in a lively way, give arguments and examples. Participants have to take into consideration that in the course of the debate they need to hear out opinions which are quite far from their own views and discuss with people who are distinctly less or more familiar with the subject.

Deliberation results typically do not contain innovative, revolutionary, original ideas because deliberations are not supposed to generate novel ideas (unlike brainstorming), but they enable to share and work out common opinions. As a result, they lead to creating concepts which are good enough, although perhaps cautious. The reason for caution is fairly simple: the groups are likely to support only those ideas, which are acceptable to all deliberation participants (which does not mean that bolder and more original concepts do not appear in the discussion). After all, the consensus of opinion is added value and goal of deliberations, not originality of ideas.

Factors Hindering Decision-Makers in Holding Discussions Based on Deliberation Principles

Although proponents of deliberative democracy assume that deliberations could be organized by both citizens or decision-makers, it is usually the latter who initiate the process. We should also be aware of internal and external limitations of the procedure itself which account for its rare application in Poland. It ought to be explained that careful researchers are able to find several successful uses of deliberative techniques realized in our country, but they are much more likely to come across such successful deliberative events conducted abroad. Interesting collections of such case-studies are various catalogues describing techniques available for use in consultations. Websites, guides and manuals present methodology for conducting such debates (in more or less detailed ways), which are usually illustrated by cases of skillfully performed consultations realized in other countries.

Another factor which could discourage representatives of local authorities is lack of expert knowledge on techniques, varieties and procedures of deliberation. The number of deliberative techniques and their variants is so large and a variety of procedures as well as the resulting ways of application so rich that it could result in intimidation when deciding on the choice of deliberative technique.

Even well-described case-studies do not help in making a decision because they always refer to single and unique events, and lack of specialist knowledge causes difficulty in deciding whether a given case is similar to the debate in question. It seems that this kind of experience grows with systematic use of consultations and varied techniques based on conversation, debate or dialogue. However, shortage of professional knowledge (e.g. in psychology, social psychology and communication skills) together with little experience in organizing any meetings can paralyze decision-makers so much that they would rather substitute face-to-face meetings with an impersonal questionnaire on the town hall or commune website. And if a meeting and conversation might provide interesting and well-motivated arguments to support specific solutions they are likely to obtain 'dry' (without examples support) responses to close-ended questions from the questionnaire. Although there are many online manuals (or quasi-manuals) on organizing consultations, it is hardly possible to learn those skills just by reading descriptions or instructions, and secondly, it is not clear how to separate good models from bad ones, which are mistaken or contain misleading information.

Decision-makers can obviously hire knowledgeable and experienced professionals dealing with such meetings, deliberative consultation experts. However, there are few such specialists and their engagement is frequently connected with suitable funds. It sometimes happens that public administration needs are accompanied by available grants, which could be used to finance such consultations, but this is not a rule. It is highly probable that representatives of authorities who are convinced of their omnipotence will be less open to such cooperation (even if they might be knowledgeable in deliberative techniques), would not be interested in how such consultations are currently held or would not be keen on learning new experience. This attitude is further strengthened by closeness to novelties, ignoring opinions of other people, and finally fear of contacting local inhabitants. Such arrogance combined with a sense of superiority could be observed

within the project "Your voices matter", when a representative of housing estate councils did not want to 'share' decision-making processes on how to spend funds assigned to those councils (Prykowski 2012). The arguments used by the council members included their higher competences than other city residents and being chosen for making key decisions. Face-to-face meetings can result in confronting the rights of authorities and citizens. If we take into consideration that opinions could be exchanged in the course of discussions based on deliberative principles and it turns out that citizens' arguments are better suited to given solutions, attract greater support among participants, then decision-makers' propositions may lack justification.

It also sometimes happens that consultations are held only because there is such an obligation. The façade nature or even superficiality was discussed by Kacper Pobłocki in the foreword to the book "Participation nightmare" (Miessen 2013) or by Kamil Brzeziński in an unpublished article "Unwanted right to the city? – notes on superficiality and conditions of urban participation in Poland". Public consultations are sometimes held just because they are supposed to be held although it is well known in advance that consultation results or civic participation do not matter at all. It reminds of Jan Lutyński's concept who described pretended actions and highlighted their significant social goal, which they allegedly fulfill, their low usefulness and fictional character contained in their purpose or the course of actions (Lutyński 1990: 107–108). Accordingly, consultations are organized in accordance with all rules (even though their results do not matter, because the decision had already been made, but consultation results do not necessarily have to be executed), or "quasi-consultations" are conducted, but their fundamental principles are violated (e.g. duration of consultations is shortened to 2–3 days, consultation participants are indifferent to or reluctant to criticize them, they are held in inconvenient places or time, etc.).

The situation is different when public administration holds deliberative events, listens to citizens' opinions, but may be either

unprepared to the feedback (because ideas are so distant from its own views or planned actions), or/and they do not know how to treat the results (e.g. it is not clear how to interpret findings from deliberations or how to deal with opposite views in the discussion). It could be one of the reasons why there are no well-prepared reports from deliberation-based consultations, because in order to write such a report sufficient time is needed to reflect on what happened, and to order and analyze the gathered material.

The factors discussed above are significantly linked with ordinary reality of everyday life of public administration in Poland, namely shortage of funds and qualified staff⁵ responsible for including citizens in joint decision-making processes.

The analyses of local administration structures have shown⁹ that not all public administration offices have proper departments responsible for broadly-understood tasks related to consultations or participation, generally speaking. It is obvious that such departments are more frequently found in cities (over 100.000 inhabitants) than in smaller towns (up to 20.000 inhabitants). Insufficient organizational structures and adding participation-related tasks to a range of duties of public administration workers waters down responsibility for these actions and pushes them down the hierarchy of daily tasks. Such workers are less willing to develop their competences, follow trends in deliberation or take the risk of organizing deliberative discussions.

Conclusion

Taking into consideration all the above factors we agree with Jacek Sroka's (2018: 17) statement: "Deliberations cannot be held on a general, permanent basis, everywhere and at all times. (...) Deliberations are not always successfully organized in given conditions and time. It often results from insufficient resources, but even if they are

9 A report on state of participation in Polish towns is currently being prepared. (<http://obserwatorium.miasta.pl/biblioteka/raporty-opm/> accessed on: 10.10.2019).

available, we need to realize that deliberation can be faulty, just like any public tools may fail". Additionally, we must remember about restrictions of deliberative procedures and cultural conditions in which they are conducted, as somewhat due to their procedural requirements, they will often and nearly everywhere gather a small group of citizens. It was aptly defined by Michael Walzer (2006: 160): "deliberation per se is not designed for masses. It is not that (...) ordinary people of either sex are incapable of reasoning, but 300 million or even a million or a hundred thousand people are not able to reason and reflect, as it is simply physically impossible". We should also mention another, although not so optimistic, outlook on deliberation, e.g. by Ian Shapiro (2006), that such debates can deepen differences in opinions, because they encourage to express them directly and therefore result in polarization, excluding from decision-making processes instead of inducing co-decision-making.

Supporters of deliberative democracy argue that deliberations benefit society, and people who participate in them create/carry opinions, which are mature and thoughtful, because those opinions have already been confronted with many other views. It is postulated therefore that deliberation participants should be characterized by civic 'magnanimity' manifesting itself in mutual openness and sharing an attitude that every participant seriously treats issues in question. However, is it not a utopic vision? The vision where the main agents are 'ideal citizens', who devote their leisure time for the blurred common good to work out a solution to some social issue. And in addition, they will be listened to by engaged, competent representatives of authorities, who will willingly share their decision-making prerogatives and let them co-decide. It is implied that we will deal with involved and interested participants who want to deliberate at any time and on any subject, and with competent clerks who are open to results of such deliberations. Deliberation, as proposed by deliberative democracy enthusiasts, seems to be a painfully slow process, structured, stable and virtually continual. Criticizing this process Ian Shapiro stresses that deliberation also has its costs which include: "(...) wasted time, delays and lack of

decisiveness, deadlock faced with need for changes or dishonest control over the course of discussion. (...) (D)eliberation can also lead to giving excessive attention to minor issues, while pressing problems which require prompt actions, should be solved first” (Shapiro 2006: 29). Accordingly, it seems legitimate to conclude that deliberative democracy is merely “(...) a novelty, perhaps even a niche of a contemporary theory of democracy. Many researchers regard this reasoning as interesting from a philosophical and theoretical point of view, but impractical, even utopic, when considered from the perspective of «real democracy»” (Wasilewski 2007a: 314). Deliberations are not accompanied by any in-depth reflection on their fit in a given culture system or other social life procedures. It seems that an unspoken assumption that deliberations match any model of democracy, even if that system might be far from the democratic paradigm,¹⁰ goes too far. It overlooks existence of tradition of holding debates in a given culture, which would be characterized by mutual respect among participants, or undertaking actions aimed at cooperation on a given solution, or how common are such skills as: reaching compromises, considering other opinions, resigning from one’s rights, etc. It seems that it would be difficult to find cases of debates on social, political or economic issues, which were successful and known enough to present them to Poles as models of art of discussion. Following the latest discussions concerning the Constitutional Tribunal, refugees, stricter restrictions on abortion, hopes for holding deliberative debates in Poland are fading. Therefore without deep “(...) cultural changes, changes in criteria and paradigm of perception, categorization, judgments, evaluation, communication (...)” (Sroka 2018:19) deliberations will not become a common procedure in decision-making processes in public matters.

10 James S. Fishkin with his team were running a deliberative poll also in China.

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Local Community Participation in the Debate on Commune Condition

Abstract: Within the framework of governance concept public administration, including local government, are beginning to pay more and more attention to local community that they serve, whose interests they represent and whose good they are to take care of. That is why they allow them to co-decide and rule. Admittedly, the process of taking decisions is more complex then, but thanks to it, local community begins to share responsibility for defined activities. One of the newest solutions being consistent with the governance phenomenon is the debate on the report on commune condition, examined during a vote of approval session, introduced by the amendment of 11 January 2018. This debate can be not only watched by inhabitants, which is guaranteed both by the Constitution and the act on commune self-government, providing them with the admission to commune council sessions for many years, but they can take the floor in it as well. This debate plays a crucial role in the procedure of granting a borough leader a vote of confidence. The resolution on this issue is passed by the commune council directly after the debate is closed. The author, considering the title, issues an interesting and noteworthy area of research, has analysed it in detail, pointing out imperfections and suggesting some solutions that are of particular significance in practice.

Key words: governance, co-governing, multi-band (multi-level) governing, social participation, debate on the report on commune condition, a vote of confidence, commune inhabitants

Introduction

In accordance with article 2 of the Constitution of RP (Journal of Laws No 78, item 483 as amended), the Republic of Poland is a democratic rule of law. The term *democracy* comes from two Greek phrases *demos*, which is "people" and *creatos*, which means "rule". So, democracy is the rule (control) of people. Democracy may take a direct shape, when the nation itself is in power, or an indirect shape, when the power is also exercised by nation but through its representatives. For practical reasons the principle is that power is exercised by means of the forms of indirect democracy and it is both in the central and local dimension, which this study will be devoted to. In accordance with article 169 of the Constitution of the Republic of Poland, the units of local self-government (thus, the commune as well) perform their tasks through constituting and executive bodies. On the other hand, the forms of direct democracy are used by commune inhabitants only when they take decisions in popular vote (by means of elections – article 169 paragraph 2 of the Constitution of the Republic of Poland and referendum – article 170). For a long period of time the dominant indirect democracy was sufficient for the society. However, recently they have demanded a greater participation in exercising power, which is defined as a kind of democracy deficit. Then democracy was mainly reduced to electing representatives who represent the voice of the society performing various kinds of public functions. Yet those times have been barred by limitation and community have made changes as far as the understanding of the notion of self-government is concerned. Currently they understand this term in the context of getting involved in local issues (Dziubek 2014: 2). It may be said that at present we are to deal with the renaissance of democracy. The awareness

of inhabitants in the scope of self-governing of territorial units grows year on year. More and more often there appears the will to decide or at least co-decide on people's community fortune. There is nothing unusual about that if, as it is indicated by G. Staniszevska, "we have entered the principle of civil state and ancillary state strengthening citizens' rights and their communities' rights in the constitution. They both assign a special role to citizens in the functioning of state and society and in solving its problems" (Jurczyńska-McCluskey and Szczepański 2003: 143). It should be acknowledged that these words significantly show the necessity of the co-deciding process between citizens and local self-government authorities. Participation, which is co-deciding, is the only possible pass of the involvement of citizens, who more and more often summon their energy and want to take part in everyday life of their commune, in public life. It can be said that at present we are to do with the mechanism of deliberation whose main goal is mutual listening to all the parties of the dialogue (Dziubek 2014: 2).

Commune inhabitants more and more often hold their representatives accountable for exercising power on their behalf. But it is necessary to listen to inhabitants' voice to make them satisfied by commune bodies and what is needed to achieve this aim is a dialogue without which contemporary self-governments cannot function properly. That is why the legislator creates some legislative framework enabling to conduct such a dialogue. In the current legal status several such solutions can be found, yet necessity is the mother of invention, thus the legislator works on changes in this scope all the time suggesting newer and newer instruments ensuring that the inhabitants' voice will be heard.

One of the newest solutions, whose analysis will be the subject of this study, is the debate on the report on commune condition which was introduced by the act of 11 January 2018 on changing of some acts to increase citizens' participation in the process of electing, functioning and controlling some public bodies (Journal of Laws item 130), which debate constitutes an element in the new procedure of granting a vote of confidence to a borough leader, in

which commune inhabitants can take the floor. In accordance with newly added article 28aa of the act on commune self-government (Act of 8 March 1990 on commune self-government, Journal of Laws of 2019, item 506 as amended; hereinafter referred to in Polish as u.s.g.) a borough leader is obliged to submit a report on commune condition to the council to 31 May each year, which report comprises the summary of their activity in the preceding year, in particular conducting policies, programmes and strategies, resolutions of commune council and participatory budgeting. Then during a vote of approval session, a debate on this report is conducted involving local community. There would be nothing special about it if one takes into consideration the fact that inhabitants have been able to take part in the council session for a long time, which is enshrined both in the Constitution of the Republic of Poland (article 61 paragraph 2) and in the act on commune self-government (article 11b paragraph 2). However, their participation in this exceptional session has been stipulated on the basis of special legally regulated conditions. It is not just passive watching of proceedings, but active participation in the debate on the commune report, ending in a council vote on granting a borough leader a vote of confidence. Giving local community this power undoubtedly fits in the phenomenon of *governance* (Rudolf 2010: 73–82) idea understood as co-governing, multi-band (multi-level) governing. Inhabitants' remarks can significantly influence the way councillors will vote in matters of granting a borough leader a vote of confidence. And not granting that vote in two consecutive years results in giving the commune council power to adopt a resolution to conduct a referendum on removing the borough leader, in which it is local community that will make the final decision on possible removing them from their office.

The legislator, when adopting the amendment of 11 January 2018, indicated the purpose this amendment serves as early as in the grounds for the draft. One of its elements were "the changes of the acts on self-government of commune, poviats, voivodeships aiming at the increase in citizens' participation in the process of controlling

and functioning of some public bodies – local authority. (...) As regards the changes in self-government act, the proposers suggest changes that will make a real contribution to providing local community with greater involvement in the functioning of the bodies of a given self-government unit coming from the act of election and guarantee citizens proper control over local authority, and thus will contribute to increasing the bond and responsibility for the local community in which they live" (print no 2001: <http://orka.sejm.gov.pl>, accessed on: 1.11.2019). The goal set by the proposer has been achieved – the inhabitants' possibility to take part in the debate on the report on commune condition is indeed a significant indication of social participation (Karciaz 2018, accessed on: 29.10.2019).

Report on Commune Condition

The newly introduced vote of confidence expressed for the executive body of local self-government unit is undoubtedly a form of its control exercised by the commune executive body. So far that body, performing controlling functions, has only taken a resolution on the vote of approval, but, as it is known, that is the expression of acceptance or the lack of acceptance exclusively for keeping the budget in the preceding calendar year by the executive body. No other circumstances can be taken into consideration when adopting the resolution on that issue. In accordance with article 18 paragraph 2 item 4 of u.s.g. (a Polish abbreviation), the only really legitimate basis for not granting a borough leader the vote of approval is a negative assessment of implementing the budget. The procedure of granting the vote of approval is therefore based on "objective measurable criteria and as a result a commune council, adopting a resolution on that issue, states if the budget has been implemented according to the council will and, thus, according to the budget resolution and if that implementation has been reliable, expedient and economical. Emphasising the link between the vote of approval and the assessment of commune budget implementation

is of significant importance as the institution of the vote of approval cannot be linked to any assessment of a borough leader's activity other than the one that is directly related to commune budget implementation" (Martysz 2018). Therefore, objections referring to the overall work of a borough leader cannot form grounds for the refusal to grant them the vote of approval on account of budget implementation.¹ They could only – to the day of an entry into force of the amending act, introducing the institution of a vote of confidence – constitute the grounds for adopting a resolution by the commune council (on the basis of article 28b of u.s.g. – a Polish abbreviation) on conducting a referendum on removing a borough leader for reasons other than not granting a vote of approval² (Gurdek 2016: 157–182; Gurdek 2018: 95–107; Chmielnicki 2004: 20; Podgórski 2002: 5; Olejniczak-Szałowska 2008: 28).

As it can be seen, until the time of the amendment of 11 January 2018 local community did not have statutory active participation in controlling activities of a borough leader undertaken by an executive body. Both in the procedure of a vote of approval and of adopting by the commune council a resolution on conducting a referendum on removing a borough leader for reasons other than not granting a vote of approval, local community was guaranteed

- 1 Regional Audit Office (RIO) Resolution of 16 May 1996, file No 108/96, OSS 1997, issue 2, item 61; see also Supreme Administrative Court judgment of 26 October 2000, file No SA/Kr 1996/00, OSS 2001, issue 2, item 64, in which the Supreme Administrative Court stated that a resolution on granting or not granting a borough leader a vote of approval has to be adopted on the basis of the assessment of implementing the income side and the expenditure side of the budget and all reasons causing differences between the adopted budget and the budget implemented according to the condition based on the report. So, if the report on budget implementation shows that its implementation is totally equal to the adopted budget, the commune council does not have any grounds for a negative assessment of budget implementation expressed in not granting a borough leader a vote of approval; see also Regional Audit Chamber (RIO) resolution of 7 June 1995, file No 216/96, OSS 1996, issue 3, item 99.
- 2 However, commune council adopted such a resolution unwillingly due to article 67 paragraph 3 of the act of 15 September 2000 on local referendum (Journal of Laws of 2019, item 741).

only a passive entry to commune council sessions. It does not mean, however, that it was totally deprived of controlling powers towards a borough leader. It had the right to independently initiate a referendum on their removal and, what is most important, it was the local community that finally made the decision on removing (or not removing) a borough leader in a referendum (regardless of due to whose motion and for what reason it was conducted).

The legislator, introducing a new institution in the form of a vote of confidence, which to some extent constitutes the assessment of the whole activity of a borough leader in the past calendar year, recognised that despite it being made by the decision-making authority, local community should be ensured participation in the discussion preceding the adopting of a resolution on that issue. Thanks to that they can better understand the reasons guiding the council not adopting the resolution on granting a borough leader a vote of confidence. This, in turn, could be helpful in the determination of the case of a possible removal of a borough leader if the council adopted a resolution on conducting a referendum on that issue due to not granting the borough leader a vote of confidence in two consecutive years.

The Conditions of Inhabitants' Participation in a Debate on Commune Report

The conditions of inhabitants' participation in the debate on a commune report have been specified in article 28aa paragraph 7 and 8 of u.s.g.

Declaring the Will to Take the Floor

In accordance with article 28aa paragraph 7 of u.s.g., an inhabitant who would like to take the floor in the debate on a report on commune condition is obliged to submit a written application supported with signatures:

1. in commune of up to 20 000 inhabitants – of at least 20 people;
2. in commune with over 20 000 inhabitants – of at least 50 people.

In this regulation the legislator did not refer to the rules of inhabitants' lending support under such a declaration at all. Therefore, there seem to be no counter-indications for one person to sign it under any number of declarations. What is more, it should be assumed that there are no legal grounds authorising the commune council to introduce such a ban. It is also important that councillors themselves can give the applicant such support due to the fact that according to the binding domicile principle, they are also the inhabitants of this commune themselves.

Application Submission Deadline

According to article 28aa paragraph 8 of u.s.g., an application to take active part in the debate has to be submitted on the day preceding the day for which the session during which a report on commune condition is to be presented has been called at the latest. The use of the phrase "on the day preceding the day for which the session has been called" in the regulation without clarifying that it has to be a working day – that is from Monday to Saturday (Gurdek 2017: 177–199; Gurdek 2017: 54–63; Gurdek 2017: 53–60; Gurdek 2017: 174–186), or even more precisely (taking into account the fact that offices traditionally work from Monday to Friday) the working day of a given office means that such application can be submitted on the day directly preceding the day for which the session has been called at the latest, irrespective of what day of the week it will be (it could be even Sunday or any other holiday if the session was called for Monday or for the day directly before or after the holiday). It is not the time limit obligatory in court, so the provisions of the code of administrative proceedings concerning the so-called deadline extension shall not apply here (Journal of Laws of 2018, item 2096 as amended). Thus, in practice due to the business days of the commune office in which the application should be filed to keep

the time limit stipulated by law, an applicant is obliged to file the application on the last working day of the office that precedes the day of the session at the latest. In this way, despite the theoretically longer time limit stipulated in article 28aa paragraph 8 of u.s.g., needless to say, in reality it is shortened to the disadvantage of local community.³ That is why, to meet the needs of local community, the best solution would be to call the session for the day that is preceded by a working day of a given office, so e.g. for Tuesday unless the preceding Monday is a holiday or if there is a holiday in a given week, for the second consecutive working day after that day.

The Date of Examining a Report

Returning to the report on commune condition itself that has been submitted by a borough leader, according to article 28aa paragraph 4 of u.s.g., it is examined during a session at which a commune council resolution on granting or not granting a borough leader a vote of approval is made. However, it is the report that the council is obliged to examine in the first place. A debate on the report is conducted, after which the commune council vote on granting a borough leader a vote of approval (article 28aa paragraph 9 of u.s.g.). Only after carrying out all of these actions should the council proceed to the vote on granting or not granting a borough leader a vote of approval.

What follows from the combination of the provisions indicated above is that the whole procedure should be carried out during one session, the so-called vote of approval session and an application for an active participation in the debate can be filed at the latest on the day preceding the day for which this session, at which a report on commune condition is also to be presented, has been called. Yet in practice, surely on account of the fact that this year borough

- 3 Such a case took place in Hajnówka commune. What is interesting is, however, that in this commune it was indicated in official information on the commune website that the deadline of filing applications is on Friday 21 June 2019, although the session was called for as late as Monday 24 June 2019.

leaders have submitted report on the commune condition for the first time, thus they have been examined and debated on for the first time, not all the communes have complied with these instructions. According to the information about the principles of inhabitants' applying for the debate participation in the report on Porąbka commune condition for year 2018, in this commune a report was presented during a session, and it was at the next session that a debate on that report was conducted. The former took place on 28 May 2019 and the latter did not take place until 25 June 2019. Interestingly enough, applications to take the floor in the debate were to be submitted not later than on the day preceding the day, for which the session during which a report on the commune condition was to be presented, had been called. That day was 27 May 2019. Obviously, it was consistent with article 28aa paragraph 8 of u.s.g., but the debate itself took place almost a month later, which was inconsistent with article 28aa paragraph 4 of u.s.g.⁴ However, in Hajnówka commune, admittedly, the whole procedure was conducted during one session, but what follows from the information on the website is that the session during which a report on commune condition was supposed to be presented was planned for 24 June 2019, and applications for active participation in the debate would be accepted till 21 June 2019.⁵

- 4 Information on inhabitants' applying to take part in a debate on the report on commune condition for year 2018, [http://www.porabka.pl/fck_files/informacja%20dla%20mieszka%C5%84c%C3%B3w\(4\).pdf](http://www.porabka.pl/fck_files/informacja%20dla%20mieszka%C5%84c%C3%B3w(4).pdf) (accessed on: 29.10.2019).
- 5 In this case we are to do with the already discussed situation in which the session was called for the day after two non-working days for a given office, i. e. for Monday. In the information on the commune website it was not clarified, however, why this deadline was on 21 June 2019 and that is why it could have misled the recipient. Although 24 June 2019 fell on Monday, so actually the deadline to submit an application was on Friday, in article 28aa paragraph 8 of u.s.g. (a Polish abbreviation) the legislator clearly decides on the day preceding the day for which the session has been called and not the working day, or even more precisely, a working day of the office of a given commune. <http://hajnowka.pl/urzad1/aktualnosci/12042-zgloszenia-do-udzialu-w-debacie-nad-raportem-o-stanie-gminy-miejskiej-hajnowka-za-2018-rok.html> (accessed on: 30.10.2019).

The Number of People Entitled to Take the Floor

Filing an application in due time itself, even supported with a suitable number of signatures, does not yet guarantee the right to take the floor during a debate on commune condition. The legislator has decided that inhabitants are allowed to speak according to the order of the council chairperson receiving an application. It does not mean that everybody who is willing to speak will be allowed to do it. The legislator has determined a maximum number of people allowed to take the floor in a debate – not more than 15, unless the council decides to increase the number. And this means the council cannot limit that number, but they can increase it freely. The legislator has not indicated, however, in what way it should be done. Therefore, it is assumed in literature that it would be actually acceptable to do it both in a resolution determining the scope of the report and in the commune statute or, finally, in other separate resolution⁶ adopted in extreme cases even during a session at which a report is examined. However, Cz. Martysz (2018) draws attention to the fact that one may have reservations about the last solution because due to organisational reasons it is important that inhabitants should know earlier how many of them can actively participate in that debate.

Inhabitants' Speaking Time

Taking the decision on allowing a bigger number of people to speak the council should primarily take into consideration the actual possibility to provide inhabitants with an active participation in the debate in such a way as to avoid excessive prolonging of the

6 And so for example the Town Council in Szczucin in resolution no. VI/40/19 of 28 February 2019 on the issue of determining the number of inhabitants entitled to take the floor at the time of debates on the report on commune condition (Official Journal of Małopolskie Voivodeship of 2019 item 2073) assumed that 18 inhabitants who have submitted correct and complete applications referred to in article 28aa paragraph 7 and 8 of u.s.g. (a Polish abbreviation) can take the floor in each such debate.

session. It is already 15 people taking the floor that may make it considerably prolonged, the more so because the legislator does not say anything about the time limit an inhabitant is allowed to speak. The lack of regulation in this respect does not mean, though, that the council is not entitled to set a limit here. Taking into consideration the content of article 28aa paragraph 6 of u.s.g. (a Polish abbreviation), in which the legislator has directly indicated that councillors take the floor in the debate on commune condition without any time limit,⁷ it seems that if there is no analogical reservation with reference to inhabitants, the council can introduce the time limit of their speech. This conclusion is all the more justified by the fact that in the original text of the draft bill it was suggested that inhabitants took the floor on the basis of regulations provided for non-attached councillors, so i.a. without the time limit. However, since that regulation was removed during legislative work, it means that the legislator has finally given up the unlimited speech time of inhabitants guaranteed by law. That is why it seems the council can introduce the time limit for inhabitants who take the floor during the debate (print no. 2001: <http://orka.sejm.gov.pl>, accessed on: 1.11.2019). Giving the floor to all of them, even for the minimum time (e.g. for 5 minutes) with the number of 15 people determined by law makes the session one hour longer anyway. Increasing that time or the number of people allowed to speak will mean even longer inhabitants' speeches. Cz. Martysz (2018) has a different opinion, though. He thinks that the analysis of article 28aa paragraph 6–8 of u.s.g. (a Polish abbreviation) indicates that also in relation to commune inhabitants taking the floor in a debate – just as with reference to councillors – the time limit of their speeches cannot

7 Introducing this reservation, provided for in the original text of the draft bill, aroused a heated discussion during work on the act in the Sejm. It was suggested then that it should be given up and quite the contrary time limit for councillors taking the floor during a debate should be introduced (e.g. up to 10 minutes), which met with strong opposition – see the full record of the meeting course of Special Committee for considering draft bills in the scope of election law (no. 3) of 30 November 2017, [http://orka.sejm.gov.pl/Zapisy8.nsf/0/Bo4603E3966B3E79C12581FE00449CF7/\\$file/O259808.pdf](http://orka.sejm.gov.pl/Zapisy8.nsf/0/Bo4603E3966B3E79C12581FE00449CF7/$file/O259808.pdf), p. 89 ff. (accessed on: 1.11.2019).

be imposed. In his view, the act only introduces a clause that every inhabitant does have the right to take an active part in a debate, but they have to submit a written form of their intention to the council chairperson on the day preceding the day for which the council session has been called at the latest.

However, to say nothing about the issue of admissibility or the lack of admissibility of introducing the time limit for inhabitants' speeches, one should anyway pay attention to the fact that – additionally taking into consideration that every councillor can speak as long as they want – a session may turn out to last for a few days, particularly in the communes where the time of inhabitants' speeches is not limited. Therefore, it should be planned appropriately in advance so that the deadline for carrying out the voting on granting a borough leader a vote of confidence and adopting a resolution on a vote of approval defined by law can be met (i.e. till 30 June).

Making a Reserve List

It seems that when accepting applications it would be advisable to make a reserve list of people willing to take part in the debate. Since the legislator has indicated that inhabitants are allowed to take the floor in accordance with the order of filing applications, when the determined limit is exceeded, the rest of applications should not be theoretically taken into consideration. Yet welcoming local community, showing them good will and recognition of the role they play in the debate on commune condition, it seems fair to accept a few more further applications with the information directed to inhabitants submitting these applications that they are treated as reserve applications. Indeed, if any of the people allowed to take the floor within the determined limit gave up their granted right, then the remaining applicants would move in the queue specified by the chairperson making room at the last place on the list. This place could be then taken by the first person on the reserve list.

Resume

At the conclusion of the analysis of article 28aa paragraph 7 of u.s.g. (a Polish abbreviation) determining the conditions on which commune inhabitants can take part in the debate on commune condition it should be clearly emphasised that this regulation applies only to their participation in the debate on the report and not to the participation in the session itself during which the report will be examined. In this scope it is inadmissible to introduce any limit as article 11b paragraph 2 of u.s.g. and article 61 paragraph 2 of the Constitution of the Republic of Poland guarantee inhabitants' unlimited admission to communes council sessions (meetings of collective public authority bodies coming from general election). This being the case, the chairperson of the commune council, being the entity responsible for the correct running of the council proceedings, is obliged to conduct them in such a way that everyone interested could participate in them passively (Karciaz 2018, accessed on: 29.10.2019).

Inhabitants' participation in the debate certainly epitomises social participation, so much awaited by local communities nowadays. Unfortunately, the material scope of the report on commune condition is not fully indicated clearly. Therefore, it is pointed out in literature that "However this provision is interpreted, there is always a certain feeling of insufficiency, which, as a matter of fact, should be a part of this resume. These doubts are not resolved by the further part of the provision commented on either, which states that the report should include in particular information on the conduct of policies, implementation of programmes and realization of strategies, commune council resolutions and participatory budget. It can be assumed that in practice there will be reports including various components and the pragmatic approach of executive bodies of communes will make the reports mainly emphasise, understandably, the good points of performed activity, and they will omit their negative elements" (Martysz 2018). This, in turn, will make inhabitants naturally limited anyway as far as

the subject of the discussion is concerned despite active participation in the debate granted to them. Moreover, owing to the lack of clearly specified criteria of control which the presentation and examination of the report is to serve, the debate on it may be tinged with politics and lack essential elements.

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Deliberative Governance for Health in Local Context: Prospects for Health Impact Assessment (HIA) in Spatial Planning in Poland

Abstract: Interdisciplinary and multisectoral character of the determinants of health has led scholars and practitioners of public health to insist on the idea of health being an issue beyond just health policy. Growing from the doctrine of 'health in all policies' the notion of 'governance for health' emerged, being the most suitable approach for tackling policymaking with multiple stakeholders across various sectors and all levels of the polity. The idea of deliberative governance for health becomes particularly suitable for this purpose due to its focus on coalition-building, accountability to stakeholders and authority through facing (not dismissing) controversies. Deliberative governance grows from the theory of deliberative democracy thus it has roots in a wider philosophical and practical attempts at amending modern democracies. The latest approach within the theory – the deliberative systems approach – provides even more guidelines on how to improve governance processes on local level. One of the most interesting techniques of deliberative democracy is health impact assessment or HIA. It differs from traditional environmental impact assessment in that it does not only utilise expert-based approach. HIA employs a wide range of participatory and deliberative methods in tackling health risks that may burden local communities in policies and programmes that are not strictly associated with health. One such policy area is spatial planning

and area revitalisation. In this chapter I shall analyse some of the prospects of using HIA as a method for deliberative governance for health in Polish municipality context. I shall analyse existing legal regulations for revitalisation planning to use this pre-existing framework as a good attachment point for employing HIA in Poland on a wider scale.

Key words: deliberative governance, health impact assessment (HIA), spatial planning, urban planning, revitalisation

Introduction

Health is one of the most prolific, interdisciplinary, multilevel and inter-sectoral areas of public policymaking. As such, it is the domain that is very sensitive to advantages and drawbacks of any type of governance, since it requires significant resources, up-to-date expertise and involvement of a wide spectrum of stakeholders at multiple levels. "Many of the determinants of health and health inequities in populations have social, environmental, and economic origins that extend beyond the direct influence of the health sector and health policies. Thus, public policies in all sectors and at different levels of governance can have a significant impact on population health and health equity." (WHO 2014a: 7). This specificity led to recognition of the idea that policymakers must promote *health in all policies*.

The idea of *health in all policies* (HiAP) led to the emergence of the concept of *governance for health*, as described by Ilona Kickbusch and David Gleicher. They define governance for health as "the attempts of governments or other actors to steer communities, countries or groups of countries in the pursuit of health as integral to well-being through both whole-of-government and whole-of-society approaches. [...] Governance for health promotes joint action of health and non-health sectors, of public and private actors and of citizens for a common interest. It requires a synergistic set of policies, many of which reside in sectors other than health as

well as sectors outside government, which must be supported by structures and mechanisms that enable collaboration" (Kickbusch and Gleicher 2012: vii).

The review of the current state of governance led Kickbusch and Gleicher to the conclusion that: "all policy fields – not only health confront the necessity of reforming their way of working and of experimenting with new approaches to policy-making and implementation at the global, regional, national and local levels. [...] The complexity of these wicked problems calls for systems approaches and networked responses at all levels and will force policy-makers to move out of their policy silos.

The result has been the diffusion of governance, from a state-centred model to a collaborative one, in which governance is co-produced by a wide range of actors at the level of the state (such as ministries, parliaments, agencies, authorities and commissions), society (as businesses, citizens, community groups, global media (including networked social media) and foundations) and supra-nationally (such as the European Union and the United Nations)." (Kickbusch and Gleicher 2012: vii–viii)

From among these levels we focus in this book on the local, decentralised level. And from this point of view, I find that an approach to governance that can respawn to the said needs in a comprehensive way is the one that derives from the deliberative democratic theory (Bessette 1980; Hajer et al. 2009; Mansbridge et al. 2012). It puts a special emphasis on the processes of communication between stakeholders – a quality deliberation that strives to take into account all relevant needs and knowledge.

The deliberative theory approach provides not only a variety of interesting methods that can contribute to governance on local level – including the so called *minipublics* such as citizen panels (Crosby et al., 1986) or deliberative opinion polls (Fishkin and Luskin 2005). It gives new meaning to methods that are derived from pre-existing, strictly expert approaches. The latter includes *health impact assessment* (HIA) as derived from *environmental impact assessment* (EIA) (Bhatia and Wernham 2008). Deliberative

theory approach to these methods allows for a more participatory approach, a one that strives towards a form of *citizens' science* (Irwin, 2001).

The deliberative democratic theory – most notably the empirical (Steenbergen et al. 2003) and systemic approaches (Mansbridge et al. 2012) – also provide tools for analysing governance processes from normative and descriptive perspectives. It provides a relevant outlook concerning main questions of this book:

1. Do institutions of participatory democracy (in local context) reduce legitimacy deficit?
2. Does improving participation numbers (quantitative dimension of democracy) also serve better quality of policymaking?
3. Does institutionalisation of participatory methods on local level actually serve the decentralisation of political power?

I consider addressing these issues – finding some remedies to those questions or at least providing relevant considerations – primarily in the specific context of *governance for health* and health in all policies. Within it, I discuss health impact management (HIA) for spatial planning (urban but also agrarian) as an interesting area for potential development of deliberative governance on local level. I thus consider implementation prospects of the health impact assessment method in spatial planning in Polish local self-governments.

I find HIA in that specific context as one of the most appropriate and valuable option for engaging local communities, connecting different sectors of public affairs and building evidence-based coalitions for policymaking. In this instance governance can: (1) meaningfully (not only superficially) reduce legitimacy deficit; (2) translate participation into a better quality policy or plan (citizen science); as well as (3) reasonably decentralise political power (even within the local self-government itself).

Deliberative Governance for Health

Deliberative governance is loosely derived from the theory of deliberative democracy (Bessette, 1980). According to Carolyn Hendriks (2009: 173) “[t]he central idea behind deliberative governance is that policy making requires spaces where different institutions, agencies, groups, activists and individual citizens can come together to deliberate on pressing social issues.” Primary goals of deliberative governance are: democratic inclusion and deliberation (Carson and Hartz-Karp 2005). Inclusion in this instance can be direct or through representatives, but it must concern all those who are affected by a policy or plan (Dryzek 2001). It must not be limited to politicians, experts, bureaucrats, or local elites as it is typical for more traditional forms of governing (Leighninger 2006).

When it comes to deliberation it is broadly and minimally defined as „mutual communication that involves weighing and reflecting on preferences, values and interests regarding matters of common concern“ (Mansbridge 2015: 27). In a more narrow and technical approach, deliberation is identified with a variety of deliberative methods known as *minipublics* – such as: citizens’ juries (Coote and Lenaghan 1997), citizens’ panels (Crosby et al. 1986), deliberative opinion poll (Fishkin and Luskin 2005), and many others. Overwhelmingly, these techniques are consultative in character.

Their common feature is an attempt at simulating how the general public – lay citizens – would decide if they had a chance to educate themselves on the issue. The goal is to deliver a ‘reflective public opinion’ that – even though non-binding – will have a special ‘recommending force’ for decision makers (Fishkin et al. 2000). Such *minipublics* require random selection of a *representative sample* of the citizenry (e.g. from the affected area) and – on the other hand – limits the role of representatives. Political elites, opinion leaders, officials, experts are treated here as merely witnesses to each side of the issue. Also self-selection for deliberation is usually unwelcome, since those who eager to engage in policy discussions

are usually already highly opinionated on the issue and/or have vested interests (Fung 2003; Ryan 2014).

This, narrow approach to deliberation is not the only one, however. More typical application of deliberative governance involves deliberation as defined in the broader approach – involving self-selection, activism, representation of stakeholders, active involvement of authorities and not only informative presence of experts. This approach – as more flexible and manageable in dealing with usual problems of public policy – is more compatible with traditional policymaking arrangements. It not only is more open to the usual policy networks but it simply is more fitting to the actual decision-making mechanisms present in a variety of regulatory bodies as well as to realities of the local politics.

On many occasions the deliberative character of any given institutional design is only circumstantially inspired by deliberative ideals and is identified by scholars in post hoc analysis. An example of such case is the British Food Standards Agency (FSA) – studied by Maarten Hajer, David Laws and Wytske Veersteg and deemed as one of the finest examples of deliberative governance (Hajer et al. 2009). By performing the further analysis of the proceedings of the FSA’s Board, I observed that the design of participation and representation in the FSA’s Board was aimed at a deliberative democratic inclusion of three types of inputs of governance: expertise (represented by Agency’s experts); self-interests (represented by the food industry); and emotions (represented primarily by consumer organisations¹ and lay-citizens) (Zabdyr-Jamróz 2019a).

I also observed, that in this respect the FSA’s design – conceptualised in the late 1990s and developed in the early 2000s – anticipated the later developments in the deliberative democratic theory,

- 1 Interviews conducted when studying the Agency indicated that representatives of consumer organizations “were not prepared to move from the point they held, and they held their point not for scientific reasons but for theological reasons” (Hajer et al., 2009, p. 159). This affective stubbornness is associated with particular value system supported by and possibly based on emotional sensibilities (Haidt, 2012, 2001).

most notably the systemic appreciation of the role of emotions (Dryzek 2010) and self-interests (Mansbridge et al. 2010) in deliberation on public issues (in the classical version of the deliberative democratic theory these inputs were considered detrimental to good quality deliberation and were rejected).

Health Impact Assessment (HIA) and Spatial Planning²

Health impact assessment – abbreviated as HIA as one of the most prolific tools for *health in all policies* is recognised within the wider systemic approach to deliberative democracy as a deliberative method (Papadopoulos 2012: 125). This is primarily due to the fact, that within the latest systemic approach (Mansbridge et al. 2012), not only *minipublics* are considered valuable for quality deliberation. That is not to say that HIA is not oriented on participation of ordinary citizens – local communities. In fact, this method is distinguished from other types of impact assessment techniques by its devotion to participatory approach.

HIA is a process that helps in the assessment of the potential health consequences of any given decision (a program, policy, legal regulation or project) before it is implemented – i.e. before money, time and institutional resources are invested in it. The key aspect is that it is used to evaluate decisions that are not considered as oriented primarily on health. HIA can provide recommendations in maximizing positive health effects and minimizing negative impacts. Unlike, for example, *environmental impact assessment* (EIA), HIA not only serves to strengthen the position of public health

- 2 This and the following parts were based on and composed of fragments from the report *Health Impact Assessment (HIA) for Spatial Planning in Poland* written for the national Institute of Public Health (NIZP-PZH) by me together with Katarzyna Badora-Musiał. All used fragments are of my sole authorship and are based on translation provided by Summa Linguae Group. The report was written within the project titled *Reducing social inequalities in health* (financed by the Polish Ministry of Health and Norway Grants, program PL 13, contract no. A-AE-KN-12/5/2013) and is available at: <http://bazawiedzy.pzh.gov.pl/nierownosci-w-zdrowiu>.

experts in other areas, but also features strong elements of citizen participation. Its additional goal is to empower local communities and raise their awareness of health determinants (Ison 2012: 8).

HIA is considered a method for citizen participation (Harris et al. 2009) and as such it involves a wide range of participatory tools, such as interviews, surveys, focus groups, public consultations, working groups, etc. (Kemmm 2013). HIA requires cross-sectoral collaboration, but also a pre-existing institutional infrastructure. The key issue here is the political support of the method, guaranteeing its inclusiveness and impact in influencing final decisions (WHO 2014b: 101).

HIA may serve to promote certain ideals or vision of local development by way of exploring the *civic knowledge* or even establishing a sort of *citizen science* (Irwin 2001) and striving towards an *ethical use of science* (WHO 2014b: 101). Unlike typical *minipublics*, it offers an interactive, deliberative involvement of polarized stakeholders in the decision-making process – public authorities, entrepreneurs, activists, social movements, etc. – and aims at building a mutual understanding between them (Wernham et al. 2012).

Table 1. contains a description of the HIA process: individual phases and stages together with examples of activities undertaken within them, including examples of deliberative techniques and social research methods that can be applied at least at the *appraisal* stage. The full-scale HIA includes civic participation at more than one stage. It is particularly important at the *scoping* stage. The stages of HIA will be presented in more depth below – with the application perspectives.

The role of urban planning – or more broadly: spatial planning – in shaping the health situation is well recognised in scientific research and has been clearly noted by a number of institutions that deal with shaping the public health policy in the world (Blau et al. 2007). Linking a low social position to poor quality living conditions and recognition that surroundings influence health have become one of the most important conclusions regarding spatial planning (Lavin et al. 2006).

Tab. 1. Phases and stages of health impact assessment (HIA) as deliberative governance

Phases	Stages	Description	Process and possible use of deliberation techniques
1. Prospective Assessment	1. Screening	Quick, preliminary determination of the importance of a given policy for health. An answer to the question: "Is HIA needed?"	<ul style="list-style-type: none"> ■ The initiating entity (e.g. municipal authorities) creates the project of the undertaking. ■ Requesting opinions: public announcement and addressing known stakeholders directly. ■ Collection of recommendations and applications from stakeholders – also new ones (e.g. by phone). ■ Identification of key health issues for analysis based on HIA guidelines and stakeholders' recommendations.
	2. Scoping	Identification of key issues, problems and the relevant community/group; consultation with stakeholders to plan the HIA; identification of the risks and potential benefits of HIA.	<ul style="list-style-type: none"> ■ Establishment of a Steering Committee – composition based on stakeholder applications. ■ Establishing of an assessment plan and schedule. ■ Determining the scope of the assessment. ■ Approval of the HIA plan by the Committee and initiating entity. ■ Preparatory work and preliminary examination.
	3a. Appraisal, Analysis	Rapid or in-depth appraisal of health impact using available data: who will be concerned, starting point description, forecast, significance and mitigation measures. Collecting information from residents/stakeholders.	<ul style="list-style-type: none"> ■ Desk research – examination of existing literature on the subject (in case of limited resources the appraisal is limited to this form). ■ Field research – use of various available deliberative techniques and social research methods, e.g.: <ul style="list-style-type: none"> • mail surveys; • observational surveys; • focus groups; • 'neighbourhood teas'; • <i>mimipublics</i>; • etc.

I. Prospective Assessment	3b. Recommendations	Development of recommendations – practical solutions that could be implemented to eliminate/reduce health risks of negative aspects and/or strengthen positive ones (subject to political, economic and technical constraints).	<ul style="list-style-type: none"> ■ Presentation of results and recommendations to planners/officials/ decision-makers. ■ Planners present the project to decision-makers (e.g. the municipal council). ■ Delivering a report and presentation and discussion of the most relevant HIA results to decision makers. ■ Delivering the HIA results (report) to citizens/stakeholders. ■ Decision on the initiative.
Decision	4. Reporting	Delivering recommendations in the form of a report and abbreviated recommendations to the initiating entity, decision-makers, stakeholders and the community.	<ul style="list-style-type: none"> ■ Presentation of results and recommendations to planners/officials/ decision-makers. ■ Planners present the project to decision-makers (e.g. the municipal council). ■ Delivering a report and presentation and discussion of the most relevant HIA results to decision makers. ■ Delivering the HIA results (report) to citizens/stakeholders. ■ Decision on the initiative.
II. Retro-active Assessment	5. Monitoring & Evaluation	Monitoring and evaluation of health impacts and changes in health risks (severity, stability, reduction); assessment of the effectiveness of applied solutions, implemented measures and the entirety of HIA process – strengthening of existing evidence. Applying community pressure on decision-makers to adjust policy and follow HIA recommendations.	<ul style="list-style-type: none"> ■ Monitoring the implementation of the recommendations by the Steering Committee. ■ Further dissemination of results. ■ Applying social/political pressure on decision-makers.
Revision/Correction			

Developed: Michał Zabdyr-Jamróz, based on (WHO 2013).

Health impact assessment is oriented at identification of numerous, overlapping health determinants: medical, physical, socioeconomic, environmental and behavioural. Personal behavioural decisions – such as nutritional choices, recreational activity, social interactions – are clearly co-determined by environmental conditions, such as housing, transport system, infrastructure and access to public space (WHO 2014b). This is why spatial planning is becoming one of the main areas of applying HIA in Europe.

Since late 1990s, the European Region of the World Health Organization has been developing the conception of *Healthy Urban Planning*, whose political objectives correspond to the individual areas of governance for health (Barton and Tsourou 2000). Yet it still requires greater attention. Bhatia and Wernham note that institutionalization of environmental impact assessment (EIA) has become a praiseworthy fact, but much too often it does not take into account the health effects exerted on people (Bhatia and Wernham 2008).

Prospects of HIA in Polish Spatial Planning

The Act on Spatial Planning and Land Development (PR 2003) currently in force indicates in Article 1, Section 1, Item 5 that “spatial planning and land development includes in particular”: “environmental, human and property protection requirements, as well as the needs of the disabled”. This constitutes the legal basis for potential application of HIA in this area. However, the regulation that really, substantially paves the way for employing this method in Poland is the Act on Revitalisation (RP 2015). It introduces several anchoring points for implementing health impact assessment. It legally establishes the terms *stakeholders* and *citizen participation* in spatial planning and introduces the Revitalisation Committee – a body that can potentially play a role of the HIA steering committee.

In the Polish legal and administrative system, diverse terminology is in use for spatial planning documents: *plan* (Pl.: *plan*), *concept*

(Pl.: *koncepcja*), *study* (Pl.: *studium*), *strategy* (Pl.: *strategia*). There are certain legal differences between them and they are also applicable to different levels of governance in Poland. Here, however, due to the scope of this publication I will focus on the municipal level.

Polish municipalities can develop *local spatial development plan* (Pl.: *miejscowy plan zagospodarowania przestrzennego*) – *plan*, for short. It is an act of local law, thus constituting a source of rights and obligations for citizens and which is a binding basis for any further administrative decisions concerning urban planning and building permits. However, a plan is only an optional, facultative act for municipalities. On the other hand, the *study of spatial development determinants and directions* (Pl.: *studium uwarunkowań i kierunków zagospodarowania przestrzennego*) – *study*, for short – is legally obligatory for any municipality but it is binding to a limited extent as an act of internal management of the self-government.³ If municipality only has a *study* and did not develop a *plan* the zoning decision on the building permit is issued ad hoc in the form of individual executive decision (Conditions of Building and Development of the Area, abr. WZiZT, also known as “wuzetka”) (PTS 2012). This leaves a significant degree of arbitrariness which is usually criticised as prone to corruption and damaging to spatial cohesion and sustainability.

Spatial planning (studies and plans) are connected with processes of formulating transport development plans (for the country, voivodeship, and municipality) that have to be based on proper spatial development plans. Until recently, this also applied to the revitalisation programmes for specific areas (e.g. city districts), however, with the Act on Revitalisation of 2015, a decision on revitalisation has the status of a plan and requires modifying the study (PR 2003: art. 37.2; RP 2015: art. 21.1).

3 In the retiring legal order, if there is no plan, the ad hoc spatial planning institution is the decision on the zoning permit (WZiZT, or also the so-called “wuzetka”). PTS, Spatial planning system in Poland, Public consultations team of the Polish Sociological Association, Warszawa 2012, <http://www.gisplay.pl/urbanistyka/planowanie-przestrzenne-w-polsce.html>

In general, a *municipal revitalisation programme* is created in an analogous manner to the *study*. The procedure of its creation includes, however, certain specific innovative regulations. The Act on Revitalisation provides a stronger basis for citizen participation and public consultations. It also institutionalises monitoring and evaluation of the programme implementation by, among others, establishing mandate for the creation of a Revitalisation Committee. For this reason, it is the revitalisation that may constitute the most promising and convenient point for anchoring the HIA method in the entirety of the spatial planning and development system. The very process of creating a *revitalisation programme* includes the largest number of gateways for applying individual HIA stages and opens the process for a variety of stakeholders.

The Revitalisation Committee "constitutes a forum for cooperation and dialogue between stakeholders and municipal bodies about issues related to drawing up, carrying out and assessing revitalisation and fulfils an advisory and consultative role for the [municipality executive:] *voit* [Pl.: *wójt*], mayor or president" (RP 2015: art. 7.1). Municipality executive provides the Committee with organisational and administrative support. Its members are determined through a resolution by the municipality council – adequately to the needs and ensuring the appointment of stakeholders' representatives to the Committee.

The Committee may be appointed anytime during the development of the revitalisation plan. It can be established as early as with the council resolution on drawing up the programme or after the final approval of the programme by the municipal council – no later, however, than 3 months after its approval (RP 2015: art. 7.3). It should be noted, however, that the timeframes for public consultations described in the Act do not necessarily place them after the programme draft has been drawn up. They only determine the minimal interval between their announcement of consultations and its commencement (7 days); and the minimal period of time for collecting opinions (30 days) (RP 2015: art. 6).

Due to all those features, the procedure for creating revitalisation programmes is the most promising point for anchoring the health

impact assessment (HIA) within the framework of health in all policies (HiAP) and deliberative governance for health. Figure 1. is a presentation of the revitalisation planning process with indication of stages suitable for applying particular HIA stages. The key anchoring point is the institution of the Revitalisation Committee, which – while carrying out other tasks – may act in the role of the HIA steering committee. As mentioned before, the Revitalisation Committee is appointed by a municipal council resolution and is managed by the municipal executive – depending on the size of the municipality: *voit* (for a village), mayor (for a town) or president (for a city). Since its members should be appointed as representatives of stakeholders, this provides an opportunity for a truly participatory assessment process.

Even though the Act allows for the creation of the Revitalisation Committee immediately – together with the initiation of creation of the revitalisation programme – a certain delay seems to be in order here. A better selection of the Committee members requires time to examine the situation and select the members: not only those that are the usual partners of the authorities “on stand-by” (and not listed in regulations). The time is needed for the announcement of the preliminary stipulations of the programme, to collect opinions and to actually map stakeholders as they occur in reality. Because of this, the Revitalisation Committee should be established (with its members selected) after the revitalisation programme draft, after the preliminary consultations and after obtaining preliminary opinions from stakeholders.

(1) The *screening* stage may be carried out between presenting the programme draft for public view and sending it for opinion to statutorily defined entities and collecting the opinions. The HIA alone at the beginning requires appointing an institution which will be the coordinator of the HIA process. Such a coordinator must be an institution that is specialised and experienced in research activities of this kind. It may, however, be either public (institute or higher education establishment), nongovernmental or even private for-profit entity (independent professional company experienced in

the methodology). The process may be financed with public grants or contracts. Financial support from central and international funds seems to be highly advisable in this respect. The necessity of further assessment is investigated at this stage, together with determining significant issues and mapping stakeholders. This is the process-launching, so it requires time – primarily to provide an opportunity for consolidation, stakeholders mapping and gathering opinions from the concerned parties after the draft has been presented to the public.

(2) The *scoping* stage should open with the establishment of the Revitalisation Committee – with members determined basing on stakeholders mapping. The entirety of this stage should precede the public consultations stage, at the same time being an important part of preparing for it. This stage includes determining the scope of issues, plan and schedule for the study itself. It takes the form of the initial *desk research* – using the already existing analyses at hand of the revitalisation programme draft itself. At this stage, the scope of further work will be narrowed to the necessary minimum, so that no time or resources are wasted on less significant issues. This is the time for all the HIA plans to be approved by the relevant municipal authorities, in order to gain greater authority and recommending force of the results (a politician's "pledge" or "blessing"). This preparatory and initial stage of HIA is also time-consuming, so it may require circa half a year to be thoroughly completed.

(3) The actual *appraisal* should be carried out as part of the public consultations process. Such a connection allows for synergic use of sociological studies, with different aims being addressed. This stage is much shorter than the previous ones, closing in around 3 months – fittingly to the statutory deadlines for the collection of comments by the authorities. Good prior preparation ensures that this stage proceeds as smoothly and as efficiently as possible, with minimal costs. This is also the time for analysing data and preparing the results and recommendation in the form of an accessible report.

(4) The next stage is *reporting itself* – presentation of proposals and recommendations for the draft itself. The report should be presented, at least in its initial version, within the deadline for the collection of opinions from the initiators of the revitalisation programme – i.e. the office of the municipal executive. Even if recommendations presented in such a manner are not taken into consideration by those who prepare revitalisation programme, there is still one more point of the HIA to impact the final programme. It is because the revitalisation programme still requires an approval by the municipal council. The council discussion preceding the vote is an additional opportunity to present and discuss the HIA results. Reporting should be concise and accessible to deliver HIA results and recommendations in a meaningful and convincing manner. HIA results (as full report and a policy brief) should also be delivered to the public and the media. Reporting as such must not be ended with the final decision made. As mentioned before, the deliberative character of HIA means that it is a tool for educating the community. Further dissemination of HIA results is also essential for the next stage.

(5) After the revitalisation programme is approved, the time comes for a retroactive health impact assessment phase – i.e. the *monitoring and evaluation*. At this stage the implementation of the programme itself is observed. It is not automatic for public policymaking that the HIA recommendations are actually followed through – this requires diligence. Fortunately, there is a statutory requirement to establish the Revitalisation Committee, precisely for monitoring the programme implementation. This solution is highly beneficial from the HIA perspective. It provides a very convenient instrument for building pressure on decision-makers and for actually following the HIA recommendations. Moreover, it is not certain that the HIA will identify all actual health impacts. This stage serves also to observe the unforeseen effects of the programme implementation and to propose corrections. See a schematic at the end of the book.

Arrangement of the HIA process for Polish spatial planning requires also a multi-level and intersectoral approach that involves

a variety of entities (actors, organisations, institutions) that will perform different roles. To present the issue I use the SPOFER framework – adjusted here for the HIA context (+CoSh) but developed originally for the organisational analysis of health promotion interventions for the elderly (Zabdyr-Jamróz 2017). It divides entities involved according to the role they perform for the intervention itself (Setting, Promoter/Performer, Organiser, Financing, Expertise & Evaluation, Regulation, Monitoring & Control + Commissioning, and Stakeholders). Table 2. contains description of roles together with potential actors that can perform them for the HIA in special planning in Poland.

Tab. 2. SPOFER+CoSh framework for potential application of HIA in Polish spatial planning

SPOFER+CoSh roles	Description of functions performed by an institution for HIA process	Potential actors
(S) Setting	The given institution constitutes a setting for the proposed intervention (e.g. neighbourhood revitalisation programme).	Municipality: quarter (<i>dzielnica</i>) or parish (<i>sołectwo</i>)
(P) Performer	Actors employed to perform specific analysis within HIA	Actors or whole institutions employed by the organiser for specific analytical tasks within HIA, e.g. research institutes of different disciplines, individual academics (titled scholars or PhD-candidates to collect data, perform interviews, moderate minipublics, etc.)

(O) Organiser	The institution is responsible for organising HIA by initiating, providing administrative support, coordinating actions, managing, etc.	Professional NGO, independent analytical company, research institute, academic institution, etc.
(F) Financing	The institution provides funding (entirely or partly) for HIA (e.g. grants).	Commissioning institution + Ministry of Health, Ministry of Investment and Development
(E) Expertise & evaluation	The institution guarantees professional performance – provides: guidelines, knowledge, advisement, training, collecting and sharing experiences, but also by evaluating results, etc.	National Institute of Public Health - National Institute of Hygiene, academic institutions
(R) Regulation, monitoring & control	The institution provides legal regulations, monitoring and control: through supervision, registration or by issuing obligatory approval	Parliament (statutes), Ministries (executive regulations), self-governments (local ordinances)
(C) Commissioning	The given institution commissions the HIA	Municipality, investor/ developer
(Sh) Stakeholders	Actors included in the HIA Steering Committee	Stakeholders selected from the setting [see: Conclusions and recommendations]

Based on: (Zabdyr-Jamróz 2017)

Dilemmas of HIA not only in Spatial Planning

Three questions raised in this book and mentioned at the beginning of this chapter should also be answered in relation to deliberative governance for health as well as health impact assessment (HIA) in particular. The questions are: (1) Does local participatory democracy actually serve the decentralisation of political power?; (2) Does quantitative improvement of democracy also serves its quality (better policymaking)?; and (3) Does local participatory democracy reduce legitimacy deficit? I address each of those issues in the following points.

Decentralising Political Power

It must be noted that decentralisation – including decentralisation of political power – is not a value in itself. Decentralisation often means scattering of sparse resources, lack of coordination, vague competences, demarcation and disjointed activities. This is particularly clear when it comes to health policymaking – especially healthcare system organisation. It is a well-established, even in the new public management paradigm, that decentralisation of certain functions in the system has generally detrimental effects not only on the performance of the system, but also on democratic equity and justice (Zalewski n.d.).

For instance, while decentralisation of resource allocation is an excellent means for better responsiveness (decision-making closer to the “front-line”), the redistribution of resources at decentralised level is a recipe for inefficiency and regional inequalities in access. This was a great problem for decentralised payer institutions (healthcare insurance funds), who traditionally combined the redistribution and allocation functions. That is why, for instance, Germany in 2009 eventually abandoned its full commitment to decentralisation of healthcare system by splitting the payer function between decentralised *Krankenkassen* (Sickness Funds) and

the central, federal *Gesundheitsfonds* (Health Fund) (Ognyanova and Busse 2009).

Decentralisation is not positive by default and it – I will argue – might not even be democratic in its use. It can serve as a tool for “divide and rule” tactics – only to strengthen the central elites who overburden local communities with essential public duties thus allowing political elites in the capital to focus on their own political goals. These goals can be noble, but they can also be self-serving or even sinister. In this instance, decentralisation – paradoxically – can actually serve the centralised authoritarian control over society. The most extreme but very real example of that is the fact that pre-existing structures of decentralisation and public-NGO partnership model in Germany actually served in increasing the power and effectiveness of the Nazi regime in the 1930s and 1940s.

One might note that German decentralisation model in public administration was derived from long-standing 18th century Prussian military doctrine of *Bewegungskrieg* (“war by manoeuvring”). Without good means of communication (such as radio), a high mobility of an army and its splitting to encircle the enemy required a highly decentralised approach. *Auftragstaktik* or *Führen mit Auftrag* (“leading by mission”) granted low-level unit commanders a significant degree of autonomy in how they performed given military goals. This tradition was in a sharp contrast to other 18th century European powers that implemented a strict centralisation and coordination of every aspect of their armies.

This approach spilled over to administration, especially after German unification that created a huge and highly diverse political entity. This led to a unique model of decentralisation and partnership between public authorities and NGOs popular today under the concept of *subsidiarity*. The federal government instituted a goal of – for instance – certain social security function and delegated its performance to the lowest possible level: regions or municipalities. Since local authorities usually did not have sufficient resources on their own, they had to mobilise local communities and their non-public resources.

This otherwise ingenious solution has a certain inherent drawback. It institutionalises a practice of pushing the “scarcity management” to the lowest possible level, thus relieving central government from responsibility for many public tasks. In recent years it is expressed in how the austerity doctrine was implemented in countries that adapted the German partnership model, leading to worsening economic condition of social workers and others employed in care jobs, such as nurses (Archambault 2009; Archambault et al. 2013). But the decentralised subsidiarity principle was also employed with great effect during the Holocaust. It was an act of twisted genius to delegate management of Jewish ghettos to the Jews themselves. Jewish ghetto police, Jewish local elites (e.g. Chaim Rumkowski in Litzmannstadt-Ghetto Łódź) – probably in hope of alleviating the situation – took the direct blame for managing the shrinking resources and for other horrible decisions. All this released a large part of resources for the German war machine and actually facilitated exploitative extraction of slave labour.

Another twisted example of decentralisation and subsidiarity in service of tyranny is the fact that Nazi concentration and extermination camps (*Konzentrationslager* system) were not strictly speaking state institutions. They were operated by the infamous SS (*Schutzstaffel*) – an organisation affiliated to the Nazi Party (Evans 2006) being – technically – a politically profiled non-governmental organisation. By selling the prisoners’ slave labour to German big business (e.g. petrochemical factory I.G. Farbenwerk Auschwitz) it was actually the SS and their party dignitaries – not the state – that collected great profits. This fits the general strategy by Nazis to decentralise the state also in the form of privatization (they even introduced the term) – by giving public enterprises to party dignitaries or Nazi-supporting industrialists (Bel 2010). All this actually facilitated the concentration of actual power and strengthened the overall control of the state and society’s goals by – also highly decentralised and “participatory” – mechanism of terror (state regulations but also individual denunciations, Gestapo agents, control via citizen organisations).

These extreme examples serve well to illustrate that decentralisation is not inherently democratic, and may even serve to centralise power in a tyrannical way. But even decentralisation of power itself is not always a positive solution. That is because a truly democratic action requires certain degree of centralisation: coordination, collaboration, unification and, in fact, aggregation (despite the distain of old-school deliberative democrats to the idea). Democratic coalition building must have a common plain, a vessel to transform political will into coordinated action. One of the drawbacks of decentralisation is scattering of local movements. It is true that decentralisation facilitates fulfilment of bottom-up initiatives. But it can also contain them on the local level, often preventing greater socio-political change by allowing the political will to vent-out too early in a less impactful environment.

This lack of coordination and institutional anchoring is also a problem for governance for health. In the context of institutional setting, HIA is noted to be – because of its intersectoral and interdisciplinary character – a “homeless procedure”. It requires cooperation of many entities, but has no foundation in the administrative system itself. First of all, it does not have its own budget. This is potentially one of the major threats to the method (Forsyth et al. 2010: 7). On the other hand – because of its evanescence or fluidity – it can represent the appropriate answer to the challenges of contemporary times. Flexible treatment of HIA may allow for filling the clear institutional void that arises in the reality of *network society* in the realm of *liquid (post-)modernity* (Bauman 2006).

Liquid (post-)modernity is characterized by increasingly weakening institutionalization of *issue networks* – following the weakening of the people’s need for permanent association. This results in a growing lack of regular „partners on stand-by” for the authorities to deal with. Social organizations appear and disappear whenever issues arise – they mobilize and then dissolve whenever their goals are achieved. The phenomenon of urban movements arising *ad hoc* is especially symptomatic here. In their case, it is a specific policy plan that triggers establishment of a *community of fate* (Hajer 2003: 96–97).

This generates the problem of the absence of real legitimization for decisions, which are taken with participation of solely traditional stakeholders – institutionalized, but often barely representative for the actual social interest (much like the historical *rotten boroughs*).

In the times when rigid institutionalization is no longer up to the task, HIA as a flexible, ad hoc tool for coordination and deliberative aggregation (sic!) has a potential to supplement the existing political, legal and administrative structures. It, thus, can remedy many drawbacks of the traditional decentralization by empowering also those who are disenfranchised, silent and lacking in representation. It can accommodate popping-up communities of fate and even provoke their emergence – invigorating local communities whenever it is necessary. HIA can coordinate and aggregate political will while maintaining the bottom-up mode of its formulation.

The method calls for an appropriate mix of subsidiarity with centralization. HIA functions best not when it is being steered by the center with the use of local resources but when it uses the center to aggregate knowledge (public agencies that can provide state-of-the-art expertise) and to acquire financial assistance (public grants for research) (Zabdyr-Jamróz 2017). When the local community is not used as a mere resource and is treated as a primary source of empirical knowledge and legitimacy, governance can be fulfilled in its most democratic form.

Reconciling Greater Participation with Quality of Policymaking

HIA is supposed to support inclusion of health (as expertise and activity) into issues seemingly not health-related (*health in all policies doctrine*). In other words, its aim is to „interfere” with a given policy by entities possessing knowledge on health and tasked with caring for it (Dannenberg et al., 2006). These entities are:

- experts/professionals/officials of public health – designated for this task;

- representatives of stakeholders – those who can provide an additional insight;
- but also citizens themselves – potentially able to present their experience and needs, as well as legitimize the policy by judging themselves (with appropriate education given) whether a given health risk is socially acceptable or not.

This means that HIA should be treated as an instrument of civic participation, used for improving the qualitative – rather than only quantitative – dimension of democracy. Participation serves here as a means to improve the policy, not only to mobilize or to practice participation just for the sake of participation.

An obvious objective of HIA is to eliminate negative and/or generate positive health impacts of a given plan, policy or intervention. However, of no lesser importance is the social dimension – especially the issue of social inequalities. In this sense, the objective is to reduce social inequalities. This involves the empowerment of citizens by not only providing them with rights, but opportunities and competences in exercising these rights. This includes promoting health competency and awareness of the health impacts of given policies.

The question is, can the same objectives be achieved without applying HIA? This question is especially important in the context of additional expenses – administrative costs, time, etc. – that application of HIA can involve (Forsyth et al. 2010). There are difficulties in estimating benefits of HIA (Atkinson and Cooke 2005). Since these benefits may occur in not-so near future, the immediate cost of HIA comes into the forefront. That is why it is crucial that HIA is not treated as a rigid catalogue of mandatory administrative procedures that just generate more expenses and „paperwork“. It should be considered as a handy set of tools that can be flexibly applied in various institutional contexts and possible practical situations – even to the extent of being applied in a form that is “good enough“.

It should also be applied in a way that is the least burdensome – also in organisational sense. HIA should not be imagined

as a completely new process, but rather as something that can be attached to already existing institutions and processes as an upgrade. Thus, an important task is to identify already existing tools and procedures that actually – though not named – are or can be a part of the HIA methodology. The aim of HIA as a governance technique should not be multiplication of entities and procedures. Its goal is to find and promote tools for systematic taking health into consideration.

In this process, additional costs should be minimized: both direct costs (expenses on additional expert opinions) and institutional costs (modification of procedures or creation of new bodies, which in turn generates adaptation costs). Crucially, implementation of the proper HIA methods should increase cost-effectiveness of the decision-making process in the long run. That is one of the key aspects of improving the quality of policy-making, so that social participation is not equated with a costly “participatory whim”.

Here, the problematic value of scientific knowledge as grounds for political decision is also revealed. This is connected with the issue of the quality of HIA and its deliverables – reliability of the delivered knowledge, accuracy of the prediction, but also transparency and inclusiveness (Kemmm and Parry 2004; Mindell et al. 2004; Parry and Kemmm 2005). Political entanglement of HIA refers to not only the issue of political will and stakeholders interactions. It also must face up to the specific status of science in the political process. Indeed, it represents – especially at the stage preceding implementation of a given decision – contestable grounds for any policy decision. It involves uncertainty, non-finality, lack of full data, unclear nature of causal relationships, etc. (Sarewitz 2000).

All this makes science the subject of political controversy instead of a solution to political controversy. Decision-makers will keep asking: is this assessment or recommendation certain? Scepticism regarding the finality of scientific theories, discussions, knit-picking – i.e. all that which is normally considered a strength of the scientific inquiry – is very problematic in politics. Decision-makers and citizens demand certainty, unequivocal communication. When

an expert truthfully acknowledges that he/she cannot guarantee this certainty, he/she becomes useless. An essential problem is just common (mis)understanding what science is (Collingridge and Reeve 1986).

In this context, HIA shows itself to be a method for not only acquiring knowledge, but also – if not first of all – for finding a best way of a proper communication of that knowledge to citizens and other political actors. Bruno Latour pointed out in *Politics of nature* that science should be treated in a thoroughly political way – as a language with which nature speaks to us as a political actor (sic!). His remarks applied especially to problems of human interference with the environment, but had a direct reference to public health – for such an interference causes feedback loops, that impact people's wellbeing with delay: causing epidemics, drought or floods (Latour 2009).

Hence the aim of the „politics of nature“ is to reconcile ourselves with uncertainty, and take it for a fact of life – abandoning the false belief that science provides ultimately true knowledge. Latour proposes that we enter into political compromises also with nature – negotiating our position and treating scientific knowledge as a message from one of the major stakeholders. This is because nature is not only a passive object of action, since it can influence us too – responding to our attempts at transforming it.

HIA is potentially able to properly re-establish the status of science, representing an instrument of *participatory leadership* – oriented at compromise and able to form coalitions, but also open to renegotiation of decisions made in face of new evidence (Forsyth et al. 2010: 8). This is because a decision should never terminate the process of collecting information in HIA (Bekker 2007). The crucial thing is that the HIA method can be used for building a permanent channel for providing reliable information and exchanging scientific knowledge in its proper role – without some detrimental *myopia of scientism* (Guhin 2016) or *cargo cult of science* (Feynman 1974). It offers an ability to break a deadlock if a scientific debate is used only for obstruction. It releases us from the *paralysis by analysis*. And it does so by improving the quality of participation.

Reducing the Legitimacy Deficit

It is emphasised that engagement of stakeholders should be considered a basic and inherent element of the HIA practice (NRC 2011). However, even such engagement and participation can be organised in a manipulative way. One of the key challenges to any deliberative governance technique is to avoid its instrumentalization by decision-makers. There is a constant risk that these methods will be used as a *technology for manufacturing consent* (Harrison and Mort 1998) – as an instrument for token participation or even nonparticipation as described by Arnstein (1969) (see: tab. 3).

Tab. 3. Arnstein's Ladder of Citizen Participation

8	Citizen control	Citizen control
7	Delegating	
6	Partnership	
5	Placation	Tokenism
4	Consultations	
3	Informing	
2	Therapy	Nonparticipation
1	Manipulation	

Source: Arnstein 1969

There are also other, inherently political challenges. Even if HIA itself was conducted honestly, the information acquired may be ignored in the final decisions, since the method is usually non-binding (as consultation). It can also be conducted just in order to placate potential opponents of some plan or policy. These are the cases of so-called „opportunistic“ HIA (Elliott and Francis 2005; Wismar and Ernst 2007). This does not necessarily imply a charge of committing a violation to the HIA principles. The actual risk to the HIA method is decision-makers pressure that it „produces“ the

expected result – i.e. the result compliant with either the will of those ordering the study or to social expectations (Cook and Kemm 2004; Curtis et al. 2002). A lot depends on the intention of the entity commissioning the HIA: on the financing, the organiser, and on the structure of the process itself. For years, the HIA methodology lacked guidelines on how to cope with this kind of problems (Krieger et al. 2003). HIA proponents do not aspire to replace the decision process (Kemm 2005). Its flexibility – including the consultative character – is, to some extent, its key feature.

It seems that the main question about HIA is whether the expert opinion developed in the process will reach the ears of political decision-makers. Even more important dilemma is whether the aim of HIA is not to replace a democratic policy by a meritocratic expert opinion. Such antagonism between science and politics can exist to the detriment of both. Scientific knowledge deprived of political support is doomed to marginalization. All-knowing meritocrats “managing” citizens with their arcane knowledge destroy the core of the scientific endeavour turning science into ideological narrative. This leads to the next substantial challenge faced by HIA.

We must not forget that spatial planning as a process directly affecting numerous citizen groups is an inherently political process – generating a conflict between interests and social development visions. We are speaking here of decisions that will determine both the quality of ordinary inhabitants’ lives and the prospects of economic entities (developers, building sector, but also commerce, transport, catering, tourism). Hence it is no surprise that HIA can be perceived as merely a complication by adding a new set of actors and new tasks – new political loops and bumps.

A danger emerges that the revelation of the potential health risks within a proposed policy or plan will ignite and fuel social protests. This would result in an even greater unwillingness of decision-makers to apply HIA, which – in addition to generating administrative expenses – would increase political costs (protests, decreased support). The spectre of *end of pipe deadlocks* (Hajer 2003: 110) – in this case: blocking of important building projects – is

clear. This puts public health experts in an especially troublesome position – exposing them to the risk of committing the „sin of political naivety“, i.e., expressing a position which is unpopular or unfavourable to decision-makers (March and Olsen 2005: 43).

However, HIA can be treated not as a source of political risk but rather as a mechanism for disarming potential conflicts. This prospect is especially attractive in the context of gradually awakening grassroots civic activity in Poland – urban social movements, etc., which have recently been active especially in urban planning (parks, green areas). Traditional top-down spatial planning – marked by arrogance and non-transparency – encounters obstacles from growing civic participation and increasing legal competency of citizens (blocking litigation). All these challenges are a result of a significant legitimacy deficit of the traditional expert planning processes.

HIA clearly offers room for reducing this deficit, while maintaining quality of decision-making. As a deliberative governance method it actually is a tool for reconciling democratic legitimacy and policy-making competence. Thus it offers a chance to disarm potential tensions. As a result, HIA could be an instrument for both taking into account social expectations and for providing information in a way that inspires confidence in decision-making.

Finally, in this context, a usually only consultative (not legally binding) character of HIA should not be perceived entirely as a drawback of this method, as Sherry Arnstein's *Ladder of Citizen Participation* (Arnstein 1969) may suggest by equating consultation with 'token participation'. As John Dryzek observed, among the key mistakes of the "discursive engagement in a semidetached public sphere" there are also other errors, besides non-responsiveness of the authorities. A problem is also the "too tight a connection between [the] public sphere and sovereign authority" (Dryzek 2005: 237). Dryzek argues that full co-optation of policy stakeholders into decision making bodies (Arnstein's 'citizen control') may lead to weakened social control of public policies (since co-opted actors tend to be less critical to policies they participated in creating).

Paradoxically, in such cases a “more democratic state” may lead to a “depleted civil society” and, thus, “a less democratic polity” (Dryzek 2002: 111).

This problem might also be expressed by a ‘decisional atrophy of the deliberative stance’, where – due to e.g. mobilisation of vested interests in other parts of the deliberative system – prospects of an institutionalised binding decision undermine an open-minded deliberation (Zabdyr-Jamróz 2019b). This leads to a less gullible approach to the quasi-quantitative (“amount of power”) approach suggested in the Arnstein’s ladder: “In order to promote the paradigm of social learning (concerted action through deliberation), instead of “jumping off the ladder of participation” – as Collins and Ison (2006) metaphorically propose – perhaps it would prove more effective to step down onto some of the lower rungs. This notion might be hard to accept, especially in a world where citizens’ empowerment is still glaringly inadequate. However, it should be noted that perhaps in order to facilitate social learning and improve the quality of our democracies, one should not always aim at the highest rungs of the ladder of participation, which is not to say that one should never aim for maximum empowerment” (Zabdyr-Jamróz 2019b: 106–107).

Conclusions and a Handful of Recommendation

Health impact assessment (HIA) is a method for acquiring knowledge on recognized health determinants in a way that requires extended participation (of experts, stakeholders, and citizens). In this instance, when asking “how to acquire knowledge?”, we are in fact asking: “how to select participants?”.

When identifying significant stakeholders and establishing the consultation process itself, the framework of the *three inputs of governance* may be helpful (Zabdyr-Jamróz 2019a). It is a proposition of designing deliberation as an *omnipartial* (Zabdyr-Jamróz 2015) consideration of the three types of inputs relevant in policymaking:

- emotions (as expressions and foundations of ideological views) – represented by, e.g., politicians, local activists or urban movements;
- self-interests (not only monetary) – represented by, e.g., developers and local business;
- and expertise (science, social science and ethical expertise).

The decision-making or consulting process should take all those inputs into consideration. Inputs should not be dismissed outright simply due to their “irrationality” or “egocentric point of view” (Mansbridge et al. 2010). Emotions express plurality of communities’ cultural values and particular self-interest eventually are a part of the common interest.

These particular reasons should not be rejected in favour of expertise only (*myopia of scientism*), because such dismissal may lead to later obstruction in implementation (protests, litigations, end-of-pile deadlocks). In the contemporary environment of cognitively mobilised but also effectually motivated communities a better approach is an attempt at reconciling these inputs and to build around the sound science a sort of *discursive coalition* (Hajer and Wagenaar 2003: 12–13) – to support expertise with *bridging rhetoric* (Dryzek 2010: 328) and to reconcile particular self-interests in a fair compromise (Warren and Mansbridge 2013).

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Shaping Co-Production of Public Services through Local Laws. The Case of Local Initiative in Poland¹

Abstract: Local initiative is a form of co-production of local public services introduced by national legislation in Poland in 2010. Local initiative focuses mainly on small projects aiming at maintenance or upgrading the local infrastructure, e.g. parks, playgrounds or leisure facilities. While general principles of the local initiative are set by national legislation, the local governments enjoy extensive autonomy in regulating detailed elements of initiative through local legislation. This article aims at identifying key regulatory strategies developed by the local governments with regard to local initiative. Resolutions of local councils regulating local initiative in 32 randomly selected communes have been reviewed in order to distinguish major patterns of regulation of the following aspects of local initiative: a) the scope of initiatives allowed; b) the criteria for assessment of the applications; and c) procedures for negotiating and concluding agreements with the applicants for implementation of the initiatives. The outcomes of this review of laws have been confronted with observations on the key factors stimulating or hampering co-production and fostering benefits from co-production, based on literature review. This will enable evaluation of regulatory

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strategies applied by the local governments in terms of their impact on maximizing benefits from co-production.

Key words: co-production, public services, local initiatives, local government

Introduction

Local initiative is a form of co-production of local public services introduced by national legislation in Poland in 2010. Local initiative focuses mainly on small projects aiming at maintenance or upgrading the local infrastructure, e.g. parks, playgrounds or leisure facilities. According to the legislation, the citizens' input may have the form of labour, providing raw materials or financial contribution. The procedure for establishing the cooperation requires an application from the group of interested residents to be submitted to the local government. Local government considers application and, in case of acceptance, concludes an agreement with the applicants for implementation of the projects. This agreement specifies scope of the projects and contributions of both parties.

While general principles of the local initiative are set by national legislation, the local governments enjoy extensive autonomy in regulating detailed elements of initiative through local legislation. This article aims at identifying key regulatory strategies developed by the local governments with regard to local initiative. Resolutions of local councils regulating local initiative in 32 randomly selected communes have been reviewed in order to distinguish major patterns of regulation of the following aspects of local initiative: a) the scope of initiatives allowed; b) the criteria for assessment of the applications; and c) procedures for negotiating and concluding agreements with the applicants for implementation of the initiatives.

The outcomes of this review of laws have been confronted with observations on the key factors stimulating or hampering

co-production and fostering benefits from co-production, based on literature review. This will enable evaluation of regulatory strategies applied by the local governments in terms of their impact on maximizing benefits from co-production.

The Origins of Local Initiative. From Compulsory to Voluntary Co-Production

While local initiative was introduced to the legislation in 2010, the history of this model of partnership is much longer. It was particularly interesting to discover that the current legislative model of the local initiative is largely based on regulation adopted in 1961 for community work. The idea of voluntary community work played a very important role in socialist propaganda as an act strengthening the social legitimacy of the socialist regime and demonstrating citizens' commitment to building a new state and a new society. According to the 1961 Regulation of the Council of Ministers on community work and state's support for organization and realization of community work (Resolution No. 366 of the Council of Ministers of 20 September 1961), the community work was defined as voluntary activity of local population – based on their financial contribution, in-kind contribution or voluntary (unpaid) work – leading to execution of some tasks relating primarily to upgrading the public infrastructure and other facilities available for public use.

This model involved also financial and material support from the state authorities. However, the role of state's support was subsidiary – state's resources could be released only if the citizens' resources were not sufficient to implement the initiative despite "maximum mobilization of the population's own resources". This principle seems to be the only significant difference, in terms of legal regulation, between community work in socialist times and current local initiative. Other aspects of the initiatives (scope, types of contributions from the community) are regulated in practically

the same manner. The real difference between socialist community work and modern local initiative lies in practice rather than regulatory framework. Community work was voluntary, but only nominally. In practice, it was a crucial element of the state propaganda and informal pressure on citizens to participate in community work, as well as top-down steering and supervision over community work, completely undermined the formally voluntary character of this tool and compromised the whole idea of civic engagement in community work.

The experience with community work under socialist regime provides some important observations about the nature of co-production and defining elements of co-production. We can learn from this experience that co-production cannot be perceived as technical operation of mixing up public and private resources to deliver some public value and improve the quality of life of the community. It is crucial to ensure that co-production results from genuinely voluntary citizens' engagement. The only form of 'coercion' might be intrinsic compulsion stemming from voluntary ethos, not from pressure of state authorities (Petukiene 2010: 137–147). The voluntary nature of co-production has been already underlined in academic discourse (Pestoff, 2006: 503–519; Alford 2011: 15–29). However, this case illustrates the degrading effects of forced co-production. Due to its coercive nature and abusing it for propaganda purposes, it effectively undermined the idea of community engagement and made it extremely difficult to restore the citizens' trust in similar arrangements.

The 1961 Regulation of the Council of Ministers on community work and state's support for organization and realization of community work has never been formally repealed. However, as one the symbols of socialist regime, it completely lost its normative value and remained in the legal system as a dead letter. For two decades following the fall of socialist regime, no special regulation for similar form of co-production has been adopted. However, at the local level some bottom-up initiatives began to emerge. As the local self-government was restored in 1990 and equipped with

contractual capacity (as legal persons independent from the state), new opportunities for cooperation have been created.

In legal terms, the mechanism of potential cooperation was very simple. The citizens entered into contract with local self-government unit (commune) that regulated implementation of joint project. These agreements in many cases related to small infrastructure projects, primarily construction of upgrading the local roads or walking areas. A standard model of cooperation was based on 50/50 principle, i.e. a project was financed by equal contributions from the interested group of citizens and local self-government. However, the dominant arrangement did not involve direct participation of citizens in project implementation. Construction works were usually conducted by the contractors employed by the local self-government, according to the public procurement rules. In that sense, co-production was usually limited to co-funding of public infrastructure projects. The introduction of local initiative in 2010 did not eliminate this form of partnership. Arrangements based on contractual capacity of local self-government remain available, especially for the projects where local initiative does not apply due to legislative restrictions.

Regulatory Framework for Local Initiative

The local initiative stipulated in the title is a legal institution governed by Chapter 2a of the Act on Public Benefit and Voluntary Service (2003), where residents of a local self-government, directly or through other public benefit entities, may submit a request for a public task and – once the request has been granted – participate in the task implementation.

In accordance with state law, under the local initiative, residents of a local self-government unit directly, or through NGOs or other entities carrying out public benefit activities, may submit a request for a public task to a local self-government unit in which they are resident or established.

The Act defines the scope of tasks that can be implemented as part of a local initiative:

1. activities supporting the development of communities and local communities, including in particular the construction, extension or renovation of roads, sewage and water supply networks (owned by local government units), as well as buildings and landscaping structures;
2. charitable activity, activity in the area of maintaining and disseminating national tradition, nurturing Polishness and development of national, civic and cultural consciousness; activities for national and ethnic minorities and the regional language, culture, art, protection of cultural goods and national heritage; activity in the field of volunteering promotion and organization,
3. activities in the field of science, higher education, education, education and upbringing,
4. activities in the sphere of supporting and disseminating physical culture, tourism and sightseeing,
5. activities in the field of nature protection, including greenery in cities and villages (ecology and animal protection, and protection of natural heritage),
6. activities in the field of public order and safety,
7. activity in the field of revitalization.

Importantly, state law specifies that the application for the implementation of a local initiative is an application within the meaning of the Code of Administrative Procedure. This means that the Code specifies the requirements of this application, and local law, it is lower-level law, cannot regulate this issue in a different manner and should stop at all from adopting provisions on this already regulated issue.

The council of local self-government defines the procedure and detailed criteria for the assessment of applications for the implementation of a public task within the framework of a local initiative. The detailed assessment criteria should take into account, above all, the contribution of social work to the implementation of the local

initiative. However, in accordance with the Act, the executive body of the local self-government unit, when assessing the application, takes into account detailed criteria for the evaluation of the application and its purpose in terms of the needs of the local community.

The statutory law stipulates that after the local authorities take into account the application for the implementation of a public task as part of a local initiative, the executive body of the local self-government unit concludes for a definite period an agreement for the implementation of a local initiative with the applicant. The executive body together with the applicant develops the documents necessary to conduct the local initiative, including the schedule and cost estimate.

This contract specifies the responsibilities of both parties – on the social side and on the side of local self-government authorities. The law also stipulates that the applicant's obligation may consist in the provision of social work, cash or in-kind benefits. In addition, the applicant may receive from the local government unit, for the duration of the contract, the things necessary to carry out the local initiative.

Although the local initiative has been functioning in the Polish legal system since 2010, the results of comprehensive research on the functioning of this instrument have not been presented in the literature so far, neither have the results of the evaluation of the functioning of existing regulations. Legal science deals with the local initiative only incidentally, and the publications issued have been of a contributory nature at most (Szalewska 2014: 401–417; Rzeczkowska 2016: 109–117), whereas the publications and materials prepared by NGOs are of an orderly or popular science nature (Mojkowski 2016).

Providing public services on the basis of partnership, non-commercial cooperation and combination of public administration resources and citizens (usually service recipients), acting individually or in formal or informal groups constitutes the essence of public service co-production (Sześciło 2015: 84–85). It is related to the view that the state cannot effectively perform its tasks without involving

the citizens interested (Pestoff 2006: 509; Ostrom 1996: 1073). The idea of co-production arose from the discussion of the optimal public service model which uses the synergy between public authorities and citizens (Pestoff 2012: 1103; Needham 2008: 223). Co-production is the result of a search for an approach to public services based on the review of two previously dominant attitudes, namely, state control (in which the state has the monopoly on performing public tasks through its own authorities, institutions, etc.) and market (assuming public service delivery marketization).

Review of Local Legislation

For the purpose of this article we have analysed the local laws regulating the detailed procedure for implementation of local initiatives. However, as the analysis of local laws is progressing, in this article we limited the scope of review to 32 randomly selected communes.

We assumed that from each province we would choose one town (which means that this commune also performs the tasks of a local self-government unit of a higher order, that is, a powiat), and in addition one rural, urban-rural or urban commune. Due to the fact that in two provinces we did not find cities with powiat rights, which adopted legal acts concerning a local initiative, we examined 14 cities with powiat rights and 18 other communes, preserving the representation of each voivodeship.²

- 2 Municipalities that were selected for the study: Adamów (rural commune, Lublin Voivodeship); Zamość (town, Lublin Voivodeship); Cieszyn (urban commune, Silesian Voivodeship); Bytom (town, Silesian Voivodeship); Bytnica (rural commune, Łódź Voivodeship); Łódź (town, Łódź Voivodeship); Dubeninki (rural commune, Warmian-Masurian Voivodeship); Olsztyn (town, Warmian-Masurian Voivodeship); Kłcko (urban-rural commune, Wielkopolska Voivodeship); Kalisz (town, Wielkopolska Voivodeship); Lniano (rural commune, Kuyavian-Pomeranian Voivodeship); Bydgoszcz (town, Kuyavian-Pomeranian Voivodeship); Lubniany (rural commune, Opole Voivodeship); Milicz (urban-rural commune, Lower Silesian Voivodeship); Wałbrzych (town, Lower Silesian Voivodeship); Wrocław (town, Lower Silesian Voivodeship); Zwierzyn (rural commune, Lubusz Voivodeship); Zielona Góra (town, Lubusz Voivodeship); Jordanów (rural commune, Małopolska Voivodeship); Kraków

In this article we present the key conclusions about the regulatory strategies adopted by the self-government units with regard to local initiative. In other words, we analysed to what extent the local self-government units use the regulatory autonomy granted by the national legislation and what vision and concept of local initiative is reflected in local regulations. We focused on three aspects that could be regulated by acts adopted at the local level:

1. the scope of initiatives allowed;
2. the criteria for assessment of the applications;
3. procedures for negotiating and concluding agreements with the applicants for implementation of the initiatives.

Discussion.

Scope of Initiatives Allowed

The scope of admissible initiatives is defined by national law. The Act specifies which areas may be related to the implementation of local initiatives, it is a wide catalog that covers both investment tasks (construction, extension or renovation of roads, sewage and water supply networks, buildings and small architecture) and so-called soft tasks, not related to conducting an investment process (for example in the field of charity, maintenance and dissemination of national traditions, activities for national and ethnic minorities and regional language, culture, art, protection of cultural property and national heritage, promotion and organization of volunteering, or education, education and education).

(town, Małopolska Voivodeship); Czernice Borowe (rural commune, Masovian Voivodeship); Warszawa (town, Masovian Voivodeship); Ustrzyki Dolne (Urban commune, Podkarpackie Voivodeship); Krosno (town, Podkarpackie Voivodeship); Sejny (town, Podlaskie Voivodeship); Łomża (town, Podlaskie Voivodeship); Wasilków (urban-rural commune, Podlaskie Voivodeship); Wejherowo (rural commune, Pomeranian Voivodeship); Sandomierz (town, Świętokrzyskie Voivodeship); Starachowice (urban commune, Świętokrzyskie Voivodeship); Chociwel (urban-rural commune, West Pomeranian Voivodeship); Koszalin (town, West Pomeranian Voivodeship).

In the legal acts examined, the local authorities usually refer to statutory provisions. This was in the form of an indication that applications for the implementation of a public task under a local initiative may relate to public tasks referred to in the provision of the Act, or that only the public tasks listed in the Act may be implemented as part of a local initiative. Many of the analyzed legal acts simply do not mention the scope of public tasks possible to implement as part of a local initiative.

In addition, local law adopts general statements that undertaking local initiatives is aimed at implementing projects aimed at satisfying the needs of residents and contributing to the improvement of their living conditions. Such solutions do not bring any new normative content.

In the legal acts we examined, we found an interesting and unprecedented example of excluding a whole group of public tasks – in the field of construction or extension of sewage system and water supply system. It was pointed out that these issues are regulated by different local law provisions. Further provisions regulate, as a consequence, that applications may concern public tasks listed in the Act, with the exception of tasks related to the construction or extension of sewage systems and water supply networks.

We can consider the advisability of determining local public tasks by local authorities, which are a priority due to the needs of the local community. We did not find such a solution in the examined legal acts. In the context of legal compliance, there is a doubt about the general exclusion of the whole category of public tasks, which may be implemented as part of a local initiative, and subjected to their different legal regulations.

Criteria for Assessment of the Applications

The examined local government units regulate the criteria for the assessment of applications in various ways. It is possible to meet regulations in which the impact of the assessment of applications

is due to the previous, i.e. previous cooperation of the applicant (initiative group) with public authorities, which may be a practical barrier to the use of this tool by people who have not been involved in public affairs.

The criterion which has an impact on the assessment of the application is the calculation of the number of people to whom the implemented initiative will serve, and the number of people involved in the local initiative is also taken into account. At the same time, different levels of assessment of this criterion are adopted in the examined local governments.

In general, a more favorable assessment can count the project in proportion to the amount of the applicant's involvement (the initiative group) and inversely in proportion to the public resources of the municipality, involved in the implementation of the public task. An example can be found in the introduction of a limit on the involvement of public funds (for example 15% of the total cost of implementing the initiative). The legal acts under examination also met with evaluation criteria regarding innovation and sustainability of the proposed local initiative.

One of the found criteria is regarding the assessment of the compliance of the initiative with the strategic documents of the local government unit. This criterion may raise doubts due to the fact that the compliance of the proposed initiative with strategic documents should be a condition for the initiative to be implemented at all.

A good practice in the case of not accepting the application is to provide justification, which can make people not discouraged from engaging in public affairs and have feedback that they can use for future ideas.

Another example of the locally accepted criteria is the number of people supporting the local initiative. This criterion may cause the initiators to benefit other people from the implementation of a given initiative and thus involve them in public affairs.

The assessment also depends on the level of advancement in task preparation – the more, the better. This criterion may exclude the

ideas of residents who – due to the fact that they are a response to current needs and, perhaps, specific events – are not prepared to a large extent. The experience of people in the implementation of the tasks covered by the application is similarly limiting.

In some of the municipalities, the submission of, for example, project documentation is positively evaluated, which also excludes non-specialists. In addition, the question is whether determining the details of the necessary documentation would not be reasonable at the stage of signing the contract and setting schedules, which is a necessary element if local authorities take into account the implementation of a public task within the local initiative.

In the legal acts under examination, examples can be found when the assessment of criteria and their amount (for example, materials, labor, equipment necessary to carry out tasks, benefits in kind) is to be assessed according to their “market value”. Estimating the initiator’s contribution at market value may be difficult in practice, and it raises the question of whether local authorities should not use more valued criteria, focused not on the value of contributions, but on the residents’ involvement.

During the study, we found an example that local authorities regulate separate criteria for investment tasks, and different for tasks not related to conducting the investment process. For the former, more formalized criteria are adopted.

In one of the analyzed communes, according to the adopted criteria, the initiative, for which reasons for security were justified, was lower when it concerned the improvement of the quality of public life, while the lowest assessment in this respect were initiatives justified by integration and promotion.

Finally, the criteria for the assessment of applications, adopted in the analyzed legal acts, also differ in their complexity. In some cases, they contain several differently assessed sub-points, and in other cases they are based on a mathematical formula that takes into account, among others, the average number of working hours in a month, the minimum wage applicable in the year of submitting

the application and the number of social work hours for people involved in the planned local initiative.

Procedure for Negotiating and Concluding Agreements with the Applicants for Implementation of the Initiatives

In accordance with national law, after the local authorities have accepted the application for the implementation of a public task as part of a local initiative, the executive body of the local government unit concludes, for a definite period, an agreement for the implementation of a local initiative with the applicant. The executive body of the local self-government unit together with the applicant develops the documents necessary to conduct the local initiative, including the schedule and cost estimate. This is important due to the shaping of public services in the form of co-productions, as it allows for the planning of the undertaking taking into account the positions of both parties – self-governmental and social.

In the legal acts examined, we found regulations that if the application was accepted for implementation, the executive body signs with the applicant a contract for a definite period to perform a local initiative. A different regulation is the recognition that the conclusion of this contract is a condition for the implementation of the application. In another case, it was determined that the applicant of the local initiative with which the contract was signed becomes the implementer of the public task.

Regulations regarding the analyzed matter were most often related to guarantees for local authorities. In one case, it was specified that the contract for the implementation of a local initiative is included in the city's financial capabilities determined by the city council in separate resolutions. On many occasions in the legal acts examined, we found provisions on when the executive body may withdraw from the performance of the contract. It was stipulated

that this may happen if after its conclusion new circumstances preventing the implementation of the local initiative are revealed or the applicant fails to fulfill the declared obligations (own contribution).

In one of the communes, applicants were required to provide documents after receiving a notification of a positive consideration of the application. It was about NGO registration documents, proof of authorization to act on behalf of a non-governmental organization, confirmation of involvement in the implementation of a local initiative, and a statement on the lack of arrears in compulsory public-law obligations (which include taxes in particular). In the case of individuals and informal groups applying for the implementation of a local initiative, the act under examination imposed the obligation to deliver, within 7 days, written statements of all persons in their composition confirming their commitment to the public task and indicating the person or persons through whom they will be represented.

In one of the legal acts examined, it was possible to find a regulation that after approval by the executive body of a public task application as part of a local initiative, the organizational unit of the office in cooperation with the applicant sets the deadline for preparing the documents necessary to conduct a local initiative, including a schedule and a cost estimate completing the task. This is essentially a paraphrase of statutory regulations.

An interesting regulatory approach was the specification in the act of local law, which will include the contract for the implementation of a public task. These were: a detailed description of the task and completion date, determination of the financial value of the task and schedule of financing, description of individual benefits, the amount allocated from the city budget, the date and manner of settlement of funds, the mode of control of the initiative, determination of possible ownership rights of local self-government to the resulting goods (e.g.: buildings, equipment) and finally the time for which it was concluded.

In conclusion, it is advisable that the local law put more emphasis on regulating activities after accepting the application for the

implementation of a public task. This is to prevent people from surprising and provide them with knowledge about the formalities that they will have to meet and for which they can prepare.

In the examined legal acts, if detailed solutions are already placed, they are of a guarantee nature for local authorities (the possibility of withdrawal from signing the contract). However, there is no guarantee for residents seeking a local initiative. This may result from a strict understanding by local authorities of the provision of the Act, which norms the delegation to define "detailed criteria and procedure for assessing applications for the implementation of a public task under a local initiative".

In some of the resolutions examined, the act was repeated, which meant that these acts did not add new normative content. The examined legal acts did not contain detailed regulations as to how the negotiation and determination of the content of the contract would look like, which could be valuable in order to ensure the actual realization of the postulate of cooperation between the parties in this case.

Conclusions

The legislative model of local initiative introduced in 2010 reflects quite original approach to regulating co-production. First of all, this regulation to a large extent reflects the model of community work from the socialist times. The definition of local initiative and its key aspects regulated by the Act on Public Benefit and Voluntary Service follows the same pattern of citizens-administration partnership. The major difference lies in practical implementation of this arrangement. While under socialist regime it was widely perceived as compulsory and centrally directed form of civic engagement (though formally remained voluntary), local initiative introduced in 2010 relies on fully voluntary, bottom-up initiated projects.

What is also interesting, the introduction of the local initiative to the legislation was preceded by dissemination of local practices

of citizens-administration partnerships based on civil law. The interested groups of citizens engaged in implementation of public infrastructure projects together with local administration without any specific legislative arrangements. They relied on the general principles of contractual capacity of local self-government units, that enabled local government to enter into flexibly designed arrangements. The introduction of local initiative did not eliminate this form of cooperation, but provided a special legal format for them. The major advantage of local initiative is that the local self-government authorities are formally obliged to set transparent criteria for reviewing the initiatives proposed by the groups of citizens.

The review of regulations adopted by the local governments shows that they follow various regulatory strategies in terms of criteria for selection of the projects. What seems to be the most important factor for decisions on accepting or rejecting proposals is the impact of the initiative, i.e. a number of residents benefitting from the initiative. There are also communes, where more sophisticated arrangements were designed, promoting specific types of initiatives, e.g. initiatives that are not limited to upgrading public infrastructure.

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ICT as a Tool for Engaging Citizens in Local Policy-Making and Decision-Making Processes

Abstract: The information revolution aroused high hopes for using the Internet and other new technologies to broaden civic participation in democratic procedures – both on the state and local level. However, with the development and spread of new information and communications technologies, it has become clear that they may also cause some negative phenomena. To avoid them, one needs to learn the lessons from prior experiences in ICT use for engaging citizens in local governance processes. Discussed case studies – both best practices and total failures – allow identifying the success factors and possible barriers of implementation and use of ICT for that purpose. According to the conducted analysis, there is a crucial importance of accessibility, functionality, and usability of implemented tools. No less important is responsiveness to citizens and openness for their suggestions and expectations, including the possibility of participatory co-design of implemented technological solutions. Numerous cases of well-functioning ICT tools used in local governance processes prove that new technologies still have great potential to become a booster for civic engagement.

Key words: civic engagement, e-participation, ICT, local governance

First Approaches on Electronic Democracy and E-Participation – from Utopic Enthusiasm to Realistic Hesitation

The role of new information and communication technologies (ICT) in democracy has been an object of scientific research for almost as long as these technologies have been used by large groups of citizens. This should be linked, first of all, with the invention of the Internet as we know it today – that means the World Wide Web, first websites and web browsers that were developed in the early 1990s (Naughton 2016:14). From the very beginning of the global Internet penetration, the technology became the centre of attention for many recognized researchers interested in democracy and civic participation, e.g. Amitai Etzioni (1995) or Nicholas Negroponte (2000). Nevertheless, the first approaches to the issue concerning the use of ICT in democratic processes were rather too enthusiastic and mildly critical. The ongoing development of the Internet was seen as the panacea for all maladies of modern democracy. The cyberspace was seen as the new public sphere (Gimmler 2001).

One of the most significant early approaches to the use of ICT for citizens' participation in democratic procedures was presented by Benjamin R. Barber. At the dawn of a new technology era – in the 1980s – he introduced the concept of "strong" and "thin" democracy (Barber 2009). Political participation remains absolutely fundamental to this theory. Actively participating citizens (especially at the local level) make democracy stronger. Furthermore, the author emphasizes the importance of civic education as well as access to public information. The crucial role of ICT is to provide citizen's access to information and to facilitate the exchange of their opinions. Therefore, in this approach ICT should be considered a "repair kit" for contemporary liberal democracy and one of the key factors for the development of a "strong" model of democracy.

The enthusiastic Barber's vision was undermined by himself just over a decade later (Barber 2000). The author noticed that Internet-based virtual communities will not become the cornerstone

of “strong” democracy, primarily because of their “shallow” and fleeting nature. The development of ICT, clearly manifested in the rapid expansion of the Internet, will not automatically trigger the next transformation of democracy. The enthusiasm for ICT use in democratic processes and the concept of Internet as an ideal public sphere were also rejected by other authors (Dahlberg 2004; Papacharissi 2002). Treating the first approaches as an “utopian rhetoric”, they emphasized that there are serious shortcomings of computer-mediated communication. Zizi Papacharissi, considering the concept of Internet as a new “virtual” public sphere, remarked that although ICT factually creates the new public space for political discussion, it does not guarantee the “rejuvenation of a culturally drained public sphere” (Papacharissi 2002:22). Moreover, even easier access to public information given by the Internet, does not have to result in greater participation that will make democracy better.

Other authors described some specific features of the Internet, that might put into question the positive influence of ICT diffusion on democracy. Eli Pariser (2012) noticed that there is a crucial weakness of the Internet as an access point to public information. The weakness is hidden within the structural features of the Internet search engines mechanisms. The searching algorithms filter out the content that does not match our past preferences, thus provided information match our views, ideological orientations, etc. As a result, Internet users are closed in “filter bubbles” shaped by search engines algorithms. Eli Pariser concentrated his thoughts on the search engines – the main source of information on the Internet. He argued that the problem lies in the technology of personalization. Cass R. Sunstein (2007) suggested that there is another cause of this problem. The Internet users are intentionally seeking information from the sources presenting similar views to their own and seeking communities sharing the same ideological orientations (e.g. on social media sites). Therefore, the users of Internet close themselves in “information cocoons” and “echo chambers” with no access to the opposing viewpoints. In consequence, their views and opinions are changing to more extreme

and polarized positions. Sunstein recognizes this phenomenon as very bad for democracy. The rapid expansion of social media (e.g. Facebook, Twitter), with its personalized "news feeds", only deepens the problem (Sunstein 2018).

The negative impact of social media has also been identified by Evgeny Morozov (2012). The author harshly criticized especially the phenomenon of online civic participation. Morozov argued that Internet users prefer low-cost ineffective social media "activism" (mainly boiling down to clicking Facebook "like it" button) rather than truly effective forms of civic participation. It is related to the fact that traditional forms of participation require much more effort than so-named Internet "slacktivism". Furthermore, according to Morozov's concept, ostensible "activism" of Internet users may result in the lowering of their real civic participation level. It will be the consequence of treating "slacktivism" as a substitute for civic participation. The assumption has been verified and confirmed in psychological research (Schumann and Klein 2015).

The phenomena described above put into question the effects of ICT use in democratic processes. The development and dissemination of the Internet and other new technologies is not rated as unequivocally positive for democracy, however, it is not precluded that it may be positive. ICT has the potential to become an effective tool for citizens' empowerment in the democratic system, though it can happen under certain conditions. The researchers have identified some of them, based on previous successful experiments, e.g. Minnesota Electronic Democracy Project (MN E-Democracy) (Aikens 1996; Dahlberg 2001). Lincoln Dahlberg (2001) has evaluated the MN E-Democracy online discussion forum, trying to determine under what conditions the online deliberation is facilitating the public sphere. Identified success factors of MN E-Democracy online forum were primarily connected with the issue of discourse "themmatization". Firstly, the discussion topics were strictly determined and the rules of debate were clearly defined and respected. Secondly, the discussion was substantially limited to the local problems of Minnesota and the forum users were Minnesota citizens identified

by their real names. Local e-participants focused on the local issues that directly affected them. Therefore, in the MN E-Democracy experiment, the local context was one of the most important factors affecting the effectiveness of ICT use in democratic processes.

Basing on subsequent analysis of deliberative forums, Barrie Axford (2001) suggested further factors that might affect the use of ICT tools for civic participation. He argued that the main condition for successful e-participation is "getting citizens involved in the policy process on hard issues" (Axford 2001:16). Furthermore, the participants should be able to see the outputs of their involvement in order to sustain or even increase their motivation for future engagement. It seems to be necessary for reaching a high level of citizens' participation as well as for the effective use of ICT in public sphere.

E-Governance at the Local Level – Key Concepts and Frameworks

The cited research results indicated the supposed conditions under which ICT may be successfully used for civic engagement in democratic processes. Involving citizens in "hard issue" politics with visible concrete outputs should be associated with the most "concrete" form of participation – involving citizens in processes of decision-making. Additionally, the local context of participation will be fully realized in the local policy-making and decision-making processes. Therefore, the "local governance" may be treated as a crucial area, where the use of ICT can bring the greatest benefits.

The concept of "governance" is one of the most ambiguous and vaguest in social sciences, thus there is no one precise definition of the term. Kees Van Kersebergen and Frans Van Waarden listed nine approaches to "governance" and three common characteristics used in all of them: (1) governance is pluricentric rather than unicentric, (2) there is an important role of networks consisted of relatively autonomous actors (formal government as one of them)

and (3) there is emphasis on the process of governing, not on the government structures (Kersbergen and Waarden 2004:151–52). This meaning is near to the very first use of the term “governance” in 1972 by Harlan Cleveland, predicting in his books the era of power diffusion, “multilateral brokerage” in the decision-making processes as well as horizontal organizations with consensual and consultative governing style (Frederickson 2007).

The transition from the “government” to the “governance” paradigm requires the increasing participation of various actors in decision-making processes. The multiple actors and stakeholders can be engaged using a variety of methods and technical solutions. The concept of “e-governance” refers to ICT use in governance. The difference between “e-government” and “e-governance” is in some way similar to the distinction between “government” and “governance” terms. Luis Orihuela and Toshio Obi noticed that commonly used definitions of “e-government refers to the usage of ICT as tools that will allow the State communicating with its citizens and the State agencies between them. The term e-governance refers to ICT used in order to boost the active participation of the citizens in the political procedures” (Orihuela and Obi 2007:29). The main goal of e-government is to provide better public services whereas the general objective of e-governance is to include relevant actors in decision-making processes. In these concepts, all the goals are achieved by using ICT tools.

The concept of “e-governance”, understood as above, directly refers to the issue of civic e-engagement in policy-making and decision-making. Therefore, the levels of e-engagement may be treated as a framework for further analysis. One of the most recognized and commonly accepted classifications is the one used in Organisation for Economic Co-operation and Development reports, proposed by Ann Macintosh (Macintosh 2004b, 2004a). The first level, “Information”, is “a one-way relationship in which government produces and delivers information for use by citizens” (A. Macintosh 2004b:2). The ICT tools used on this level are, e.g., site-specific search engines, e-mail alerts for new policy issues

and Internet publications of annual reports (Organisation for Economic Co-operation and Development 2003:14). The second level of e-engagement is "Consultation". Unlike the first level, the second one is based on a two-way relationship. Citizens gain the opportunity to contribute their views, however, government still manages the process and defines the issues for consultation. The highest (third) level is "Active participation". On this level citizens are equal partners of government, jointly defining the content and managing the process of policy-making (A. Macintosh 2004b:2). The second level ICT solutions are online surveys and opinion polls as well as discussion forums. On the third level, the specific tools are, e.g., e-petitions and e-referenda. ICT solutions from the level of information, consultation, and active participation, are used at each stage of policy-making life cycle: agenda-setting, analysis, formulation, implementation and monitoring (OECD 2003:14).

The approach proposed by Ann Macintosh roughly corresponds to the framework of citizens' e-participation analysis undertaken in United Nations E-Government Surveys, which is based on the OECD participation model (Rivière 2017). Just like the Ann Macintosh concept, the UN E-Participation Index (EPI) is based on three levels of e-participation. Instead of "Information" there is "E-Information", in place of "Consultation" in the UN approach there is "E-consultation" and instead of "Active Participation" there is a level of "E-decision-making", referring to the use of ICT for direct citizens' involvement in policy- and decision-making (United Nations Department of Economic and Social Affairs 2019:112). On the first and second level, there are only slight differences in nomenclature between Macintosh and UN approach, but both levels refer to the same phenomena. However, on the third level, there is a significant difference. Ann Macintosh stated that "Active Participation" means citizens' participation in policy-making, e.g. defining the process and setting the agenda, but without responsibility for the final decisions (A. Macintosh 2004b:2). In the United Nations approach, "E-decision-making" refers to the use of ICT as a tool for direct citizen decision-making as well.

UN E-Government Survey is probably the most spectacular and the most complex empirical study on this topic performed worldwide. Beginning from 2002, every two years United Nations Department of Economic and Social Affairs prepares the survey in which the study of E-Participation Index (EPI) is also conducted. The last UN E-Government Survey, performed in 2018, pointed out that from the previous survey (conducted in 2016) there was generally significant progress in using ICT tools for citizens' participation. The number of countries showing very high EPI level doubled from 31 to 61 (United Nations DESA 2019:113). However, development is not homogeneous at all levels of e-participation. The deployment of e-consultation tools is making a progress, while the e-decision-making level "remains a serious challenge" (United Nations DESA 2019:120). In the UN surveys, E-Participation Index was used only for the description of the national level of e-governance. However, authors of the last survey have recognized the growing importance of the local dimension of studied phenomena as well (United Nations DESA 2019:151–53).

The local dimension of governance seems to be the most significant for individual citizens. The local issues, as well as the effects of policy implementation, directly affect their everyday lives. Furthermore, in the local policy- and decision-making processes, they gain subjectivity as relevant actors. At the higher levels (e.g. regional and national level) the individuals are losing their relevancy to institutions, interest groups, NGOs, etc. However, the local dimension of governance is gaining their significance not only for the members of local communities. Uta Hohn and Birgit Neuer (2006) argued that some new phenomena are affecting the general growth of local governance importance. They listed such processes as globalization and decentralization, spatial polarization and fragmentation as well as privatization. Therefore, because of the new trends, the municipal level of governance becomes more important, performing various crucial functions, including controlling, coordinating and regulating. Among the new trends that may affect the growing significance of local governance level,

the development of ICT tools engaging citizens in political processes can be also mentioned. As it was argued earlier, there are some conclusions from the past research indicating that local governance may be a better area for using ICT in policy- and decision-making processes than other levels. "Local e-governance" then has the potential to become a flagship of e-democracy. As a result, well-functioning ICT tools will enhance the performance of local governance.

In this context, the concept of "multi-level governance" is also worth mentioning. The term refers to the spatial and jurisdictional scales, including supranational, national, regional and local levels of governance (Termeer, Dewulf, and Lieshout 2010). It emphasizes the vertical (cross-level) diffusion of decision-making. Gary Marks and Lisbet Hooghe, the authors of multi-level governance approach, argued that "dispersion of governance across multiple jurisdictions is more flexible than concentration of governance in one jurisdiction" (Liesbet and Gary 2003:235). The main advantage of the multi-level paradigm is better accommodation to diversity. As a result, the problems can be dealt with more effectively and by following local preferences as well. However, multi-level governance itself has some technological considerations as well. The implementation of this paradigm may be boosted or impeded, depending on the adopted model of ICT tools deployment. As the research results show (Gascó and Roy 2006), non-interoperational tools developed at only one governance level limit cross-level processes, whereas integration of ICT services on multiple levels may result in better cooperation. Therefore, in order to achieve an effective multi-level governance, local e-governance solutions have to balance between interoperability with others and adaptation to local circumstances.

Paul Levinson, one of the main representatives of soft technological determinism, argued that technology is just a possibility, being turned into reality by people who are using it (Levinson 1997:4). New information and communication technologies themselves are not good or bad for governance processes. The nature of their impact depends on how technologies are implemented and used.

Therefore, in the next parts, there will be an attempt to answer the questions: What circumstances are conducive to e-governance implementation on the local level? What are the success factors of ICT use for increasing citizens' participation? To answer these questions, several case studies will be briefly discussed.

Case Studies on ICT Use in Local Governance

In order to properly organize the study, the framework of e-engagement levels by Ann Macintosh will be used. The approach, presented in the previous part, is commonly used in the e-governance research (e.g., Albert 2009; Komito 2005; Kukovič and Brezovšek 2015). The three-level classification by Ann Macintosh is simple and intuitive enough to maintain a clearly structured and readily understandable analysis. However, on the third level, the classification will be supplemented with United Nations' approach, expanding the category of "Active Participation" by the direct citizens' involvement in decision-making processes ("E-decision-making") (United Nations DESA 2019:112). This correction will allow analysing phenomena that would not fit into Macintosh's third level.

The first of e-engagement levels identified by Ann Macintosh was "Information" (A. Macintosh 2004b:2), named "E-Information" in UN E-Participation Index (United Nations DESA 2019:112). It is connected with the use of technologies providing access to the knowledge and data that are necessary for conscious participation in local policy-making or decision-making processes. In this context, ICT may be used both for organisational matters and for informing about implemented policies and decisions. The level of "Information" is recognized as essential at all stages of the policy cycle, due to the transparency of governance processes and "shaping" well-informed actors. There are many ICT solutions usually used by the local governments for providing information, e.g. web sites, social media (Facebook, Twitter), video streaming or e-mail newsletters. However, in recent years, there is one concept that significantly

affected the selection of tools used for the government information access – the concept of Open Data (Bertot et al. 2014; Janssen, Charalabidis, and Zuiderwijk 2012). It refers to the kinds of public data that should be openly available to use, republish and transform, in order to ensure the transparency of government actions as well as a better basis for citizens' participation. Government information openness is becoming a common standard, thus there are "dedicated" ICT solutions created, specially adapted for sharing and searching through large amounts of public data.

In the last years, local governments have been increasingly implementing ICT tools with the main function of providing stakeholders with easy access to broad public data. One of the municipalities leading in the development of online open data solutions is the city of Amsterdam (Ulrich, Marshment-Howell, and van Geest 2016:10–11). The main tool for public data is the official Amsterdam website, which is the information hub for citizens and other stakeholders. Local government provides wide access to a variety of public information – the basic rule is default sharing of all data processed by the administration with only a few exceptions, having a good reason to not share. Furthermore, the data is published on the website with the use of technologies that significantly facilitate their further use and transformation (e.g. various file formats, open application programming interface). Nevertheless, the ultra-openness of local administration is not all that makes Amsterdam an outstanding example of ICT use for providing access to public data. The most innovative in the case of Amsterdam is a platform called Datapunt, where citizens may submit their suggestions and ideas regarding the functioning of the online open data system. It is an interesting example of solution that helps in shaping ICT tools to better fit stakeholders' needs. Therefore, the city of Amsterdam may be classified as "best practice" in the responsive development of ICT tools used for citizens' empowerment.

The case of Amsterdam illustrates the highest standards of e-engagement at the "Information" level. The openness of the local government is facilitated there by the use of "tailor-made" ICT

tools. The second discussed case is different. Biuletyn Informacji Publicznej (BIP, Eng. Public Information Bulletin) is an ICT solution, strictly defined by the central government that has to be used by all public institutions in Poland, including local governments (Czerw 2015; Kentnowska 2015). Minimum requirements and forms of BIP website are specified in the regulation of the Minister of Interior and Administration (Minister Spraw Wewnętrznych i Administracji 2007). There is a template of website, shared by central government that may be freely used, however many institutions decide to create their websites, keeping the formal guidelines. In practice, the actual form of BIP websites of Polish local governments heavily depends on the decision of local authorities. Some of them decide to publish broad, clearly organized and easy to search data, while the others publish just a minimum of information on their BIP websites. Furthermore, the published data frequently does not meet the Web Content Accessibility Guidelines for the public sector (European Commission 2012) and is published in a way that makes searching difficult as well as prevents its further use (Baciak 2018:28). This problem occurs, for example, on the current BIP website of the city of Stary Sącz, available at bip.stary.sacz.pl. In place of transparency, there is observed a "messy" disclosure as well as the phenomenon of so-called "data smog" (Shenk 1997; Tadeusiewicz 2002:120–24). The problems mentioned above indicate some shortcomings of incorrectly used ICT tools. New technologies used in that way can do more harm than good, discouraging citizens from participating in governance.

The second level of e-engagement recognized by Ann Macintosh is "Consultation" (A. Macintosh 2004b:2) – "E-Consultation" in UN EPI nomenclature (United Nations DESA 2019:112). It refers to the use of ICT as a medium of interactive communication, where the local government can not only provide information but also obtain it from its citizens. On this level, one-way turns into two-way communication. Unlike the traditional media, new information and communication technologies have brought the communication interactivity, giving citizens new possibilities for the expression of

their views and needs. Therefore, on the level of "Communication", the Internet and other ICT tools may be successfully used by the local governments as a source of information on stakeholders' preferences and expectations.

On the second e-engagement level, well-known, "traditional" ICT tools were used for years, starting from an e-mail, discussion groups and Internet forums (e.g. previously discussed Minnesota E-Democracy project) and ending with online surveys and dedicated consultation portals. The dedicated consultation portal integrates several, mentioned above, tools inside. This ICT solution is, for example, widely used by many local governments in Poland (Nodzak 2017:351). Nevertheless, despite the prevalence of tools listed above, it is claimed that the real milestone for the "consultation" level of e-participation was the beginning of Web 2.0 and the social media era (Anttiroiko 2010; Veljkovic N, Bogdanovic-Dinic S, and Stoimenov L 2012). Web 2.0, also called "people-centric Web" or "participative Web", emphasizes "peers' social interaction and collective intelligence and presents new opportunities for leveraging the Web and engaging its users more effectively" (Murugesan 2007:34). It refers to the growing impact of social networking services that facilitate interactions between their users and are based on user-generated content. Taking into account the above assumptions, services like Facebook and Twitter should be valuable tools for e-consultations with local stakeholders.

One of the examples of social media use for consultation purposes is the City of San Antonio Solid Waste Management Facebook page. The page is managed by the City of San Antonio Solid Waste Management Department. Municipal administration of San Antonio uses this page mainly as an information tool, however, the interactivity of Facebook makes it is also used for consultation purposes. Comments from the residents observing the page, placed under the posts and as a site opinion, is a valuable information source, allowing to enhance the public service delivery. Nevertheless, according to the conducted qualitative content analysis results (Reddick, Chatfield, and Ojo 2017), the municipal government of

San Antonio does not fully use the opportunities offered by this social networking service. For the analysis purpose, the framework of single-loop and double-loop models of organizational learning was used by Chris Argyris (1976). The analysed Facebook page was primarily used for single-loop learning – the city administration used it for obtaining citizens' remarks on published issues and then implementing corrective actions and improving existing processes. Researchers found no evidence of double-loop learning, where the residents have an opportunity to submit completely new proposals and ideas that would result in creating new approaches in local government practice (Reddick et al. 2017:10–14). It was due to the fact that residents were not able to initiate conversations on the page. In conclusion, municipal administration preferred "educating" citizens rather than learning their expectations.

Somewhat similar conclusions were derived from the case study of the Phoenix metropolitan area local governments' Facebook activities. Laura C. Hand and Brandon D. Ching (2011) from Arizona State University analysed the use of Facebook for engaging citizens and obtaining their opinions. The research conclusions stated that on the Facebook pages conducted by the municipal governments, the freedom of citizen's expression was significantly restricted. The authors argued that "simply having a Facebook page does not automatically create meaningful citizen engagement" (Hand and Ching 2011:379). It is impossible without the change of power relations in communication between citizens and local administration. Citizens' involvement will not happen without the partnership and without enabling them to act.

Nowadays, some new interesting trends in the use of ICT tools for local e-consultations are observed. Local governments tend to increasingly use more "sophisticated" technologies like mobile applications and interactive geographic information systems (GIS). One of the best practices in this area is "Tirana Ime" (My Tirana) – mobile application that allow to easily obtain information about threats and other issues happening in the city of Tirana (the capital of Albania). The residents may use their smartphones both to

report and to get the current information on public transportation, traffic, pollution or emergencies (Ulrich et al. 2016:28–29). The project of Tirana Ime makes use of mobile and GPS technologies. As a result, citizens being everywhere have access to very topical data matched to their current location, and the local government is getting an immensely valuable and complex data about the city from its residents. Tirana Ime is an example of effective ICT crowdsourcing solution. The second example is related to the wide use of GIS solutions. "Geoankieta" (Eng. geo-survey) is an original idea implemented by the local government of Poznań (Poland). It refers to the use of the GIS portal in the processes of spatial planning. The tool, available at geoankieta.metropoliapoznan.pl, allows the municipal government to gather experiences and visions of stakeholders, regarding the city area. Both mobility and GIS seem to be a very promising direction for using ICT tools on the local consultation level.

The third level in Ann Macintosh's e-engagement classification is "Active participation" (A. Macintosh 2004b:2). As previously discussed, it will be supplemented with the category of "E-decision-making" from the United Nations' approach (United Nations DESA 2019:112). Finally, so constructed "Active participation and decision-making" level refers to the use of ICT for direct citizens' participation in policy- and decision-making processes. On this level all the stakeholders are treated as equal partners of local governments in initiating processes, defining problems, setting the agenda, providing policy content and making final decisions. The ICT tools that may be used on this level are, e.g. e-petitions, e-referenda, and e-voting systems.

Probably the most illustrative example of third level e-engagement is the use of new information and communication technologies in participatory budgeting processes. In this purpose, the ICT tools are used by local governments worldwide and on every stage of the process (Sintomer, Herzberg, and Allegretti 2013:11–14). One of the most recognisable and characteristic is the case of Reykjavik (the capital of Iceland). In 2010, during one of the largest

financial and political crises in Iceland's history, two activists: Gunnar Grimsson and Róbert Bjarnason launched "Betri Reykjavik" (Eng. Better Reykjavik) website. The platform was started just before the municipal elections and its main goal was obtaining and discussing citizens' ideas as well as rebuilding trust between residents and local authorities (Gregorčič and Jelenc Krašovec 2016:171–72). What made Betri Reykjavik distinctive was that it was launched by the non-governmental activists and was developed and maintained by Citizen Foundation – grassroots organization founded by Grimsson and Bjarnason. Furthermore, highly original methods of selecting the most interesting initiatives were also used. Every month five top-rated ideas were chosen and referred to the city council, hence ICT tools were used both for co-creation and for the choice of ideas (Ulrich et al. 2016:24–25).

After the immediate success of Betri Reykjavik, the municipal government decided to launch, in collaboration with Citizens' Foundation, the second Internet platform named "Betri hverfi" (Eng. Better Neighbourhood). Betri hverfi, launched in 2011, is an e-participatory budgeting tool (Gregorčič and Jelenc Krašovec 2016:172). It is widely used by Reykjavik residents, allowing them to initiate and vote for local projects that will be implemented in their close neighbourhood. The website is based on the same open source platform as Better Reykjavik, named "Your Priorities". The platform is used freely by other local governments as well (e.g. in Estonia and UK) (Ulrich et al. 2016:25).

Another interesting example of ICT tools' implementation for participatory budgeting is the case of Jasło, a small town in south-eastern Poland. This case is completely different, primarily due to dissimilar effects of using new technologies. As in the case of Reykjavik, the municipal government of Jasło had decided to use the Internet platform (available at konsultacje.jaslo.pl) as the basis for implementing participatory budgeting. Submitting, discussing and voting for projects were carried out in 2018, using the chosen ICT solution. However, unlike the Reykjavik case, the very first participatory budgeting in the city of Jasło was disturbed

by finding several irregularities in the process of e-voting. It was related to the setting of low authorization level for e-participants. The only thing required from users to vote was the personal data and PESEL (national identification number). This resulted in many votes being cast from one computer, which gave rise to suspicions of unauthorized use of personal data for the purpose of voting for selected projects. The case is currently being investigated by the law enforcement agencies, thus the participatory budgeting results were not implemented in 2019.

Despite the voting scandal in the first edition of participatory budgeting, the municipal government of Jasło had decided to start the second edition in 2019 (with results implementation in 2020). The failure of the first edition was associated with the use of ICT for participatory budgeting. Therefore, in the second edition, the crisis of trust in ICT tools resulting in lower citizens' participation (especially with the use of e-voting system) was anticipated. In order to counteract the negative consequences of the first edition failure, the local government of Jasło immediately took action to rule out similar problems in the second edition by raising the authorization requirements. In addition, to mobilize participants, the funds allocated to the participation budgeting were also increased from PLN 300,000 in 2018 to PLN 500,000 in 2019.¹

Comparing the results of Jasło participatory budgeting in 2018 and 2019 is difficult and ambiguous. It must be remembered that some votes cast in the e-voting system in 2018 have been questioned and they may be annulled after the investigation. Bearing in mind the above reservations, it should be noted that there was a serious decrease in the overall number of votes cast in the second edition compared to the first edition of participatory budgeting. In 2018 it was 3324 (including questioned ones) and in 2019 it was 2059 votes. Moreover, what is more significant, between the first and the second edition of participatory budgeting

1 The quoted data was obtained from an official directly responsible for participatory budgeting in Jasło City Hall as well as from the official city portal: konsultacje.um.jaslo.pl.

there was a huge drop in the number of submitted projects. In 2018 it was 33 (among them 24 qualified to the voting phase) and in 2019 it was only 11 projects (10 qualified to the voting phase). Even taking into account earlier reservations, these figures indicate a significant decrease in the general interest of residents in participatory budgeting. However, the negative consequences of the failure associated with the use of ICT tools had not resulted in a lower percentage of participants choosing e-voting. Both in 2018 and 2019 the percentage of citizens voting with the use of ICT amounted to approx. 80 percent of all participants. It seems that in the case of Jasło, the quick reaction of local authorities raising the authorisation level, resulted in maintaining the percentage of citizens using ICT solutions in the second edition of participatory budgeting. Nonetheless, local government had not managed to prevent a noticeable drop in the residents' interest in the whole participatory budgeting process, expressed mainly in the decreasing number of projects submitted by the citizens in 2019.

Success Factors for Local E-Governance – Lessons Learnt from Prior Experiences

The discussed examples of ICT use for citizens' involvement in policy-making and decision-making processes provide a good basis for identifying strengths and weaknesses of new technologies in local governance. Internet and other ICT solutions may be recognised as boosters or inhibitors of citizens' local participation, depending on the appearance of specific conditions and the use of appropriate tools. In this part, an attempt to indicate success factors of ICT use for citizens' empowerment will be made, based on the case studies discussed in the previous section.

Regarding almost all of the previously analysed cases, it should be stated that one of the main strengths of ICT in local governance is that it enables "low-threshold" participation. The use of new technologies usually allows reducing "transaction costs" both

for administration, citizens and other stakeholders. Significant savings of time, money and other resources are observed. It is argued that there is a lower environmental impact too, due to reduction in traveling. New technologies also enable participation for those of citizens for whom spatial barriers can be difficult to overcome, e.g. people with disabilities. However, ICT itself is not a guarantee of citizens' participation and cost-effective local administration. There are examples of promising projects that did not attract the crowds and resulted in a significant loss of public funds, e.g. Mobhaile project in the city of Dublin (Ireland) (Komito 2005; Smith 2010). It all depends on how local governments use new technologies and whether they can accurately recognize the citizens' needs in this area.

On the "Information" level of e-engagement, there is a noticeable effect of Internet use for open data provision in the form of increasing transparency and accountability of local government actions. The case of Amsterdam is an excellent example of good practice in this area. Nevertheless, the second discussed case showed a different face of ICT use for sharing government data. The analyses of Public Information Bulletins (BIP) of Polish local governments lead to the conclusion that disclosure does not always mean transparency. BIPs were designed to provide easy access to public information. However, real "easy access" means not only public data accessibility but it also refers to the easiness of searching for specific information sought by the citizens. Increasing amounts of data cause the aforementioned phenomenon of "data smog" (Shenk 1997; Tadeusiewicz 2002:120–24). It can be observed on some BIP pages as an information "mess" and considerable difficulty in searching published data. ICT tools, used in that way, do not encourage citizens to participate, but may even cause the opposite effect.

What are the conditions for the appearance of "data smog" and what can be done to prevent this and to make the shared data transparent? John C. Bertot, Paul T. Jaeger, Justin M. Grimes from University of Maryland (2010) argued that the proper use of ICT

tools for government transparency depends on the culture of openness embedded within the governance system as well as on the technological and social capabilities. According to the authors, there should be guaranteed accessibility, functionality and usability of implemented technological solutions. "Accessibility" refers primarily to the use of ICT tools by the people with disabilities, that should be able to freely access the public data. It is connected with mentioned WCAG requirements, setting standards in this area. "Functionality" means including features desired by the users. In this context, the case of Datapunt Amsterdam should be treated as best practice, due to the wide inclusion of stakeholders in the process of designing new ICT solutions. "Usability" refers to the intuitiveness of ICT tools. They should be designed as user-friendly and effective. Taking presented guidelines into account is a big challenge for the local governments, but it is the only way to use ICT as a tool for transparency of governance mechanisms. As a result, it is the way in which citizens' engagement in governance will increase as well.

The proposed guidelines may be used especially for ICT solutions designed and created from scratch. Nonetheless, there are ICT tools, created for purposes other than local governance, that may be successfully used for citizens' empowerment. It is, for example, the case of social networking services used in consultation processes. In the previous section, the case studies of Facebook use by municipal governments were presented. As a result of analysis, it was concluded that local governments tend to use social networking services in a "conservative" manner. It is used rather for informing and educating citizens than for learning their needs and expectations. Instead of initiating the creativity of residents, they focus on controlling discourse, allowing at most for comments aimed at improving the existing processes.

The authors of the City of San Antonio case study (Reddick et al. 2017) concluded that in order to achieve deep engagement of citizens resulting in new ideas and proposals, local governments must stay open up to criticism and citizens' feedback. Laura C. Hand and

Brandon D. Ching (Hand and Ching 2011), based on their analysis, added two guidelines to increase the engagement potential of the Facebook page. Firstly, page administrators should focus rather on posts content than frequency. Secondly, they should be active in communication with citizens, especially in responding to users' comments. In conclusion, the results of case studies indicate the key role of page administrators and moderators as well as the significance of their responsiveness to citizens. Therefore, in order to increase citizens' engagement, local governments must learn how social networking services should be used to make the most of their potential. It seems to be increasingly important, due to the fact that in recent years social media became a "natural environment" for many citizens – especially for young people.

The next lesson to learn is the case of ICT use in participatory budgeting in Jasło. As it was mentioned in the previous part, the main concern, in this case, was the failure of newly implemented technological solution and its consequences. The most serious consequence that the local government had to face, was the threat of citizens' distrust of both used ICT tool and participatory budgeting itself. Citizens' trust should be recognized as critical for all decision-making processes with the use of ICT. It is absolutely essential for processes containing e-voting. The importance of this issue is related to the risks of, e.g., hacker attacks, system errors or intentional frauds. Considering the inability to observe processes taking place in the computer system, it is indispensable to trust in security, integrity and proper functioning of the system (Oostveen and van den Besselaar 2004). Every system failure significantly undermines confidence in its security and integrity as well as it may result in a reduction of citizens' trust in governance mechanisms. It may reduce not only the number of residents participating in decision-making with the use of ICT but the overall number of citizens engaged in the whole process as well. Therefore, as it was observed in Jasło case, non-working or even "misconfigured" ICT tools may become a burden for the process that they were supposed to support.

In the case of Jasło, “misconfiguration” of e-participatory budgeting system contributed to the overall failure of the first edition of participatory budgeting. Low level of authorisation set by the system administrators resulted in disruption of the e-voting procedure. This example also perfectly illustrates the discrepancy between the security of the e-voting system and the inclusiveness of the decision-making process. Low authorisation level results in lower security and higher inclusiveness of decision-making while high authorisation level increases the security of the system, reducing inclusiveness at the same time. Establishing the equilibrium between these two values is a serious challenge for local governments planning to implement ICT tools for citizens’ empowerment.

There is one more problem related to the issue of inclusiveness and ICT use for citizens’ engagement in policy- and decision-making processes. It is named “digital divide” or “digital exclusion”. The concept of digital divide generally refers to the inequalities resulting from unequal access to new information and communication technologies. The phenomenon has two levels. The first-level digital divide is caused by the lack of access to technology (e.g. no Internet connection) while the second-level digital divide is the result of low skills and ineffective usage of ICT tools (van Deursen and van Dijk 2019; Hargittai 2002). Both levels of the digital divide should be treated as a threat to the democratic inclusiveness of local e-governance. The threat will increase if policy-making and decision-making processes are based solely on ICT solutions, without the possibility of traditional participation. In this case, some citizens may be excluded from democratic processes. Therefore, especially in the case of direct decision-making, hybrid solutions should be considered, enabling participation both with and without ICT tools.

The discussed problems of the digital divide and citizens’ distrust of ICT mediated decision-making, may call the reasonableness of ICT use in decision-making processes into question. According to the results of some studies, it is argued that new technologies should

only support traditional forms of local civic engagement (Erete and Burrell 2017). The authors claim that ICT use for citizens' participation should be limited to the provision of government data and the organization of policy- and decision-making processes. They argue that face-to-face (in-person) meetings are much more effective in local governance than online activities. This kind of "technological conservatism" should be assessed as too far-reaching. Numerous cases of new technologies' implementation, e.g. in participatory budgeting, prove that ICT may be an effective tool for citizens' empowerment, reducing costs and facilitating the development of new democratic mechanisms. The main condition of successful ICT use in local governance is learning lessons from both occurring failures and best practices. Furthermore, in order to increase citizens' trust and to reduce digital exclusion, new technologies should be continuously developed, improved and disseminated.

Final Remarks

To summarize the conclusions reached, it has to be stated that ICT has a great potential to become a facilitator of citizens' engagement in local governance. In the study, the manifestations of the above-mentioned potential were briefly presented and discussed. The potential of new technologies in local governance may be observed, above all, in the well-functioning ICT tools deserving to be called "best practices". The examples of Datapunt Amsterdam as well as Betri Reykjavik and Betri hverfi services, prove that well-designed and used ICT solutions become boosters of citizens' engagement. Furthermore, they even can support the creation of brand new participatory mechanisms in local governance (e.g. the case of Berti hverfi and participatory budgeting in Reykjavik).

However, the potential of ICT use for citizens' empowerment, lies in the cases with diagnosed shortcomings as well. Continuous development and reconfiguration is in the nature of new technologies. Therefore, ICT tools used by local governments for

citizens' engagement in policy-making and decision-making processes should be gradually adapted to both expectations of the residents and external circumstances. As case studies show, the proper functioning of implemented ICT solutions depends on its design, configuration, and day-to-day administration activities. When implementing new technologies, local governments need to learn lessons from the "best practices" as well as from their residents, enabling the participatory co-design of developed solutions. Accessibility, usability, and functionality of designed ICT solutions as well as their security and integrity, should be treated as a crucial first step towards increasing citizens' e-engagement. The implemented tools should guarantee the inclusiveness of supported processes as well. No less important is the role of moderators and administrators of the services, who need to be open and responsive to the citizens' needs and ideas. Being aware of the aforementioned conditions should result in successful ICT use for citizens' engagement.

ICT use in governance reveals significant potential at all levels of civic participation, from the most fundamental (e.g. access to public data, information on processes) to the most impacting on policy formulation and implementation (e.g. consultation, co-design of public services, decision-making). Nonetheless, according to several researches conducted on both national and local governance level (e.g. Kukovič and Brezovšek 2015; United Nations DESA 2019), the potential is currently fully used only in the area of providing information to stakeholders. The use of ICT tools for decision-making seems to be undervalued by both local and central governments. However, there are new trends that may change the current situation, especially at the local level of governance. Firstly, the phenomenon of "smart cities", referring to the worldwide trend of "using high technologies to face the crucial problems linked with the urban life like traffic, pollution, city crowding, poverty" (Dameri 2013:2545). The new trend of the extensive use of ICT is visible mainly in large metropolises but it may also spread to the smaller municipalities. Secondly, the observed growing popularity of e-participatory budgeting and, last but not least, the dissemination of m-government

(mobile technologies for e-government) and g-government (using GIS in e-government) technologies. The new trends, listed above, and their impact on local e-governance should be recognized as an interesting direction for future research.

There are several limitations of this study that need to be considered when discussing results and general conclusions. The research was based on case studies of selected ICT solutions, implemented for increasing citizens' engagement and improving policy-making processes. They allowed to illustrate several problems as well as to pre-identify the main factors of successful ICT use for citizens' empowerment. Obviously, the results of the study should not be treated as equal to the quantitative research results. The conclusions must be read with some level of caution and should be perceived rather as the beginning of the exploration of new subject areas and as defining the framework for further research than as a final answer to the questions. The discussed limitations of this study lead to the identification of the areas where further research is needed. One of them is quantitative, global and complex research of local ICT use for citizens' empowerment. The aforementioned UN E-Participation Index does not fully illustrate the phenomenon of citizens' e-engagement, due to the limitation to the national governance level. In order to conduct a broad comparative analysis, it needs to be complemented by the local governance level. The pilot research of 40 metropolises, included in the last report (United Nations DESA 2019:154), may be treated as a promising first step towards the broader analysis of the phenomenon.

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The Inclusive Methods in an Exclusive Club – about the Character of Some Conditions Hindering Co-Deciding in Local Communities

Abstract: The text constitutes a voice in the discussion pending in Poland on the issue of the possibility of deliberative 'opening' of public decision-making processes. In the metaphor used in the title the expression 'the inclusive methods' refers to public, participatory decision-making procedures, 'an exclusive club', on the other hand, denotes party-political and bureaucratic-administrative elites (nota bene in accordance with the content of the variant of political culture dominating, among others, in Poland) favouring the top-down model of making decisions. The exclusive club constitutes a kind of game-trap, which has the powers of poaching even their most devoted, social opponents – the leaders of everyday life – into their elitist circle of institutional leaders. This issue still breaks through with difficulty and remains rather in the background of the themes dominating in the Polish public debate. At the current level of Polish democratisation, the mechanisms, the task of which is the inclusion of the inhabitants into public decision-making processes, are perhaps not ideal, but they seem sufficient. The main problem seems to be residing in the fact that generalised knowledge about deliberative ways of making decisions in this country is still low – and at this stage it cannot be different due to lack of patterns favouring deliberation in Polish political and administrative culture. We may say that we deal with a certain paradox, which is based on the fact that participatory

procedures 'overtook' culture changes in Poland, from which (as in consolidated democracies) they should stem. The completion of this gap could assist in practising formal solutions by common application from procedural participatory possibilities. Their low application will favour, however, the consolidation of discouragement for participation.

Key words: participation, deliberation, public governance, local democracy

Introduction

In the metaphor used in the title the expression 'the inclusive methods' refers to public, participatory decision-making procedures, 'an exclusive club', on the other hand, denotes party-political and bureaucratic-administrative elites (*nota bene* in accordance with the content of the variant of political culture dominating, among others, in Poland) favouring the *top-down* model of making decisions. The exclusive club constitutes a kind of game-trap, which has the powers of poaching even their most devoted, social opponents – the leaders of everyday life – into their elitist circle of institutional leaders. The mechanism of poaching is simple and very efficient – 'the ratchet' constitutes a cultural pattern in it. The trap is based on the fact that bottom-up activists, frequently the most effective ones, get relatively quickly to the circle of decision-makers – they get there, among others, by means of the functioning of the procedures including them into the public decision-making processes as the so-called representatives of social part – and they do not leave this circle anymore, frequently even regardless of the changes on local party politics arenas and electoral results. Thus, some of the best bottom-up activists leave quickly. Especially these ones leave who had proved that in the name of collective goods they are able to be very effective to use currently existing procedural opportunities and perform the effective participatory activities. Some of these leaders choose individual benefits and select (relatively

bigger) individual profits, which may be gained thanks to their initial position in the local constellation of power, where they got as the representatives of the so-called social and citizens partners. Such a location, which can be further strengthened by individual preservation, enables the safe use of a political 'pension' not only on the local level, in the other words: social stakeholders transforming into political shareholders. This is the way how the erosion of local partnerships and local communities is progressing (Putnam 2008).

Other gifted representatives quit, not only calculating their profits – if the cultural pattern was different, such behaviour would be considered reprehensible – but this is not so due to the patterns dominating in Polish political culture, which favour more the exclusion and centralisation, but not inclusion and decentralisation. – And that how the main hypothesis of this text sounds like. Its thorough verification is not possible here, but the questions approximating to it will be indicated.

At present the effective inclusion of an increasing number of entities in the public decision-making processes constitutes one of the most important challenges for democratic countries. It is an essential condition of a modern and effective public management. These questions seem to be particularly important in the context of the management of local issues – at the local government level, where it would seem that the 'rulers' are the closest to the 'ruled', hence the chances for the creation of good, open, symmetrical and permanent relations between them are relatively high.

This theme – labelled as 'participatory' in literature – is important at least for three reasons. Firstly, the institutions of the inclusive democracy serve for diminishing a deficit of legitimation of decisions made in a political system. They are not ideal, but they constitute a concrete answer for the deficit of democracy. Secondly, extending the circle of active participants of the system allows to master the decisions made, which is affected not only by their higher effectiveness, but also common learning occurring in a local environment (Crozier and Friedberg 1982). Whereas, thirdly, it is indicated in the contemporary literature (Regulski and Kulesza

2009: 72–73; Stec 2011: 21), that the efforts aiming at the efficient inclusion of the participatory institutions in the local political systems serve decentralisation of the processes of exercising public authority, which is completely desirable in democracy.

Decentralisation, strictly related to the principle of subsidiarity, fundamentally secures and rationalises the effectiveness of the division of public tasks and responsibility resulting from performing them, among entities of the political system. Greater involvement of inhabitants in holding power at the local level increases the probability of accurate identification of social needs and more appropriate selection of means and tools serving their satisfaction. Co-deciding favours both legitimation and acceptance of the decisions made (Kijowski 2010: 9). However, even though democracy – as a structural standard – became a part of the landscape of European local communities, it seems that its institutions in Poland still require enhancement, particularly in the practical domain (Przybylska 2014: 135).

The participatory tools are basically available for inhabitants, but they themselves do not necessarily want to or are able to make use of them appropriately. The question then arises as to why, despite the greater availability of legal instruments of co-decision, the involvement of citizens is not growing? In this text, in search for (by definition a partial one) the answer to the question posed, the authors will refer to (1) model aspects of the functioning of direct and indirect democracy, they will point to (2) the possibilities of better communication of the public management processes and governance in local communities and they will consider as well (3) the similarities and differences between participation and deliberation. The summary comprises the conclusions related to Polish reality, in which the chances and profits resulting from the application of the inclusive decision-making processes are juxtaposed with threats and weaknesses rooted in native local environments.

The text constitutes a voice in the discussion pending in Poland on the issue of the possibility of deliberative 'opening' of public decision-making processes. This issue still breaks through with

difficulty and remains rather in the background of the themes dominating in the Polish public debate. Therefore, the conclusion does not contain the conceptualisations of a final nature, but the inducement is provided in it for the subsequent discussion on the chances of the evolution of inclusive decision-making processes. The theoretical-model considerations prevail in the narration and they are supported with the generalised conclusions from own and existing research. Whereby, simultaneously and alternately two analytical lines come into play: the first one positions itself in the mainstream of the political analysis of public policy, and the second one is oriented towards the issue of legal-structural analysis.

The Merging of Direct and Indirect Democracy

Despite frequently justified criticism, the general ideas of democracy receive recognition for centuries, and most of the existing countries in the world, in a less or more justified way, tries to aspire to the label of 'democratic' systems. Exercising power by the very citizens is a structural foundation of democracy, which seems to be both reasonable and fair. The primary, in its time, participatory model of ancient democracy, differs evidently from the contemporary one in experience gained during over two thousand years. The model contemporary for us – not only due to technical factors – has predominantly an indirect character, a representative one (Rachwał 2010: 19). At the same time, it has an explicitly market outline (competitive-contractual) and mostly a plebiscite one.

The political-market orientation of contemporary democracies emphasises the significance of competition, in which permanent attracting and maintenance (contracting) of electorate is the case of key significance, and the tools used for this purpose have frequently more in common with manipulation than with participation. In this situation, for the most of citizens the primary ideas of democracy seem almost completely 'covered' with strategic games on the competitive political market, constituting the core of a sphere of politics

in contemporary polyarchies, as well as tactical and centralised operations of the public administration authorities in a sphere of *policy*. More in-depth understanding recedes, and even more vivid practising of democracy – but at the same time it does not occur everywhere. We know numerous examples of more balanced application of the competitive tools and the development of various variants of participation in public decision-making processes (Rachwał 2014).

It does not change the fact that for the citizens of many countries, in which (more formally than practically) the frames of democratic institutions are in force, political competition is a showcase of contemporary democracy, the objective of which is to gain control over decision-making centres and exclusion of competition. The competitive elections serve for emerging elites of power, and victory in them very frequently gives a mandate for authoritative decision-making. There is little space for decisive participation in such 'logic', and thus we cannot be surprised by the fact that a citizen mainly notices the competitive aspects of the functioning of the system (Sweeting and Copus 2012). What is interesting, as the research indicates (*Opinions on democracy*, no. 75/2018), in 2018 three fourths of Poles agreed with the statement that democracy has an advantage over other forms of government (76%), however every eighth Poles was of the opposite opinion (12%). It means that currently a range of approval of democracy is the highest since 1992. Simultaneously, almost one third of respondents (29%) thinks that in some situations non-democratic governments are better than democratic ones (in this group young people and the ones having a bad financial situations dominate), this view is questioned, however, by over half of respondents (53%) – among whom the majority is constituted by the inhabitants and people aged 35–44.

Robert Dahl (1995: 8) accurately notices that democracy „at present does not have a strictly defined and constrained importance, it functions rather as an unspecified, popular idea.” It is compared to a three-dimensional fabric, which cannot be looked at, but it is woven from thousands of streaks of different elasticity (Dahl 1995:

8). Making use of this metaphor we may say that patchwork and network are characteristic features of contemporary democracy – both its structure and texture create patterns so diverse that it is not always easy to qualify them into one set, a set, whose general quantifier is the so-called idea of democracy. The additional difficulty of this ‘democratic quantification’ is the fact that not all specific, polyarchic embodiments of democracy, not all its structures and textures, are what they look like or what they are styled for. In many of them democratic privileges are a more formal institution, an assertion about the existence of certain procedural solutions (e.g. co-deciding) than a real opportunity. In such a case the realisation of ‘the right to participation’ in practice may be very difficult or even may turn out to be impossible.

The division of these two forms of democracy: direct from indirect is dated back to the turn of 18th and 19th centuries. It was acknowledged that the compilation of a democratic principle of the government by the people with a non-democratic concept of representatives may constitute an interesting and functional combination, the effect of which will be a new dimension and form of a system. Indirect democracy, admittedly, allows an incidental activity of citizens, however the ‘burden’ of exercising power is transferred to the representatives elected for this purpose. The contemporary legal-political systems, based on a representational formula, secure certain instruments appropriate for direct democracy, including the most significant one – the right of a sovereign to handle the solutions without the participation of indirect links (representatives), most of all with the application of the institution of referendum.

The interesting considerations on the relations between the representatives and the represented are suggested by Giovanni Sartori (1994), indicating that the moment was reached, in which a representative group represents ‘someone’ before itself. His conclusion gets at the heart of the problem that contemporary indirect democracies “depend on: (1) the principle of constrained majority, (2) election procedures and (3) representational handing over the

power. It means that among the people as a whole, some of them matter more, some others less, that even the people constituting a winning majority in the vote do not wield power in reality, and much of this which is called 'the will' of the people sounds more like 'a consensus' with the participation of the people." That is why "we should emphasise that "the power of the people" is an ordinary understatement. This expression describes the beginning of the process but leaves it in suspension" (Sartori 1994: 48). Unlike an indirect variant of democracy, „direct democracy is not satisfied with (...) a passive citizen but it expects an involvement in public affairs" (Rachwał 2010: 51).

Whereby, „relatively small groups may be only defined as literally, authentically self-governing democracies – not exceeding the size of an assembly. Over this amount it is the most important (...) to distinguish between an observable direct democracy, and an indirect democracy, whose dimension makes it impossible to be observed" (Sartori 1994: 146). Due to this fundamental reason a phenomenon of direct democracy in practice takes the form of many observable and implicit forms, as well as diverse habitual, procedural and practical variants of a decisive participation. We cannot, then, say about a complete division of both formulas, that is democracy – indirect and direct, they are mutually connected and do not occur as 'clear' models, on the contrary, when one dominates, the other one constitutes 'some' supplement of the former and (in a positive variant) mitigates negative consequences of a formula approved of a leading one.

Management and Governance in Local Communities

Polyarchies evolve. The characteristic features of their evolution in the last half-century comprise, among others, the popularisation of a twofold kind of standards in administration and public policy: (1) management and organisational standards, previously associated almost exclusively with the commercial activity or business

corporations, and in contemporary times commonly analysed and applied within the theory and (2) the practices of the so-called *New Public Management* (McLaughlin, Osborne and Ferlie 2003). The career of this market-oriented, commercialised, and frequently privatized version of the performance of public tasks as well is one of the signs of the present. Partly it results from a neoclassical intellectual and practical 'fashion' prevailing in the circles of the so-called the New Right, in times of the so-called Reaganomics (Anderson 1988) and Thatcherism (Stoker 2003) initiated, among others, by writings by Robert Nozick (1999), Milton Friedman (1962) or Friedrich August von Hayek (1960). The thought of the last one became one of the ideological foundations of the leadership of the British Prime Minister Margaret Thatcher, who in the House of Common was supposed to throw his work in the table from 1960 titled *The Constitution of Liberty*, saying, „this is what we believe in“ (Ranelagh 1991). The popularity of the concept discussed resulted also from the necessity to conform by the state with more and more demanding and complicated challenges of economic and social nature. As a result of this, in its home, Great Britain, when after 1979 the economic doctrine of John Maynard Keynes was withdrawn – the model based on the ideas of a free market was accepted without reservations, considerably emphasising the competitiveness of public services (Rajca 2009: 75).

At present, however, we mean the effectiveness in a broader meaning, comprising a wider field of a potential formal (codified) citizenship and a narrower field of real citizenship (Theiss 2018) – in its three dimensions: civil, political and in more and more explicit, a social dimension. It is also a calculation effectiveness, oriented in a maximin way¹ (Wald 1950) and realised by the state calculating

- 1 The decision-making model, suggested by a mathematician and a statistician, Abraham Wald, in accordance with which we must select a decision, for which the highest among the worst payments for each available decision (a line in a matrix) corresponds. This model, called 'Wald's maximin maximum criterion' expresses a very conservative strategy in a situation of risk, guaranteeing the minimalization of a maximal loss. It is indicated, however, that it is the 'pessimists' criterion“.

and contracting the realisation of diverse tasks and public services on a potentially open market. The effect of the consolidation of a contractual formula is the creation of commercialised cooperation networks among public, private and social entities. The economic effectiveness is its main feature (or rather it may be), while the flattening of relations by means of their excessive commercialisation and bringing them to almost one, market dimension is its main drawback. Such a situation, apart from an array of other threats, increases the probability of the occurrence of oligarchies combining economic and political interests, which was already suggestively reported by Herbert Marcuse in 1960s (Macuse 1991).

The aforementioned impoverishment of relations constitutes then the key problem of a new public management in its contractual variant (Lane 2000). Therefore, the supplement was suggested and is still being proposed, diverting from a neoclassical, commercial-contractual perspective of NPM, which is fading away these days, with network mechanism correcting the market ways of replacing the traditional administrative-material commitments of public authority towards citizens (Kowalik 2003: 12–13). The inclusive decision-making processes, among others, belong to such mechanisms, which constitute the essence of a deliberative variant of public decision-making, characteristic for governance with the corresponding type of public management.

In national reality the premises advocating the implementation of participation-based innovations occur, and a part of these innovations is even formally justified at the local level as well. Public life is gradually becoming more explicit, the same refers to the ways of spending public funds. Not only do the media, becoming more and more professional, contribute to this, but also the very citizens, more frequently knowing their rights and as a result, expecting from the ruling party, specific solutions of their problems. At present the citizens have more instruments, than ever before, serving for the influence on the entities of public authority. The research by CBOS (Centre for Public Opinion Research) from 2018 indicates that a subjective level of awareness of Poles of the influence on

local issues is increasing. The belief, that an average citizen may co-decide about what occurs in their vicinity is expressed already by 59% of respondents, which, compared to the beginning of 1990s, means almost the fourfold increase (*The sense of the influence of citizens on public affairs*, no. 33/2018). Almost two thirds of Poles (64%) claims as well that their voice as members of a local community is taken into consideration by the city/commune authorities while making decisions (*The cooperation of the local government with citizens*, no. 46/2018).

As Barbara Kożuch (2003: 6) notices, among others, despite a continuously increasing role of the local government within satisfying public needs, the knowledge and skills of clerks and the members of authority is disproportionately low towards the scope and significance of tasks regularly entrusted for them. When we juxtapose this fact with the already aforementioned, perhaps not apathy yet, but certainly a low bottom-up civil activity, then the statement of 'the insular' nature of the version of decisive participation developing in Poland, will be justified. It still constitutes a more isolated exception than a common rule. It is even more thought-provoking that simultaneously in the light of research by CBOS, majority of Poles (76%) declares, however, that they are interested in local affairs. The obvious lack of interest is expressed only by the fifth adult (22%) (*The commitment of Poles in favour of local community*, no. 74/2018). Despite these declarations, most of respondents (56%) have never taken part in any meeting with the representatives of local governments, and almost half of them (44%) during the last two years were not involved in any activity in favour of their own local community in any of the aforementioned ways, indicated in the research, that is in: social consultations, a contact with a councillor or a mayor, the Internet fora, voluntary service, non-paid activity in non-governmental organisations, petitions, protests, mass meetings or activity in favour of religious organisations (*The commitment of Poles in favour of local community*", no. 74/2018). With reference to this, two questions arise. Firstly, to what extent does the belief of inhabitants about their influence

on the decisions of local authorities result from their personal commitment, and to what extent is it the element of conversational opinion? Secondly, though, how do the people 'interested' in local affairs, express this interest? It is certain that we can observe a lot of inconsistencies in the opinions declared by respondents. Despite the fact that they mostly express the interest in local affairs and feel their impact on the decisions made in their vicinity, they also think that the authorities have a clear picture of their problems (63%) and respond to their needs (60%), and simultaneously every second respondent (50%) is not satisfied with the level of their impact on public affairs and they are inclined to state that it should be bigger (*The commitment of Poles in favour of local community*", no. 74/2018).

The efficiently prepared and reasonably and effectively functioning, a national model of network governance should have a character of a balanced network conglomerate, comprising the following elements: (1) administrative management (administering), (2) contractual-calculation management (market, oriented towards methods and market values) and (3) co-deciding, during which interests, knowledge and emotions of the parties oriented towards agreement, not confrontation, are revealed. The changes should aim towards „the creation of efficient, competent and reliable administration (...), which would realise a social mission and demonstrate innovativeness and entrepreneurship facilitating the improvement of the effectiveness of the services provided and better satisfaction of social needs” (Fedan 2011: 215). In this process, the idea of participation, profoundly popularised at present by all sectors, may influence not only the increase of the commitment of individual citizens (among others, by their participation in 'democratic minimum' – or in elections) and better and better understanding of political decisions, but also – in the long term – more effective realisation of public tasks. The perspective of a citizen – a stakeholder, corresponds to slogans of participation. A citizen – a stakeholder is interested in the implementation of common good, who together with administration takes joint responsibility for the realisation of public tasks”

(Kusiak-Winter 2016: 297). Critically estimating the pace of changes in this area, we need to state as well that many of the attempts made at activating citizens to participate in the management of public affairs were successful in Poland (Skoczńska-Prokopowicz 2016: 450). It occurred so because the significance of bottom-up activity in favour of changes increases in the eyes of 'an average citizen', after all, particularly these ones occurring in their vicinity (Kowalik 2004: 7).

It is a tendency observed not only in Poland, as, its source is constituted by mega trends – globalisation (globalism) and 'localisation' (localism), which seemingly may be contrary, but in reality they constitute very strictly related processes (hence the career of a certain conceptual cluster, preaching the so-called 'glocality'). Globalisation driven by macroeconomic civilizational factors is to make the world – as Roland Robertson (1990: 395) claims – *single place*. This unity is to be displayed in the most fundamental spheres and diverse ones so far, referring to the functioning of local communities, countries, economies, as well as (perhaps most of all) to culture with the mechanisms of assimilation, typical for it, of encouragement and control. Together with the increase of pressure of globalisation processes, simultaneously the tendencies to the stronger demonstration of the individuality of local environments occur and become enhanced. Even nationalist tendencies regenerate, because as many authors notice, together with spreading of globalisation phenomena, the existing conflicts intensify, as well as new ones are revealed, being the aftermath of defensive strategies (Giddens 2003: 18). Marking individuality, for example, in a nationalist styling, tends to be a form, in which resistance towards centralisation, concentration and standardisation is expressed – a clear opposition of dystopian vision of mass, unified global society, which appears as a real threat and this is not only for the proponents of conspiracy theories, for whom nationalism frequently constitutes a shelter (Grzesiak-Feldman 2016). Lack of a sense of social acceptance and satisfaction from the ways of solving public problems at the central level, e.g. the European

Union or the national level, may, needless to say, result not only in the nationalist, chauvinist tendencies or separatism, but also in the increased, inclusive activity at the local level, which is able to breach divisions and reduce animosities in a deliberative way (Rudolf 2010: 79).

Also due to this reason, putting a formula of *governance* into practice seems a good solution. *Governance* refers to such rules of good governing as: openness, participation, responsibility, effectiveness and coherence, which constitute the key ideas in the process of modelling public policy in accordance with the approach of *evidence-based policy*. This model supports the processes of making public decisions „based on good information (...) by transferring the best evidence available from the research into the centre of creating and implementing policy“ (Davies 1999: 108–121). The observable unwillingness of political decision-makers to make decision based on evidence results from many factors, out of which the most important seem to be the following ones: (1) short time to make decisions, (2) superficiality of solutions, resulting from the necessity to solve a long array of problems and to satisfy a wide scale of interests, (3) strength of inertia, deriving from the administrative activity and forcing a bureaucratic sticking to a given decision sometimes for a long time, (4) confidentiality of a given solution and finally, (5) scientific ignorance – lack of belief about benefits deriving from the application of scientific hypotheses in the practice of a daily life (Young and Mendizabal 2009: 2). John Maynard Keynes emphasised the importance of ‘information’, suggesting that “the government hates nothing more than being well-informed. It makes the decision-making process much more complicated and difficult (Davies 2004: 2).

The idea of *governance*, emphasising reciprocity and reflexivity of relations between the authority and a citizen became a component of the mainstream of *evidence-based* public practices. A citizen is treated in it basically in a unitary way, but we also observe their socio-cultural associations and a group and a situational context of their commitment. What is also considered is the fact

that a citizen – a stakeholder is a representative of institutional interests associated with the existence and activities of diverse interest groups. Group interests – if it does not collide with public interest – may, and even should, be included in forming decisions related to the entire community. – Such interpreted network governance has the power of involving diverse entities of civil society and public life – at all organisational levels of public policy – from the entities, through interest groups and local communities, to social and economic organisations. This commitment results from a deliberate activity of entities, their individuality and independence (also normative independence) in conducted activities, as well as from (increasing) skills of legitimised impact on the state of public affairs.

The Institutions of Governance Model in Polish Legal Framework

In view of the fundamental and structural, of its nature, principle of legalism (art. 7 of the Constitution of the Republic of Poland of 2nd April 1997 The Journal of Laws 1997 no. 78 item 483: „Public authorities functioning on the basis and within the law“), public administration bodies must be equipped by a legislator with the competences to include the participation of a society in a decision-making process. Social participation as the right of an entity to co-govern at the local level would otherwise remain an empty slogan. It is not such a slogan only when it becomes supplemented with a legal state of institutions and procedures allowing to exercise such rights (Kotulski 2002). The catalogue of instruments available in the Polish legal framework, the aim of which is to enable the citizen a direct participation in exercising power at the local level is already quite vast and diverse (at the stage of democratisation).²

- 2 The catalogue does not have a closed and codified character, legal bases of particular procedures, institutions and participatory instruments are regulated in many legal acts, including the constitution and acts of statutory rank, among others:

Apparently, it is not an ideal legal status for the development of the formula of *governance*, but taking into consideration formal and informal conditions of Polish political system, we may regard it as relevant for the current degree of a democratic consolidation of the system.

Apart from basic entitlements and institutions, including: active and passive voting rights, referendum, the right for petition or the right to access public information, in the last years the following ones appeared: social consultations, local initiative, participatory budget and resolution initiative of inhabitants (already available at the central level for over a decade – together with the occurrence of a new constitution (The Journal of Laws 1997 no. 78 item 483) and the detailed statutory regulation (The Journal of Laws of 2018, item 2120)). We must not forget about other, seemingly considered less important, possibilities of active governance, and namely about the right to participate in different kinds of collegial assemblies of a consulting-advisory nature, among others about local councils: of seniors, public benefit, youth, for disabled people or sport. Many people among those participating in their works (socially in general) in specific places on a Polish map, may be considered "free, aware, active and involved in public affairs of citizens", as – referring to the term of "civil society" – this group was characterised by the

European Charter of Local Self-Government, made in Strasbourg on 15th October 1985, The Journal of Laws of 1994 No. 124, item 607 as amended; the Constitution of the Republic of Poland of 2nd April 1997 The Journal of Laws 1997 no. 78 item 483; Commune Self-Government Act of 8th March 1990, that is of 22nd February 2019, The Journal of Laws of 2019, The Journal of Laws of 2019 item 506; Act on County Self-Government of 5th June 1998, that is of 22nd February 2019, The Journal of Laws of 2019 of 2019 item 511; Act on Voivodeship Government of 5th June 1998, that is of 22nd February 2019, The Journal of Laws of 2019, item 512; Act of 24th April 2003 on public benefit and volunteer work, that is of 7th February 2018, The Journal of Laws of 2018 item 450; Act on Local Referendum of 15th September 2000, that is of 4th April 2019, The Journal of Laws of 2019, item 741, Election Code of 5th January 2011, that is of 22nd February 2019, The Journal of Laws of 2019 item 684, as well as in the regulations of local law of particular local government units, including in their statutes.

Constitutional Tribunal in one of its decisions of 2003 (decision of 27th May 2003, File reference no. K 11/03).

We may not refrain here from not mentioning the basic component of a civil society, and namely about non-government organisations and their role in the process of exercising public authority. While defining a civil society we mainly focus our attention on its subjective aspect, and thus on „totality of non-state institutions, organisations and civil associations acting in a public sphere. These are the structures relatively autonomous towards the state, coming into being at grassroots and characterised by a generally deliberate participation of their members“ (Wnuk-Lipiński 2005: 119). It is emphasised that „the essence of a civil society is the ability to independent organisations to realise some needs. (...) The characteristic feature (...) is constituted by the specificity of relations occurring between a private kind of activities and their public objectives; interests are private and the objectives are public (Barański 2009: 25). Act of 24th April 2003 on public benefit and volunteer work (The Journal of Laws of 2019, item 668) imposes an array of duties on the local government units of all levels related to the issue of their cooperation with the organisations of the so-called “third sector”. In art. 5 the Act even orders public administrative bodies to cooperate with them within the scope corresponding to the tasks of these bodies. This cooperation is to be based on: subsidiarity, sovereignty of parties, partnership, effectiveness, honest competition and transparency, and its legal basis is constituted by annual adoption by a regulatory-controlling authority of the so-called cooperation programme with non-government organisations (art. 5a). What is more, in accordance with the principle of subsidiarity, public administration bodies are obliged to acknowledge the right of citizens and the organisations formed by them to independent definition and solution of problems, including the ones belonging to a sphere of public tasks.

The participation in the formula of *governance* may adopt a very diverse form, including, among others, co-competences, cooperation, coordination, initiation of proceedings and procedures or

taking part in them, submitting stances and opinions, controlling, monitoring, hearing, public debate, discussion forum, initiative of inhabitants, or even concluding mixed public-private agreements or a direct realisation of tasks by non-public entities. In case of each of these formulas, a mutual supplementation of both parties – social and public will be a value, mainly if we mean the resources possessed, including the most important one – information. What we mean here as well is, among others, specialised knowledge contrasted with the familiarity of life reality and expectations of stakeholders (Niżnik-Dobosz 2014: 36–37).

Writing this text, we are living in 2019 and although it could seem that there are many possibilities of co-deciding at the local level, then while looking through the prism of empirical quantitative data, it turns out that in most cases the electoral turnout in local referenda (Piasecki 2005; Olejniczak-Szałowska 2008; Rulka 2014; Piasecki 2006; Olejniczak-Szałowska 2002; Doliwa 2014) and in non-representative and frequently superficial social consultations (Marchaj 2016) tends to be alarmingly low. In case of referenda, it frequently becomes the reason for invalidity – for example, in the years 1992–2010 only less than 12% of the local „appellant” local referenda was valid, however, in the remaining cases the required election turnout was not achieved, similarly in the term 2010–2014 slightly over 12% of referenda turned out to be valid. In the places where the revoking of commune authorities was successful, the election turnout amounted from 20 to less than 50% (Rachwał 2014: 89–91) as, in accordance with mandatory regulations this validity depends on obtaining a suitable election threshold.³ We need to notice that the thresholds approved of by a legislator (that is 30% and 3/5), are justifiable owing to many of the representatives of the doctrine.

- 3 Art. 55 of the Act on Local Referendum of 15 September 2000, that is of 4th April 2019 (The Journal of Laws of 2019 r. item 741) indicates that „The referendum is valid if at least 30% of the citizens eligible to vote took part in it”, whereby „The referendum in case of revoking local government unit deriving from direct elections is valid in case when 3/5 of a number of citizens participating in the election of the revoked unit took part in it.”

For example, Jerzy Regulski (2016: 31), one of the creators of a local government reform, was writing about a potential lowering of the election turnout threshold that „it would cause a serious threat for the stability of authority and politics“, nevertheless, however, he advocated the solution to take into consideration only the votes cast, and to omit „non-cast“ ones: „there are no reasons so that these votes could be attributed to one of the parties. The ones should solve it, who care about such or other solution“ (Regulski 2005: 117). Andrzej Piasecki (2005: 69) also criticises the current solutions, emphasising the drawbacks of “rigid thresholds”. What is interesting, these types of mechanisms are not used, e.g. in the Switzerland (Bednarz 2013) – a cradle for this formula of direct democracy and many other countries of the world (Ford and Kemokai 2014). Also, the local initiative and resolution initiative of inhabitants are conducted very rarely – the cases of applying these procedures at the central level are extremely isolated. Both constitute a challenge in a procedural context, which without familiarity of principles, which public administration governs and without a specialised support on the part of lawyers, at least, could be beyond the capabilities of the potentially interested inhabitants. A participatory budget has received a great deal of interest, which since 2018 (art. 5a of Commune Self-Government Act of 8th March 1990, that is of 22 February 2019 r. The Journal of Laws of 2019, item 506) is obligatory in the cities with county rights. It is a procedure initiated by the ruling party and simultaneously they moderate it, inviting citizens to participate and preparing specific and simple ‘paths’ for them, which correspond to different variants of their involvement.

Concluding, we must state that more numerous involvements of inhabitants in exercising public authority contributes, among others, to a bigger effectiveness in satisfying the specific needs of a local community. What is more, direct ‘transfer’ should potentially encourage the inhabitants to participation. Despite greater awareness of the very stakeholders, as well as a growing number of available political-legal instruments it does not occur so, and we should investigate the reasons for this state of affairs.

Inclusive Decision-Making Paths: Participation and Deliberation

Błażej Prośniewski (2016: 272–273) writing about participation indicated ‘the paradox’ of this notion, arguing that the essence of the very democracy is thorough inclusion and participation of citizens. In this context their – somehow additional – participating may be regarded as a kind of deviation from the norm, the author even uses a rather strong expression “aberration”. It seems, however, that he does not take into consideration the distinction into a direct and indirect model of exercising democratic authority. Nevertheless, the paradox perhaps exists, and it is the fact that the authority, regardless of the level is seen by the citizens as an opponent, “who aims at realising their particular interests, not being identical with the citizens’ interest.” That is why – according to Prośniewski – we need to perceive it not as a struggle for the right to participate, but rather as the inherent element of enforcing the law.

The very participation has been discussed for ages and we may discuss it long. Assuming the definition being the most approximate to the realities of locality, interesting for us, participation will be comprehended as „the inhabitants’ participation in formal and informal processes of self-organisation, aiming at improving life conditions in a local community” (Lewenstein 2010: 9) or also “the active form of participation in public life on the basis of co-deciding and co-creating, based on cooperation and awareness of common good” (Mrozek 2015: 53). On the legal-structural basis we may talk about participation always when regulations of law enable the citizens to participate in the process of articulating needs and making solutions, which concern them (Gajewski 2018: 4–6). As it was mentioned earlier, we may construct many definitions of participation. However, due to diverse natures, their various ‘accents’, active participation in the decision-making process of all people interested in a given solution will indisputably be a central category in each of them. This activity may adopt a less or more intensive form, and its effect should be a kind of impact on political processes.

The processual character of participation is depicted by the so-called 'a ladder of social participation', known and willingly quoted in 1969, by Sherry Phyllis Arnstein (1969: 216–224). Her structure, comprising 8 steps, reflects different degrees of social commitment, starting with manipulation, through the so-called 'group therapy', informing, consulting, 'taming', partnership and delegating power, and concluding with civil control. The entirety of concepts, is formed, it seems, „from the position of conflict – authority – citizens and focuses on a peculiar tug of war, whose aim is to extent the real impact“ (Prośniewski 2016: 274) of a given community on the state of public affairs. The first two steps (that is, manipulation and 'group therapy') depict a negative state – real lack of participation, which is accompanied by the attempt aiming at its simulation. In similar reality what is meant is misleading the citizens as for the fact that they have the impact on the decisions, where in fact they do not have any. The subsequent three steps on a ladder (informing, consulting, 'taming') is a superficial participation, in which the citizens receive information and the possibility of feedback, but they do not have the instruments to efficiently influence the decision-making process. It is, then, at least a kind of tentative consultation, which in case of eventually making different solutions usually leads to efficient discouragement and participatory demotivations. Only three last steps (partnership, delegating power, civil control) denote an actual impact of a society on the authority.

What is worth emphasising is that the authoress of a ladder of social participation juxtaposes the terms 'participatory democracy' and 'representative democracy' in a dichotomic way. In her opinion, in case of the first, the authority has a character of continuous participation, and in the second case the authority of the citizens is limited and exercised once (which is associated with term limits of its organs). Arnstein (1969: 216) highly appreciates participation, attributing it the key role in a political system. She also seeks hope in its development for the improvement of quality of democracy in the future. She thinks that „civil partnership is a synonym of

civil power. It is the redistribution of power, which will allow to include the people currently excluded from political and economic processes. It is a strategy, thanks to which the excluded will be able to decide". The considerations of Dagmir Długosz and Jan Jakub Wygnański (2005: 24–25) however, are closer to Polish political reality. They point to three levels of social engagement (or its lack). These are: informing, consulting and co-deciding.

Deliberation is an interesting, prospective, but simultaneously demanding form of the participation of citizens in the decision-making process. To put it briefly, it has a processual, collective, application and argumentative character. It constitutes a process of a team, deepened consideration and in practice it is based on focusing by specific people on a given problem task, which by moderated considerations and discussion leads to make a common decision. "Deliberative democracy is based on joint reasoning of people equal to one another, not coming down to advancing propositions, which we ourselves regard as reasonable, but these, which may be expected by other people to regard them as reasonable as well" (Cohen 2009: 249). These instruments allow to overcome the constraints characteristic for individual views or private ones as well and they influence the improvement of the quality of the entire process of public decision-making (Kubiak and Krzewińska 2012: 10). 'Reasoning' of this kind may replace other, more plebiscite forms of group decision-making (referendum, among others). Instead of chasing for votes and media 'display' of party leaders, cooperation and a collective way of finding the best solutions are vitally important. Deliberation should be 'rational' then and be supported by arguments, but it cannot disregard emotions either. Its results must be socially acceptable, although not all of them will turn out to be binding for decision makers. According to Joseph M. Bessette (1994: 46), deliberation is demanding because it assumes the openness of participants to new facts, arguments and propositions and an honest willingness to learn. The starting point for it is a potential ability of participants to possibly the most impartial and versatile analysis of received information. According

to Jürgen Habermas (2005: 340) „the heart of deliberative policy is a network of discourses and negotiations, which is to enable rational solution of pragmatic, moral and ethical issues (...), which cannot be solved in other place.“

In the considerations over the theme of deliberation, a lot of attention is paid to a category of public rationality. John Rawls (1997: 765–767) notices that deliberation aims to abandon – by their nature, frequently vague, ambiguous and biased – references to truth and good, as general crucial categories, to ‘sink’ in a public debate focusing on specific arguments. Rational pluralism is a constitutive feature of a dialogue, and with relations to it a key issue for public rationality will be not to criticise any of the parties in advance, simultaneously bearing in mind the regulations of a democratic legal state. However, due to lack of explicitness of the category of ‘public rationality’, many authors criticise it. For example, Michael Walzer (1999: 59) points out that politics is not the only reason. There are also emotions related to it, such as: loyalty, solidarity, courage or competition. We need to remember that because interests, power and emotions create de facto an inseparable triad, which multiplies in different variants – depending on a kind of specific community. Engaging in political activity, admittedly, it is impossible to protect from environmentally conditioned partiality, but it is difficult not to have one’s own opinion, own priorities or beliefs. These are the essential elements, at least in electoral competition, directly influencing the candidate’s chances to win a mandate. That is why in the definition of deliberative democracy, proposed by James Bohman (1998: 401) the author emphasises the fact that in ideal conditions of such a systemic variant, we should consider each time “each out of the entire group of beliefs, for which a public debate of free and equal citizens constitutes a core of valid political decision-making process and self-governance.“

We may encounter three explicit separate stances, while searching for the components of the answer to the question of the relations of participation and deliberation. The first one postulates equating two terms, and accepting its results in their interchangeable

application in discourse. The second one indicates that these models are different, but simultaneously are strictly related to each other and consequently their mutual separation is not possible. The third direction imposes their regard as two separate categories, defining different kinds of inclusion of citizens into the process of exercising power. It seems that the first stance is the most popular in the literature (Grygień 2017: 45). However, it is difficult to agree with it. What remains is to assume the disparity of both categories, accepting, however, the important similarities between them, particularly in the context of the very idea of co-deciding and opening a representative democracy to the participation of people outside the circles of power. That is why the support of the second stance seems more reasonable, as it includes the possibility of permeating and mutual reconfiguration of the contents of both model categories and practices resulting from them.

On the other hand, among the differences between participation and deliberation, we should point out, among others, the dissimilarity of objectives. In case of participation it will be the broadest inclusiveness of decision-making processes, the inclusion of people into them regardless of their education, profession, social status or age, the peculiar opening up of the authority to 'mass' and not necessarily coordinated external voices. We need to assume, though, that the more people will take part in the participatory processes, the success may be bigger, but it may also be associated with a higher number of proposals. In such a situation it is difficult to avoid the polarisation of attitudes. In case of deliberation, however, these are the governors who propose a method of selecting debaters. The selected inhabitants sometimes become engaged very profoundly, although sometimes just 'for a moment'. Devoting time to get acquainted with the materials, and subsequently to the participation in deliberation they contribute significantly to a decision-making process, working out jointly, potentially impartial and substantively oriented proposals for the ruling party. At the end of both processes there is usually a group of representatives, who make a final decision, counting on them and respecting (in an

ideal variant) the stances of inhabitants, and simultaneously taking political responsibility for the solutions made.

Conclusion

Marcus Miessen (2013) – a German writer and architect, presented a different concept of participation, other from the ones mentioned in the text and not so popular, naming the very participation „a nightmare“. The author, in a truly manifesting formula, criticised deliberative democracy and consensual participation, emphasising the need to restore a „political“ character to politics, including a central category, which is pluralism of views and beliefs. Miessen thinks that participation in face of the current state of democracy serves only for the eradication of the political responsibility by people, who are eager for political legitimisation. The author does not criticise the very participation of citizens in exercising power, but, similarly to a female philosopher Chantal Mouffe (2005), undermines the state of „stabilisation“ of democratic authority, emphasising that we cannot treat it as a system given once and for all, but rather as a process still undergoing transformations and not sufficiently resistant to the changes occurring in the social-political space. It is indicated that in the western democracies, a bigger participation of citizens in the decision-making processes is to constitute a potential remedy for acute and seemingly persistent, 'bad mood' or even a peculiar crisis of democratic representation (Torcal and Montero 2006).

However, inclusive decision-making procedures also have their fierce opponents. Their doubts are expressed, among others, by an American judge R. Posner (2003: 107), writing that they are "equally aspirational and non-realistic as the rules of Plato's wardens. When half of the population has IQ below 100 (...), the problems the government struggles with, are very complex, the ordinary citizens demonstrate their low interest in the complex political issues, equalling the possibilities of their comprehension, whereby

the clerks elected by the citizens must face the lobbies and the pressure of electoral competition, the expectation that in this intellectual disorder, which is democratic politics, accurate ideas and reasonable policies emerge, is completely unrealistic." The similar concerns were already expressed by Walter Lippmann in the 1920s of 20th century, claiming that: the main instrument of the protection of a democratic state against the incompetence of its citizens is a limitation of a direct impact of an average voter on political processes" (Grygieńć 2017: 92). Joseph Schumpeter and Bernard Berelson also referred to Lippmann's views, sincerely doubting the competences of a democratic electorate. Berelson praised, among others, a political apathy of citizens, describing its salvific impact on the functioning of a political system and Schumpeter (1995) excluded the possibility of attributing competences exceeding over a selection of elites to the 'mass'. It is thought as well that participation of 'ordinary' citizens is 'spontaneous, incompetent and thoughtless" (Grygieńć 2017: 92) and seeking their favourability inevitably leads to socialism, regarded by Schumpeter as the embodiment of nationalisation and centralism. Due to this main reason this author was a proponent of the so-called procedural formula of democracy adjusting a fundamental political role of citizens to an act of voting. Also, in the doctrine of science of law it is indicated sometimes that the notion of participation repeatedly takes „a form of a catch-all, efficient due to its fashionable, but often unreflexive character, for arbitrary „ smuggling" particular, group, resort, autonomous interests as the only reasonable ones in final solutions of public authority" (Niznik-Dobosz 2014: 23). We may acknowledge that in a procedural variant of democracy the voters are (and they are supposed to be) mute, and their task is limited to the act of voting. When the citizens take the floor too frequently – and in cases about which they do not know much – then the management of public affairs gets stuck in powerlessness and is oriented towards generating social justifications of the functioning of more and more centralised and nationalised public authority. A similar mentality in Poland may be noticed not only in the political 'club' of

decision makers, but also among the citizens. The fear against the extension of the entitlements to co-decide in public affairs is pointed out, and its proponents dictate to incredibly carefully approach, among others, the issues, such as: (1) the protection of interests of non-participating people (Blicharz 2011: 107–122), (2) methods, forms and means of selecting participatory partners, (3) protective mechanisms against participation blocking decision-making processes, (4) subordination and connection between administration and the participating people (Lipowicz 2001: 177) as well as changes in the ways of the functioning of administrative organs caused by higher intensification of participatory processes (Niżnik-Dobosz 2014: 23). Administrative law attorneys emphasise in this context that „we should distinguish the participation in public authority realised by civil rights indicating and creating democracy from the participation of society in decision-making by the public authority legitimised democratically” (Niżnik-Dobosz 2014: 26). The belief that „participatory democracy is a representative democracy developed by a pluralistic, collective method of finding solutions seems to be a reasonable belief” (Niżnik-Dobosz 2014: 26).

The research convinces us that the enclaves of activity are and they keep developing, but also a numerous group of passive and non-devoted citizens functions next to them (Czapiński and Panek 2015). What remains is to assume that different forms of governance could fulfil an educational role towards passive ones so far and constitute the motivating examples, although on the basis of popular ‘good practices’. Participation in Poland is a novelty gaining its significance. Deliberation, however, is alternatively a song of the future, its examples are relatively rare in Poland and private as a rule. At the current level of Polish democratisation, the mechanisms, the task of which is the inclusion of the inhabitants into public decision-making processes, are perhaps not ideal, but they seem sufficient. The main problem seems to be residing in the fact that generalised knowledge about deliberative ways of making decisions in this country is still low – and at this stage it cannot be different due to lack of patterns favouring deliberation in Polish

political and administrative culture. We may say that we deal with a certain paradox, which is based on the fact that participatory procedures 'overtook' culture changes in Poland, from which (as in consolidated democracies) they should stem. The completion of this gap could assist in practising formal solutions by common application from procedural participatory possibilities. Their low application will favour, however, the consolidation of discouragement for participation.

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Participatory Management in Local Government in Poland and France – in Search of a Normative Model¹

Abstract: In the Polish and French legal system, forms of social participation in local government units are established by the legislator or by the local government body in order to increase and strengthen participation of residents in the management of the self-government community. These mechanisms are more or less formalised, obligatory or optional, adapted to the local needs and expectations of the residents of the given self-government community. Bearing in mind that participatory governance constitutes the basis for self-government and civic involvement in local community affairs, development of appropriate forms of participatory governance should be considered a priority. Hence, the search for an appropriate normative model in the area of participatory management constitutes a significant research issue.

Key words: participatory governance, consultative administration, participatory instruments, participatory democracy

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Introduction

Management of self-government community in the contemporary local government structure in Poland and France increasingly takes on the form of participatory management, which is necessary in the process of administration of public matters in the face of current challenges faced by local government. Formalized participation of residents in the self-government community is aimed not only at legitimizing the activities of public authorities, but above all at increasing social dialogue in order for local government bodies to make balanced decisions. Control over social processes aims to ensure that the authorities are able to undertake actions that are widely consulted with the residents of self-government communities or that result from their initiatives. Therefore, public participation in the exercise of public authority should be guaranteed by a democratic state governed by the rule of law, based on the principles of decentralisation and subsidiarity.

This article presents mandatory and optional instruments of participatory management in Polish and French self-government communities with the aim to put forward *de lege ferenda* postulates in the scope of the normative model of participatory management.

Participatory Management In Polish And French Local Government – Normative Context

Participatory democracy is a way of exercising power through various legal instruments by a primary or secondary public authority (Szewc, Jyż and Pławewcki 2010:151). The objective of democracy is for binding decisions to be made by the residents of self-government communities, taking into account all their interests and the public interest. In the Polish and French legal system, self-government participates in the exercise of public authority through participatory management, creating appropriate mechanisms of residents' participation in the public sphere on a local and supra-local level,

corresponding to the expectations of the residents of the given self-government community.

Participatory management is an expression of the principle of decentralisation of public authority and subsidiarity. The Constitutional Tribunal in its judgment of 18 February 2003 indicated that "the concept of decentralisation means a process of continuous expansion of the powers of lower-level public authorities through delegation of tasks, powers and necessary resources. Decentralisation, described in the Constitution of the Republic of Poland, is not a one-off organisational undertaking, but a permanent feature of the political culture of the state built on relevant statutory solutions, in accordance with the constitutional principles of the Polish system. In the opinion of the Constitutional Tribunal, decentralization cannot be understood in a mechanical way, separately from the interpretative context which is a consequence of the whole set of constitutional principles and values that make up the state system. This applies in particular to the question of limits of decentralisation".²

On the other hand, the principle of subsidiarity stipulates that "a larger entity should not be entrusted with what a smaller entity can do equally efficiently" (Saint-Ouen, 1991). The essence of the subsidiarity principle is to strive for a rational division of power between the different levels of its structure, based on the criterion of effectiveness (Dolnicki 2016:30).

Pursuant to Article 169(1) of the Constitution of the Republic of Poland,³ "territorial self-government units shall perform their tasks through decision-making and executive bodies". The regulations featured in self-government system acts specify their organisation and operation.

- 2 See judgment of the Constitutional Tribunal of 18.02.2003, K 24/02, OTK-A 2003/2, item 11.
- 3 Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No. 78, item 483, as amended)

Pursuant to Article 72(3) of the French Constitution, the French⁴ legislator has determined that, under the conditions laid down by law, local communities (i.e. municipalities, departments and regions) may freely exercise their powers through elected councils and adopt legal acts in order to exercise their powers. The provisions of the French General Code of Territorial Communities (referred to as "the Code") (CGCT⁵) specify the list of bodies, their organisation and principles of operation. Thus, social participation in local government in both legal systems has a legal basis in constitutional regulations, statutory regulations (including, in principle, constitutional acts, provisions of the General Code of Territorial Communities), local legal acts (e.g. statutes of local government units, auxiliary units of the municipality or statutes of municipal senior councils) or in the internal regulations of local communal councils and other legal acts.

In the doctrine of French administrative law, it is stressed that "while decentralisation has transferred the competences of the state to territorial communities, it has practically forgotten to transfer responsibility to the citizens. To fill this gap, the concept of civic democracy may be seen as an operational concept, as it is linked to many aspects of local public governance: community control, participation of citizens, rights of the opposition as a political minority" (Auber and Cervell, 2012:265). Civic democracy brings citizens closer to local administration. The legislator used the term "civic democracy" in the Act of 27.02.2002 on *démocratie de proximité*⁶ (i.e. "proximity democracy" – the closest to the citizen). The French doctrine of administrative law presents a view that the concept of participatory democracy may be described as a combination of traditional structures of representative democracies and procedures

4 See the Constitution of the French Republic of 4 October 1958 (Constitution du 4 octobre 1958, JORF n° 0238 du 5 octobre 1958, page 9151).

5 Code général des collectivités territoriales (CGCT) – (source: <https://www.legifrance.gouv.fr>; accessed on: 03.10.2019).

6 Loi n° 2002–276 du 27 février 2002 relative à la démocratie de proximité (source: <https://www.legifrance.gouv.fr>, accessed on: 03.10.2019).

of direct or semi-direct democracy, with decision-making powers, not only consultative powers. In contrast, *de proximité* democracy (closer to the citizen), on which most of the French experience is based, represents a greater communicative influence on the part of representative democracy, which allows for a purely consultative dialogue between citizens and decision-makers. The latter listen selectively to the voice of their interlocutors and freely undertake actions which are a synthesis of their debates. This microlocal space remains a privileged level for opening consultative debates (Bacqué and Sintomer, 2011:17).

Participatory management in both legal systems is based on optional and obligatory instruments, which aim to create a platform for co-management of public affairs by residents or their organisations. The crisis in legitimacy of representative power has contributed to establishment of participatory democracy, which means that the approach aimed at involving citizens in decisions taken by public authorities has been the result of a reflection on the existing relationship between the secondary authority and the primary authority (Augustyniak 2017:57). This means that the legislator in both legal systems recognises the importance of participatory management as a necessary premise for contemporary co-decision-making on public matters in self-government community.

Obligatory Instruments of Participatory Management in Polish and French Local Government – Selected Issues

The participatory budget is one of relatively new participatory instruments, which are essential for the management of self-government community. On 1 January 2019, the Polish legislator introduced the institution of participatory budget by virtue of self-government systemic acts. So far, these budgets have operated on the basis of resolutions of councils/assemblies in the scope

of consultations on a given issue or project. Therefore, they did not have a separate legal basis. Initiation of the civic budget was dependent on the will of the decision-making body of the local government, and not on the genuine will of the residents. Currently, under the 2018 amendment,⁷ the institution of the civic budget constitutes a form of public consultation as part of which the residents decide each year in a direct vote on part of budget expenditures of the municipality/district/voivodeship. It indicates that the civic budget is part of the municipal budget, therefore, the "procedure of its adoption constitutes part of budget adoption" (Resolution of the Regional Chamber of Audit in Warszawa of 9 July 2019, 15.210.2019, Legalis No. 2229151). Tasks chosen within the civic budget are included in the budget resolution of the given local government unit and implemented once the budget has been adopted. "Moreover, as of 1 January 2019, two types of civic budgets can be distinguished in the Polish legal system: obligatory and optional. Pursuant to Article 5a(5) of the Act of 8 March 1990 on Municipal⁸ Self-Government, in municipalities that constitute cities with district rights the establishment of a civic budget is compulsory, provided that the amount of the civic budget is at least 0.5 % of the municipality's expenditure included in the most recent report on budget implementation. In other cases, the civic budget is optional and depends on the interest of the residents in co-deciding on local government matters. The civic budget is a decisive form of direct democracy (Augustyniak, 2019:160).

French experience with participatory budgeting dates back to the beginning of 2000, but the instrument was developed in 2014. In the French legal system, there is no legal basis for the establishment of a participatory budget, since no provision of the CGCT provides a basis for its establishment either in municipalities or

- 7 See Act of 11 January 2018 amending certain acts in order to increase citizens' participation in the process of election, operation and control of certain public bodies (Journal of Laws 2018 item 130).
- 8 Act of 8 March 1990 on commune self-government (consolidated text Journal of Laws of 2019 item 506 as amended.).

in district councils. However, practice shows that the initiation of the participatory budget is based on the rules of procedure of the municipal councils (district councils – arrondissements, respectively) or on the regulations of the district councils' charter (la charte des conseils des quartiers), which corresponds in the Polish legal system to the statutes of municipal auxiliary bodies. In the French local and regional government, the participatory budget allows residents of local communities to freely submit projects and provides a way for expressing their expectations and needs in terms of quality of life, immediate surroundings, future of their districts and municipalities. It is worth noting that in the French model, the information and consultation policy as part of the participatory budget is very broad, as numerous meetings are held before and during evaluation of projects and before the final vote, activating residents in that scope. The authorities of the municipality and district organise joint workshops on creating projects, co-creating the vision of the common urban space. In the Polish model of participatory budget, information and consultation campaigns also plays an important role, but not as significant. There is a lack of co-creation of projects, broad public consultations and joint actions aimed at projects in the best public interest to be implemented in a given local community. In addition, the scope of annual tasks is extended to include multiannual tasks, going beyond the participatory budget formula, which may result in poor efficiency in the implementation of tasks financed by this participatory mechanism.

The Participatory Budget Charter operates in Paris, which supports voluntary participation of individual districts in the mechanism and participation of their residents in the creation of their own proposals for tasks already being carried out within the district. This is a good example of participatory management in a local community. It is worth noting that since 2016, Paris has had a participatory budget for primary and lower secondary schools, which is optional and serves as the first school of participatory management among young people. This is an exemplary model.

A particular form of participation of residents in management of a self-government community is their participation in consultative collegial bodies. In the French legal system, such participation is regulated by the provisions of the General Code of Territorial Communities. Consultative administration constitutes a specific characteristic of the French administration, which includes a multitude of forms of establishing councils, committees and commissions (Bacqué, Rey and Sintomer, 2005:16). These bodies are consulted by local authorities on decisions concerning the public sphere. Pursuant to Article L. 1413–1 CGCT, the French legal system requires establishment of a Consultative Commission for Local Public Services (Commission consultative des services publics locaux) in municipalities with a population of more than 10 000 inhabitants. The commission should be set up for all public services provided to an external body or provided by a financially independent municipal organisation. It enables citizens or service users to participate in consultative and advisory activities through local associations such as tenant associations (Verpeaux, Rimbault, and Wasserman 2016:85). The commission is responsible for annual examination of reports submitted by public service providers (see Article L. 1411–3 CGCT). The decision-making body consults the commission on any public service delegation projects, including any partnership projects. These commission's aim is to continuously improve public services in order to ensure transparency in management of these services in terms of both the quality of service and passenger comfort (Thoumelou 2016:131).

In the Polish legal system, there is a possibility in local government to appoint permanent or temporary commissions to deal with public services in a given municipality/district/voivodeship (e.g. infrastructure and transport commission, spatial planning commission), but there is no mandatory regulation in legal acts in this respect. These bodies are optional, and their establishment is the responsibility of the decision-making unit of the given local government body. These commissions are internal bodies of the decision-making authority and are governed by statutes or other

resolutions. This does not preclude the executive unit of a given self-government body from appointing teams, commissions or consultative committees with respect to specific issues concerning the needs of the self-government community.⁹

It should be noted, however, that in the Polish legal system, membership in such a commission can only be granted to councillors. In the French legal system, however, such consultation bodies are made up of representatives of residents and representatives of certain associations acting for the benefit of public service users. Admission of residents and other entities to the commission should be considered justified, as it automatically increases the level of public consultations on the specific area of the committee's activity.

Optional Instruments of Participatory Management in Polish and French Local Government – Selected Issues

Participatory mechanisms in the form of a municipal council of seniors and municipal youth council constitute an element of participatory management in Polish local government. The establishment of a municipal seniors' council and youth council is entirely optional and is the responsibility of the municipal council, which establishes these bodies by way of a resolution. The legislator stipulates that the establishment of these bodies falls within the exclusive competence of the municipal council pursuant to Articles 5b(2) and 5c(2) of the Act on Municipal Self-Government of 8 March 1990.

The municipal council, while establishing the seniors' council and the youth council, at the same time grants them the statute

9 The legislator points out that the municipality's own tasks concern the collective needs of the self-government community, which the municipality performs on its own behalf and in the interest of the self-government corporation. A contrario, outsourced tasks include governmental tasks that are performed in the name and on behalf of the ordering party.

and determines the mode of election of members of the council and the rules of operation of the body.

When analysing the legal position of the municipal seniors' council and the municipal youth council, it should be considered that they are only pro-civic consultative and opinion-forming instruments, therefore, the range of tasks entrusted to them and the scope of their competence is narrow. The scope of tasks of the municipal seniors' council and the municipal youth council should therefore include issues concerning in particular: opinions on legal acts issued by municipal bodies in the area of organisation and operation of these bodies, opinions on matters concerning the scope of their activities and included in the municipality's own tasks, dissemination of information on the activities of both councils among the municipality's inhabitants.

The interests of seniors and young people may only be represented in a consultative, advisory and initiating form, although no specific competences have been granted as regards the latter form, e.g. a right established *ex lege* to submit draft resolutions to the municipal council. This issue is still subject to free regulation by the municipal council, which in the statute specifies the entities granted the right of legislative initiative. Municipal senior and youth councils are not among these entities. An extension of the list of entities with the right of legislative initiative to include these bodies should be considered a postulate *de lege ferenda*.

These bodies may actively participate in the work of municipal bodies in an advisory capacity, also by activating advisory auxiliary units cooperating with these bodies in the area of operation of a given auxiliary unit.

There is no separate legal basis in CGCT in the French legal system for establishment of a seniors' council (*conseil des seniors/sages*). The legal basis for its establishment are resolutions of municipal or district councils, adopted on the basis of Article L. 2143–2 CGCT, which constitutes the basis for establishment of so-called consultative committees in the municipality, established on any matter of municipal interest, e.g. in the scope of senior issues

(Bacqué and Sintomer, 2011:75). The French legislature considered it necessary for local participatory democracy to create this open legislative formula that would enable establishment of other bodies of participatory democracy, not provided for in the General Code of Territorial Communities. This solution should be seen as justified. Similarly, as regards the establishment of a municipal youth council (*le conseil des jeunes*), there is no *express* legal basis under the General Code of Territorial Communities for the appointment of such a body. Its establishment is also based on Article L. 2143–2 CGCT, which provides a legal basis for the establishment of the aforementioned consultative committees.

The seniors' council is an advisory body without decision-making powers. It is a mechanism of cooperation between the territorial community and the most experienced social group. The establishment of such a body seems to be necessary to maintain a certain degree of social cohesion in the local community. The council carries out its tasks on the basis of thematic committees which it sets up and defines their composition and area of operation. In the French legal system, it is possible to establish a seniors' council at the district council. This is done by way of a resolution of the district council (*arrondissement*), which determines its composition, election rules, internal organisation and operation by means of internal regulations. The competences of the seniors' council operating in a district (*arrondissement*) include discussing all matters within the scope of competence of the district council (*conseil d'arrondissement*). However, in the Polish legal system it is possible to establish a council of seniors at an auxiliary unit with authorisation from the municipal council granted in the statute of the given auxiliary unit for establishing such a council. This means that the power to establish a seniors' council belongs to the decision-making body of the auxiliary unit concerned, which will establish its statute.

In the French legal system, the municipal youth council is set up as a forum for consultation and opinion-forming on youth-related matters in the municipality and other matters on which the

authorities of the community request an opinion. It is a meeting place for young people learning participatory management in the municipality. It provides an opportunity to present public authority proposals and projects with regard to issues directly affecting young people in the self-government community.

An interesting form of participation in the French legal system is the citizens' council (*conseil citoyen*), established in municipalities where the establishment of a district council is obligatory. The mayor is responsible for making a decision on establishing a *conseil citoyen*, which replaces the district council (*conseil de quartier*). The competence to establish such a body was introduced by the provisions of the Act on Urban Planning and Urban Cohesion of 21 February 2014.¹⁰ The citizens' council is established in a priority area of the city policy on the basis of diagnostic practices and participatory initiatives. The council is composed of interested residents and representatives of local associations.¹¹ Citizens' councils participate in the preparation and implementation of municipal contracts. In addition, the municipal authorities are obliged by law on the basis of municipal contracts to specify and transfer funds for financing these councils and for the training of councillors. These bodies act independently of the public authorities as a place for debate, which facilitates implementation of joint projects concerning the operation of a given district within the city policy. In the Polish legal system such a body does not exist. The legislator did not provide for this form of co-management of the public sphere in the city, although it would be worth adopting such an institution.

10 Loi no 2014–173 du 21 février 2014 de programmation pour la ville et la cohésion urbaine. The purpose of this act is renovation of cities. One of the objectives of the act is to regenerate and diversify the commercial, educational and social offering in priority districts according to the city policy.

11 See the Information Report to the Senate on behalf of the Economic Commission for Europe No. 662 (2016–2017) – 19 July 2017.-Annie GUILLEMOT and Valérie LETARD City policy: a reform in progress but weakened by a lack of resources – source <https://www.senat.fr/rap/r16-662/r16-662.html> accessed on: 10.10.2019).

Conclusions

Bearing in mind that participatory governance constitutes the basis for self-government and civic involvement in local community affairs, development of appropriate forms of participatory governance should be considered a priority. Hence, the search for an appropriate normative model in the area of participatory management should be considered a significant research issue.

In both legal systems, forms of social participation in local government units are established by the legislator or by the local government body in order to increase and strengthen participation of residents in the management of the self-government community. These mechanisms are more or less formalised, obligatory or optional, adapted to the local needs and expectations of the residents of the given self-government community.

Participatory budgets create an opportunity for residents to create their own public space by submitting ideas and voting for projects to be implemented in their place of residence. The participatory budget in the Polish legal system is regulated through self-governing acts, while in the French Republic it is an optional form, regulated through the internal regulations of district councils. It seems that the Polish legislator recognises the need for comprehensive regulation of the issue by way of an act, although protection of subjective rights before administrative courts in this respect is still questionable. The participatory budget should be based on an open and modern method of decentralised management, as an expression of trust and recognition of the needs of the residents of the self-government community. It should aim to strengthen the links between residents and their representatives, ensure greater transparency in the management of public finances, help with implementation of public tasks with the use of residents' knowledge and creativity.

Establishment of a municipal seniors' council and municipal youth council aims to promote solidarity between the generations and stimulate civic activity of seniors and young people in the local

community. This form of public participation should have a legal basis clearly defined in law; therefore, this should be postulated from the French legislator. These mechanisms are optional in both legal systems.

For several years now, there has been an intensive development of instruments and activities in the scope of participatory democracy. This is a response to the needs of residents who want to co-create their public space. An interesting participatory instrument in this respect is the citizens' council (*conseil citoyen*), whose aim is, among others, to regenerate and diversify the commercial, educational and social offering in priority districts of the city policy.

French consultative administration includes a multitude of different commissions and committees, established in territorial communities, in which residents participate. This is an interesting example of cooperation between councillors, residents and representatives of social organizations. These regulations may contribute to a discussion on the shape and legal character of Polish consultative administration, which still lacks a broad consultative forum at the level of operation of committees and teams of decision-making units at self-government bodies. In connection with an increased willingness of residents to participate in the management of public affairs in a local government, a question arises whether it is acceptable for decisions important for the community to be taken together by the decision-makers and the residents, when voting itself is an eligible form of participation and the persons democratically elected by citizens in elections are by nature their representatives. It seems that the answer to this question must be full approval for the participation of residents in the management of the self-government community, but in such a way that the role of public authorities is not replaced by participatory actions, the essence of which is to complement the authority exercised by the representatives, and not to replace them (both in the subjective and objective scope). The definition of cooperation between participatory democracy and decision-makers in the exercise of self-government powers should be shifted towards

less-formalised consultative administration, which constitutes a broad platform for social dialogue, which is taken into account by communal bodies when making decisions. In this sense, the French model of participatory management seems justified.

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The Effectiveness of Chosen Participation Tools as a Form of Governance – Lublin City Case Study

Abstract: Citizens can strongly and decisively influence public affairs, in particular at the level of local government. As part of the concept of “good governance”, authorities of major towns use numerous tools of social participation in order to make the best of their limited funds and balance the needs of inhabitants with other entities functioning in the urban space, such as investors. One can even risk the statement that participation has become trendy. It is common to use a participatory budget, obligatory since 2019, which allows a fraction of the urban budget to be redistributed according to inhabitants’ wishes. Different types of social consultations are also held, both compulsory (consultations about changes to a local spatial development plan) and optional, not entrenched in the law. Citizens’ assemblies are a novelty, used, e.g. to work out together a development strategy or deal with problems typical for a given unit. Moreover, there are also, although rather rarely, local referenda. The authorities of various towns like to boast about their participatory approach, indicating a number of the citizen participation tools they have applied, and emphasising how often it happened. The main aim of this paper is to present the decision-making process for changing the land-use plan for Lublin as regards the area of the so-called Czechowskie Hills, with special attention given to the use of citizen participation tools and the analysis of their effectiveness.

Key words: local government, participation tools, effectiveness, local referendum, local consultation

Introduction

Local government, by nature, provides an opportunity to put the idea of direct democracy into practice. In small units the implementation of this idea has the form of consultations with the community during the decision-making process, which is possible thanks to a small number of inhabitants and lack of anonymity. In big units, on the other hand, the above model encounters serious obstacles, posed, among other things, by a city's large anonymous population. As part of the concept of "good governance", the authorities of major towns use numerous tools of social participation in order to make the best of their limited funds and balance the needs of inhabitants with other entities functioning in the urban space, such as investors. One can even risk the statement that participation has become trendy. It is common to use a participatory budget, obligatory since 2019, which allows a fraction of the urban budget to be redistributed according to inhabitants' wishes (The Act on Changing Some Acts to Increase Civic Participation in the Process of Election, Operation and Supervision of Some Public Bodies of 11 January 2018). Different types of social consultations are also held, both compulsory (consultations about changes to a local spatial development plan) and optional, not entrenched in the law. Citizens' assemblies are a novelty, used, e.g. to work out together a development strategy or deal with problems typical for a given unit. Moreover, there are also, although rather rarely, local referenda. The authorities of various towns like to boast about their participatory approach, indicating a number of the citizen participation tools they have applied, and emphasising how often it happened. There are even special rankings drawn up to underscore the openness of urban administration to inhabitants (Otworzyć miasto. Ranking miasta otwarte na ludzi 2019). It is half the battle,

but the other half is to adopt the solutions worked out together with residents. In this respect, a classic participatory budget is easy to implement. It resembles an opinion poll of competitive solutions put forward by inhabitants who, as a result of voting, win positive and desirable (to a larger or smaller extent) investments for the whole local community. In short, some of the interested gain, and nobody loses. Citizen participation tools are also employed in a situation when, in a town, there are antagonistic sides interested in disparate decisions. However, the results of such consultations are much more difficult to implement. Local authorities face the challenge of satisfying inhabitants' or investors' needs, and it is hard, if not impossible, to reach a compromise. Besides, the conclusions from social consultations are not always taken into account when making final decisions.

The main aim of this paper is to present the decision-making process for changing the land-use plan for Lublin as regards the area of the so-called Czechowskie Hills, with special attention given to the use of citizen participation tools and the analysis of their effectiveness. Research involved decision-making and behavioural methods. Consequently, the following research questions were asked in the paper: What citizen participation tools are used by Lublin authorities? Does the application of citizen participation tools mean real listening to the voice of inhabitants, making these tools more attractive and empowering inhabitants, or only trying to improve the authority's public image? Are municipal authorities the only subject encouraging civic engagement? What grassroots actions and initiatives were undertaken by inhabitants? And the recapitulating question: did (and how did) Lublin authorities use civic engagement in the decision-making process when drawing up the land-use plan for the Czechowskie Hills? Seeking answers to the above questions, the authors analysed the information and data from the Central Statistical Office (GUS), the official website of local government administration and the investor, the websites of organisations against the development of the Czechowskie Hills, articles from the local press, leaflets, newspapers and referendum posters.

Theoretical Aspects of Public Participation

One of the most important models of management in the policy of the European Union is a concept of "good governance" (also called co-governance). It means public administration involving different subjects in the decision-making process. The document *European Governance – a White Paper* by the European Commission stresses the need for "opening up the policy-making process to get more people and organisations involved in shaping and delivering EU policy" (*European Governance – A White Paper*, Commission of the European Communities).

The formation of the idea of "good governance" has many causes. They embrace a crisis of the welfare state, the passivity and inefficiency of the Weberian model of bureaucracy, and the development of diverse social needs. Good governance is characterised by, i.a., participation, consensus orientation, transparency, effectiveness and efficiency, equity, social inclusion and the rule of law (Yap Kioe Sheng: 2019).

These principles are reflected in legal regulations which allow citizens to co-decide in laying down public policies, which earlier fell within the exclusive powers of public administration. It appears that citizens can strongly and decisively influence public affairs, in particular at the level of local government. E.g., Article 170 of the Constitution of the Republic of Poland stipulates that "Members of a self-governing community may decide, by means of a referendum, matters concerning their community, including the dismissal of an organ of local government established by direct election." (The Constitution of the Republic of Poland of 2 April 1997). A local referendum is a form of direct democracy, serving inhabitants to decide about the matters of their community. Only permanent residents of a given unit of local government and vested in an active right to vote in elections to its decision-making body can participate in voting (Act on Local Referendum of 15 September 2000).

Two types of referenda can be distinguished at the municipal level. The first one is obligatory: it concerns, e.g. self-taxation or

dismissal of a body chosen in elections or established as a result of territorial changes (such as the division of a municipality into two parts). The provision allowing inhabitants to influence the territory of their municipality was introduced in 2011 by virtue of the amendment to the Act on Commune Government of 8 March 1990 (Article 4a), which means that the legislator increased local communities' decision-making entitlements in this respect.

The second form of this type of direct democracy is the non-obligatory referendum. In this case the referendum initiative must concern essential affairs for the local community, in whole or in part, and not particular interests of a small group of residents. Sometimes it happened, however, that problems which initially appeared sectional and not popular took on new importance after the action of gathering signatures and a referendum campaign (Weglarz:2013). After K.W. Frieske, one may cite the hypothesis formulated by James Coleman, who claimed that referenda held to legitimise officials' decisions end with a negative outcome. It can be added that such events may mobilise the local community, being a sign of citizens' opposition to the powers that be (Frieske: 2014).

One of the controversial matters is the objective scope of a local referendum. Can inhabitants decide in matters reserved exclusively to the discretion of municipal authorities? The literature on the subject presents divergent views here. According to Jan Boć, the matters which fall within the scope of the exclusive competence of municipal bodies should not be voted on in a referendum. Andrzej Kidyba, on the other hand, adopts another stance. He emphasises the fact that the Act on Commune Government points out two forms of exercising public authority without judging them. As a result, either a representative body makes a decision, or the local community directly voices its opinion (Weglarz: 2013).

The dispute was settled by the ruling of the Constitutional Tribunal of 26 February 2003. Pursuant to the judgement, the direct expression of inhabitants' will in a referendum relating to the social, economic and cultural bonds of the local community cannot lead to the abolition of the tasks and duties of local government bodies,

especially such tasks and duties which are reserved to the discretion of these bodies (Judgement of the Constitutional Tribunal of 26 February 2003). If it were otherwise, the local government's actions would be ostensible, and unpopular decisions would be delegated to the local community (Weglarz: 2013).

Simultaneously, the judges of the Constitutional Tribunal opined that inhabitants can adopt a position on topics important for them and falling outside the scope of the exclusive powers of local government. In such a situation a consultative or advisory referendum can be held, whose results are not conclusive. The sentiments after the ruling of the Constitutional Tribunal were ambiguous. The above-mentioned Article 170 of the Constitution of the Republic of Poland, which underscores the binding character of a non-compulsory referendum, was invoked (Weglarz: 2013).

The Provincial Administrative Court in Lublin issued an interesting decision about a local referendum. It stated that inhabitants can initiate a referendum without knowing the municipality's plans: "For the evaluation of the admissibility of a municipal referendum, it is not important if the initiator is aware of the plans of the municipality or if s/he knows the details of these plans" (III SA/Lu 463/07 – Judgement of the Provincial Administrative Court in Lublin of 4 October 2007; The case related to the complaint against the resolution of the municipal council on rejecting the motion for conducting a local referendum). It is of paramount importance that the issue voted on in a referendum must be essential for the local community. Nevertheless, such a broad interpretation raises doubts because if a given problem does not officially exist, while the local community is afraid of some investment, does it make sense to hold a referendum? It seems that, under the law in force, attempts should be made to convince inhabitants (or an initiative group) about the lack of planned actions in this respect (Weglarz: 2013).

Local referenda are usually invalid on account of insufficient voter turnout. In the term of office 2014–2018 (data till June 2017) there were 43 referenda on dismissing a municipal authority

elected in elections, but only 6 of these referenda were valid (Sidor, Kuć-Czajkowska, Wasil,: 2017). As far as non-obligatory referenda are concerned, the National Electoral Commission (PKW) does not impart information about the number of local government units in which they took place. At least for part of local communities, it seems difficult to meet the requirement of voter turnout equalling at least 30% (which determines the validity of a referendum) and the majority of valid votes cast in favour of one of the solutions (which determines the conclusiveness of a referendum).

Social consultations are another important tool of citizen participation. As E. Knosal noticed, they are an instrument for reconciling contradictory interests, so they serve to mitigate conflicts as well as constituting a stage of cooperation in the decision-making process. There are always two sides in the process of consultations, i.e. a decision-maker authorised to take the decision, and opinion-giving subjects (Marchaj: 2016).

The opinion-forming character of social consultations cannot be forgotten, i.e. their outcomes are not binding on municipal authorities. Consultations are universal because they are addressed to all members of the local community (Marchaj: 2016). In the adopted resolution, the municipal council cannot specify the circle of people entitled to participate in consultations, i.e. it can neither narrow nor broaden this category. Therefore, you do not need to have an active right to vote to participate in consultations (Ofiarska: 2014).

Consultations are divided into obligatory and non-obligatory. The decision-making process on some themes requires the participation of residents. These are key issues for the local community concerning, among others, the creation, merger, division or abolishment of municipalities, establishment of their boundaries, creation of auxiliary entities (Act on Commune Government of 8 March 1990) or decisions on investments. Moreover, the Spatial Planning and Land Development Act of 27 March 2003 contains provisions regarding the participation of representatives of the local community in the decision-making process. The planning process comprises several stages, i.e.:

1. publication of information (press, announcement, in the customary manner) about the commencement of works on the land-use plan or the spatial development plan;
2. submission of motions concerning the draft land-use plan or the draft spatial development plan;
3. examination of motions by the mayor;
4. preparation of the draft plan by the executive;
5. discussion about the draft plan with competent institutions and authorities (such as the urban planning and architectural commission, or the provincial executive board);
6. proper stage of consultations, encompassing the public announcement about the consultations, presentation of the draft land-use plan or the spatial development plan for review (in an office or on a website);
7. the municipal council decides, by way of resolution, what to do with the comments on the changes to the land-use plan or the spatial development plan disregarded by the executive (Spatial Planning and Land Development Act of 27 March 2003).

The first stage of the planning procedure does not comprise typical consultations, because it is intended to provide the decision-maker with information, so that this authority gets acquainted with the opinions of all the interested parties. The presentation of the draft land-use plan or the draft spatial development plan for review is a proper stage of consultations. It means that the draft should be made available at the seat of the municipal council and published on-line for at least 21 working days. The discussion staged by the mayor, on the other hand, has to take place in public, and the statements of the interested parties cannot be shortened. Similar rules apply to comments about the land-use plan or the spatial development plan: each opponent of the solutions put forward in the draft can raise an objection. Thus, the formula is comprehensive, as the entity submitting remarks does not have to prove that s/he has any actual interest in expressing reservations. It has been possible to submit remarks in an electronic form since 12 April 2013 (Marchaj: 2016).

In order to make social consultations effective, several rules have to be obeyed, such as: pure intentions (no ostensibility), respect for collective interest (the common weal), lawfulness, representative nature and equality (all willing to participate in consultations should do so), reliability (of both sides), transparency, documentation of the whole process, continuity and feedback (participants should get a public answer to their remarks and opinions), coordination of the whole process (Długosz, Wygnański: 2005).

A citizens' assembly is a worthwhile form of social consultation used by the city of Lublin. In Poland this new tool of civic participation was first adopted in Gdańsk and Lublin. Worldwide, these are especially local communities in Australia and Canada which have experience with citizens' assemblies (Duda-Jastrzębska, Gerwin, Jagaciak, Nazaruk-Napora, Pliszczyńska). Not numerous materials on citizens' assemblies held in Poland say that this is a new method of citizen participation. The publications stress that decisions arrived at during the assembly are perceived as binding if 80% of participants support them (Duda-Jastrzębska, Gerwin, Jagaciak, Nazaruk-Napora, Pliszczyńska). Participants in citizens' assemblies are selected by lot, taking into consideration their social and demographic qualities. In Lublin 60 people were selected in this way, with an additional 12 on a standby list. Participants met several times, and their work was divided into two parts. The first one was educational, as it consisted of meetings with experts in the field discussed at the assembly. The second part comprised a debate (deliberation), as a result of which recommendations for municipal authorities were formulated. During this stage, neutral moderators provided assistance for the participants. The recommendation became part of the final report if 80% of the participants were in favour of it. The participants received remuneration for their involvement in the citizens' assembly (Na czym polega panel obywatelski?).

Description of the City and Outline of the Situation

Lublin is a provincial city with a population of almost 340,000 inhabitants, taking 9th place in this regard, and contending with the problem of depopulation, just like the majority of large cities. Between 1999 and 2018 it lost almost 20,000 of its residents (Central Statistical Office: 2019) while the predictions for the future are grim. Lublin, with its 5 public and 3 non-public higher education institutions, is considered to be an academic centre, although the number of students is systematically decreasing (Statystyczne vademecum samorządowca: 2018). In annual ranking of attractiveness for young people, Lublin comes in 12th, obtaining results similar to medium-sized cities such as Bielsko-Biała, Krosno or Częstochowa (Helak: 2019). The unemployment rate is consistently going down, and it amounted to 5.5% in 2018 (Olszewska-Welman: 2019). In 2019 Lublin was ranked 7th in respect of the use of citizen participation tools (Otworzyć miasto. Ranking miasta otwarte na ludzi 2019), which reflects the deliberate policy of the local authorities. This direction has been followed since 2010, when Krzysztof Żuk, carrying the majority in the 21-member city council, assumed the position of mayor (National Electoral Commission: 2018). On account of the subject addressed in this paper, more space in the description of Lublin should be devoted to the city's experiences in civic society development.

In 2013 the Civic Activity Foundation [Fundacja Aktywności Obywatelskiej]), in cooperation with the Municipal Training Centre at the Kaunas University of Technology, carried out the project "Active Districts of Lublin. Array of Model Citizen Initiatives", co-funded by the Swiss Contribution. The originators of the project emphasised that residents of Lublin were not overly active. Only a handful got involved in actions for local development or in the social and political sphere. In 2009, only 12.2% of inhabitants participated in the meetings of an organisation, while 26.4% came to tenants' association's or housing cooperative's meetings (Dominik: 2014). Elections to city district councils also witnessed poor engagement

of Lublin residents. The voter turnout amounted to 7.08% in 2006, then it came down to 6.11% in 2011, and, again rose to 7.49% in 2015. In 2019, general voter turnout was not given, although it can be estimated at 8.54% for 22 out of 27 districts. Elections did not take place in 5 districts because the number of candidates there equalled the number of available mandates (Sidor: 2019).

The project run in 2013 by the Civic Activity Foundation aimed at promoting bottom-up citizen initiatives. To achieve this goal, 45 active local leaders, commissioned to stimulate the participation of residents of Lublin districts, underwent training. In total, 5,000 people took part in 40 events staged later in auxiliary units (Dominik: 2014). One of the most interesting events under the project titled "A as in Active Czechów" was intended to boost residents' influence on the functioning of their district. Agnieszka Tobiasz, the leader of that initiative, listed the following effects of the undertaking: "Activation of Czechów inhabitants, their increased participation in the life of the district, heightened sensitivity to the needs of their district, creation of the need to introduce changes (...)" (Dominik: 2014).

The level of Lublin residents' activity can also be assessed on the basis of a number of non-governmental organisations. According to the research of 2013, 1468 organisations (including 954 associations and 293 foundations) were entered in the National Business Registry (REGON). The Śródmieście district could boast the highest number of them (412), while the least organisations (4) operated in Abramowice. The districts of North and South Czechów did not come out well in the research, taking into consideration the number of their inhabitants, because they had only 61 and 45 registered NGOs, respectively (Juros, Biały: 2013). Therefore, one can notice a disproportion between different Lublin districts.

On the other hand, as results from the *Report on the 2018 Cooperation Between the City of Lublin, Non-Governmental Organisations and the Subjects Referred to in Article 3 Section 3 of the Public Benefit and Volunteer Work Act*, the city of Lublin cooperated with 313 entities (the majority of which were non-governmental organisations)

(Program współpracy z organizacjami pozarządowymi: 2018). This cooperation had both a financial and non-financial character. As Piotr Choroś, the head of the Social Participation Office, stressed, consultations are one of the basic forms of non-financial cooperation of the city of Lublin with non-governmental organisations. Each consultation with non-governmental organisations is published on the website of the Lublin City Office in the "News" tab¹ and lasts at least 21 days. Choroś stated that as many as twenty resolutions had already been consulted, i.a. the resolution regulating the appointment of the Public Benefit Council [Rada Pożytku Publicznego], strategies for the development of Lublin, and others (Choroś). As far as the proceedings of social consultations are concerned, they are regulated by the resolution on the mode and rules of conducting social consultations with inhabitants of the City of Lublin of 23 March 2017 (Resolution No. 722/XXVIII/2017). The document defines consultations as "an open process of a dialogue between residents and Lublin City authorities, aimed at the latter's making optimum decisions about public affairs, which influence the residents' quality of life" (Resolution No. 722/XXVIII/2017).

Pursuant to the report about the effectiveness of social consultation mechanisms, there were on average 11 and more consultations in cities with county rights within the 2-year period (information obtained from 35% of officials). 29% of respondents, on the other hand, could not give the exact number of consultations held in their towns. 14% of respondents declared that the tool in question was applied from 1 to 3 times over 2 years, and according to 22% of respondents, this form of civic participation was used between 4 and 10 times in that time (Final report about research on the effectiveness of mechanisms of social consultations). The analysis of the website of the Lublin City Office reveals that the "Social

- 1 Besides, specific information about the number of consultations held with non-governmental organisations by the City Office is missing in the reports on cooperation, i.a. *Report on the 2018 Cooperation Between the City of Lublin, Non-Governmental Organisations, and the Subjects Referred to in Article 3 Section 3 of the Public Benefit and Volunteer Work Act.*

Consultations" tab mentions more than 30 announcements of social consultations in 2019, the majority of which concern the development and revitalisation of the urban space (Konsultacje trwające: 2019).

The natural resources of Lublin and the history of the Czechowskie Hills is another crucial aspect of the subject broached in this paper. As various sources claim, the forestation rate in Lublin was estimated at 14–16% in 2018–2019, which gave Lublin the 33rd position in the ranking of cities (Sprawdź jak zielone jest twoje miasto), and the 8th position among the greatest cities, following, among others, Poznań, Łódź, Warszawa and Kraków (Jakubowski: 2019). Urban greenery included: community green spaces, parks, squares and cemeteries. There are three main parks in Lublin (Parki w Lublinie): the 23-hectare People's Park [Park Ludowy], the 12-hectare Saxon Garden [Ogród Saski], and the 21-hectare botanic garden of the Maria Curie-Skłodowska University (Ogród Botaniczny UMCS). In this context the 105-hectare area of the Czechowskie Hills is of cardinal importance, and its reduction by almost 30 hectares, as a result of building blocks of flats, will have consequences. The Czechowskie Hills are inhabited by over 300 species of flora and fauna, including the protected European hamster (Referendum, dlaczego nie?). By the 1990s there was a scheme for establishing a wildlife reserve there, in line with the recommendations of Lublin scientists, planners and authorities in the field of nature conservation and research (Prof. Chmielewski o górkach czechowskich: Nie o zwykły park tu chodzi, To był plan na miarę Lublina". Ostatni wywiad z Romualdem Dylewskim). The Czechowskie Hills provide a unique example of a vast complex of loess valleys (typical of Lublin Upland) with preserved wild nature. For investors, on the other hand, the Hills mean attractive land close to the city centre.

The paper focuses on a long decision-making process concerning the change of the intended use of a 105-hectare area located between two northern districts of Lublin, Sławin and Czechów, colloquially called the Czechowskie Hills. Historically speaking, from the mid-20th century to 2016, the land changed owners and

intended use, gradually evolving from a protected green area to land permitted for development. The Czechowskie Hills initially belonged to the Military Property Agency [Agencja Mienia Wojskowego] and were used as a training ground for the army unit garrisoned in the city.

In April of 2000, the local authorities adopted the land-use plan, in which the grounds of the Hills were recognised as protected from urban development. In the autumn of the same year the city did not exercise its pre-emptive right to purchase the area disposed of after the Military Property Agency liquidated the military unit, and which sold the land to Echo Investment. The company bought the Czechowskie Hills, being aware of their intended use, and for 5 subsequent years tried to change it. In 2005, the Municipal Council of Lublin, in spite of the protests of ecologists and residents, modified the land-use plan, dedicating altogether 30 ha of land for sport, recreation, commercial services and roads. This idea was pushed forward by politicians from the local structures of Civic Platform (PO). Additionally, the Municipal Council gave its consent in 2011 to Echo Investment building a shopping mall in the south-western part of the Hills in exchange for 60 million zlotys for the rebuilding of a nearby intersection, pivotal for the organisation of traffic in the city, and reselling the remaining part of 70 ha of the training ground to the city for 7 million zlotys (i.e. its value in 2000). In 2012, Echo Investment backed out of these arrangements after the decision about the construction of a rival mall in the city centre had been taken. At the beginning of 2016, the city received 0.4 ha of the Czechowskie Hills in damages from Echo Investment to modernise the above-mentioned intersection, eventually rebuilt by the city itself.

Echo Investment sold the land to the TBV development company in March of 2016. The new owner immediately put forward a motion to change the intended use of 30 ha of land, at that time for sport, recreation and services, together with an additional over 12 ha of green area, and to allow residential development there. Pursuant to the first concept of development, blocks of flats were

to be erected in 6 places, on all hills, leaving only ravines free of development.² This started a three-year process of consultations about draft planning documents.

Decision-Making Process 2016–2019

Subjects

The investor, i.e. the TBV development company set up in 2007 (National Court Register) together with Bolesław Stelmach, a highly-regarded Lublin architect employed by it,³ were interested in changing the land utilization of the Czechowskie Hills. After purchasing 105 ha of the former training ground close to the city centre, it forced through a plan of building a housing estate on, at the beginning, about 40 ha, for approximately 8,000–12,000 inhabitants, depending of the density and height of development.⁴ In order to enhance the public perception of the company and its investment, the developer offered to create a park on the remaining 65–75 ha. These plans met with the approval of, among others, the “Hill of the Botanical Garden” Association [Stowarzyszenie “Wzgórze Botanik”], the “Council of the Lubelskie Region Entrepreneurship” Association [Stowarzyszenie “Rada Przedsiębiorczości Lubelszczyzny”], with Lublin advocates Jan Łomża and Agnieszka Bronisz.

- 2 <https://zielonylublin.wordpress.com/historia-sprawy/>; The developer submitted several designs of housing estates to the Lublin City Office, diminishing, over time, the area for development. Each idea included the creation of a park, which, after building, was to be handed over to the city for a nominal fee of 1 zloty plus VAT.
- 3 Who initially came up with the ideas of how to use this land, at the request of opponents of developing the disputable area with buildings, Kolejna odsłona sporu o Górki Czechowskie, <https://kurierlubelski.pl/gorki-czechowskie-w-lublinie-kolejna-odslona-sporu-o-przyszlosc-tego-terenu/ar/10024224>
- 4 TBV, faced with the mounting resistance of objectors to developing the Czechowskie Hills, was gradually diminishing the estimated number of residents of its housing estate. The developer has never given an exact number of blocks or flats, presenting only visualisations, on the basis of which opponents made their estimates. The land for development, on the other hand, was markedly reduced from 40 to 35, and then to 30 ha as early as in 2016.

The party opting for the implementation of the land-use plan of 2005 or the establishment of only a park within the territory of the Czechowskie Hills consisted of a number of local non-governmental organisations, experts, and leaders of grassroots movements. These entities can be divided into two groups. The first one included organisations for which the matter of developing the controversial land was one of many other problems they were involved in, e.g. the Society for Nature and Man [Towarzystwo dla Człowieka i Natury], Lublin Smog Alert [Lubelski Alarm Smogowy], Council for Culture of Space [Rada Kultury Przestrzeni], Forum for Culture of Space [Forum Kultury Przestrzeni], Town for People – Lublin Urban Movement [Miasto dla ludzi – Lubelski ruch miejski], Lublin Co-operative [Kooperytywa Lubelska], and their leaders, i.a. Krzysztof Gorczyca, Andrzej Filipowicz, Marcin Skrzypek and Jan Kamiński. The Grassroots Committee for Saving the Czechowskie Hills [Społeczny Komitet Ratowania Górek Czechowskich], established in 2002, and the Association for the Defence of the Czechowskie Hills [Stowarzyszenie Ochrony Górek Czechowskich], existing since 2012, were among the organisations and social movements set up exclusively for the protection of the former training ground. The leaders or the “faces” of these movements included: Dominik Fijałkowski, Magdalena Nosek, Magdalena Długosz, Szymon Pietrasiewicz, Paweł Cegiełko, and Paulina Zarębska-Denysiuk. Informal bottom-up movements developed around this environment. Their activity could be traced on the Internet as citizen journalism, e.g. the websites *Lublinianin.pl* and *Landschaft Lublin*, or themed profiles on social media, such as *Czechowskie Hills – Windy Green* [Górki Czechowskie – Wietrznie Zielone] and *Save the Czechowskie Hills* [Ratuj Górki Czechowskie]. The activities of the Freedom Foundation [Fundacja Wolności], which monitored the transparency of the decision-making processes related to the Czechowskie Hills, were of considerable importance for the analysed research subject.

Moreover, the local media, which devoted numerous articles and programmes to the issue, among others *Dziennik Wschodni*, *Gazeta Lublin*, *Kurier Lubelski*, TVP Lublin, Radio Centrum and Radio

Lublin, had major significance for the decision-making process. Just before the referendum, the largest local daily papers adopted a stance against the changes to the land-use plan of the contentious area, printing the statements of their editors-in-chief opposing the housing development there.

The mayor of Lublin officially distanced himself from the public discourse, making only short statements about some legal aspects and emphasising the need for a compromise. Some of councillors from the mayor's grouping, which held the majority in the council, were in favour of the developer's idea and encouraged residents to vote for it in the upcoming local referendum.

Participatory Activities Initiated by Lublin Authorities and Their Effects

The beginning of 2016 witnessed advanced work of the city's officials on another version of the land-use plan. This information coincided with TBV Investment's purchase of the Czechowskie Hills from Echo Investment. The mayor of Lublin declared that the development of 40 ha out of 105 ha of the Hills with blocks of flats and single-family houses would be permitted under the document, which met with strong opposition from inhabitants. In accordance with the valid provisions of law, the draft land-use plan was presented for inhabitants' review in June of 2017. One all-Lublin meeting (importantly, convened on Wednesday afternoon, one day before the holiday of Corpus Christi) was scheduled as part of this activity. It brought remarks from over 1,000 people/entities, about 50% of which concerned the Czechowskie Hills.⁵ After analysing the

- 5 The same comments made by more respondents were grouped under the same number in the document. It means that only 810 points were classified, e.g. No. 92 included 101 motions and each of them contained 3 comments on the land-use plan. There were approximately 900 comments about the Czechowskie Hills. The list of remarks on the land-use plan after its first presentation for review: <https://bip.lublin.eu/strategia-i-planowanie/planowanie-przestrzenne/studium-uwarunkowan-i-kierunkow-zagospodarowania-przestrzennego-miasta-lublin/>

received motions, the Lublin City Office, in view of such a strong residents' interest in the case, decided to present the planning document for review for the second time, in the spring of 2018 (Planowanie przestrzenne). Unlike the first consultations, these were spread over time, with one meeting held per one or several districts. The debates attracted such avid interest mostly due to the fact that the remarks on leaving the controversial land free of development were ignored (Planowanie przestrzenne). After the second presentation of the land-use plan, more than 2,500 comments, grouped under 338 subject headings, were submitted.⁶ From February to June 2018, Lublin authorities carried out the first citizens' assembly about the issue of smog. 60 randomly chosen inhabitants of Lublin took part in its work, supported by experts and representatives of the City Office in cooperation with the Lublin Research Group [Lubelska Grupa Badawcza] and the Unit for Social Innovation and Research "Shipyard" [Pracownia Badań i Innowacji Społecznych "Stocznia"]. The point "spatial planning" included the assembly's recommendations about the area of the Czechowskie Hills, suggesting "Full protection against the building development of the whole of the Czechowskie Hills as the natural lungs and anti-smog filter of the South Czechów district and other parts of Lublin (...)" (Rekomendacje panelu obywatelskiego). The motion, although approved by 80% of the assembly's participants, was rejected on the grounds of the city's lack of ownership rights to the indicated area and the then land-use plan, which allowed recreational and sports development. The topic of the Czechowskie

wylozenie-do-publicznego-wgladu-projektu-studium-uwarunkowan-i-kierunkow-zagospodarowania-przestrzennego-miasta-lublin-wraz-z-prognoza-oddziaływania-na-srodowisko-7-czerwca-12-lipca-2017-/wykaz-uwag/wykaz-uwag-zlozonych-po-1-wylozeniu-7-06-12-07-2017-r-,4,26905,2.html

- 6 The list of remarks on the land-use plan after its second presentation for review: <https://bip.lublin.eu/strategia-i-planowanie/planowanie-przestrzenne/studium-uwarunkowan-i-kierunkow-zagospodarowania-przestrzennego-miasta-lublin/wylozenie-do-publicznego-wgladu-projektu-studium-uwarunkowan-i-kierunkow-zagospodarowania-przestrzennego-miasta-lublin-wraz-z-prognoza-oddziaływania-na-srodowisko-7-czerwca-12-lipca-2017-/wykaz-uwag/wykaz-uwag-zlozonych-po-ii-wylozeniu-21-03-23-04-2018-r-,6,26905,2.html>

Hills played an essential role in the 2018 local government election campaign. Six candidates competed for the mandate of the Mayor of Lublin City, including Krzysztof Żuk, who ran for re-election. He was the only candidate giving backing to the developer's vision, at the same time underscoring how the opinion and expectations of residents were crucial to him. A week before the elections the mayor declared that, if elected for another term of office, he would organise a referendum on the development of the Czechowskie Hills (in spite of the fact that the city was not the owner of the land, which had been the argument advanced three months earlier as one the main reasons for rejecting the recommendations of the citizens' assembly regarding the contentious area). Żuk stressed that the referendum question would be consulted with inhabitants, which, however, never happened. Towards the end of January 2019 the city council adopted the resolution on conducting a referendum on the development of the Czechowskie Hills on 7 April 2019, also approving the content of the referendum question.⁷ This question was the reason behind using, for the first time, a newly established Commission of Complaints, Requests and Petitions. The Freedom Foundation submitted a petition, through that commission, for consulting with city residents on the referendum question. The sitting was scheduled for 10 April, so three days after the referendum. The mayor of Lublin officially did not take a stand in the referendum campaign, while officials limited the city's activity to passing information, mainly of an organisational nature.⁸

7 The question was a compound-complex sentence, which emphasised not only the development of 30 ha of the land, but also the creation of a park: "Do you support the change, by the Municipality of Lublin, of the type of development permissible under the current Local Spatial Development Plan – from service, commercial, sports and recreation development to housing and service development – on up to 30 ha of the so-called Czechowskie Hills, in return for the current owner's funding of a public greenery design (a naturalistic park) on the remaining 75 ha, while preserving the land's special natural values, and handing it over to the municipality of Lublin?"

8 The conclusion drawn on the basis of the analysis of information published on the City's website, in the Public Information Bulletin (BIP), social media profiles, and articles in the local press.

The referendum voter turnout amounted to 12.95%, which made its results non-binding. The majority of participants – 68%, so approximately 23,000 people – voted against the developer’s idea (Smaga: 2019), while 32%, so less than 11,000 residents, opted for the creation of a housing estate and a park within the territory of the Czechowskie Hills.⁹ The petition for consulting on the referendum question was examined three days after the referendum, thereby leading to it being regarded as groundless. The head of the commission emphasised that everything was procedurally legitimate and in compliance with the rules on the commission’s activity, only after the referendum (Rekiel: 2019). The last element of participation, guaranteed to inhabitants under the act, was the possibility of attending the session of the Lublin City Council,¹⁰ during which councillors were expected to take the final decision about the amendments to the land-use plan and seal the fate of the controversial land. The extraordinary session was called for 30 June (Sunday) and was combined with the celebrations of the 450th anniversary of the Union of Lublin and voting on the discharge of the mayor. The city council meeting, which started in the morning with the broad participation of inhabitants, was interrupted several times, and the councillors voted on the land-use plan as the last point on their agenda, in the small hours of 1 July. Residents’ statements were limited to 3 minutes. In the end, the idea of development (eventually on 25 ha) put forward by the developer was voted through by the councillors from the majority grouping of mayor Żuk (*Wyrok na Górki Czechowskie. Radni o godz. 4.38 nad ranem zgodzili się na zabudowę Górek*).

- 9 In the housing estates adjacent to the Czechowskie Hills, the referendum voter turnout was higher than 30%, and 70% of votes were cast against the development. <https://lublin.eu/lublin/aktualnosci/wyniki-referendum-w-sprawie-gorek-czechowskich,9124,66,1.html> (08.11.2019).
- 10 Convened by the mayor. The land-use plan, a document of more than 2,000 pages, was sent out to councillors just several days before the session, taking into consideration days off work and the holiday of Corpus Christi.

Residents' Actions in "Defence" of The Czechowskie Hills and Their Effects

At the beginning of 2016, after getting information about the new owner of the Czechowskie Hills and the works on strategy documents related to city's spatial development, the inhabitants of the districts adjacent to the controversial land started action against the development of that area. The petition was signed by over 1,700 people within a week, altogether winning over 2,600 signatures (Portal petycje.com, a), but Lublin authorities did not respond to the submitted request. Once again, the case attracted the attention of local newspapers, radio stations and the TVP Lublin channel. On the initiative of the Association for the Protection of the Czechowskie Hills, the conference "Czechowskie Hills as an Element of the Lublin Urban Ecosystem", attended by scientists from Lublin universities, representatives of the Council for Culture of Space, and representatives of TBV took place. The papers led to the conclusion that the environmental and natural significance of the Hills should protect them from development. The councillors from the districts of North and South Czechów launched an initiative to organise a debate about the future of the contentious grounds at the City Office. In February 2017, the Youth City Council of Lublin passed a resolution supporting the activities of the Association for the Protection of the Czechowskie Hills, aimed at preserving the land as green spaces for recreation (Filipowicz: 2017). The Council for Culture of Space staged several information and discussion meetings for residents as part of the cycle "Talks about the City" in order to explore the topic. They were attended mainly by experts and the developer's representatives, without representatives of the Lublin City Office. Each session and social consultations at the City Office were preceded by events staged via social media for coordinating joint actions, such as gathering signatures under petitions and writing comments on the draft land-use plan. The actions of objectors to the development of the Hills intensified during the referendum campaign, both on the Internet and the urban space.

Global and all-Poland initiatives, such as Earth Strike and Critical Mass (a demonstration in the form of a bike ride through the city, initiated in Opole) (Werner: 2019). The March for the Czechowskie Hills, a demonstration which gathered around 250 pickets, was organised one week before the referendum by the Society for Nature and Man. After the referendum regarding the authorities' commentary about the outcomes and their recognition during voting on the land-use plans the actions were organized "Don't Rob the Hills of Victory", "Marathon of Writing Letters to Councillors", and a picket line "In Defence of the Czechowskie Hillstook place! Two months after the referendum".¹¹ Just before the controversial session, an open letter, signed by 250 opponents of the development of the contentious land: celebrities, specialists and scientists, was submitted to the mayor of Lublin (List otwarty w sprawie Górek Czechowskich. Demokracja obywatelska to szacunek dla mieszkańców). The opponents of developing the Czechowskie Hills participated in the extraordinary session, waiting 20 hours for voting on the land-use plan (Wyrok na Górki Czechowskie. Radni o godz. 4.38 nad ranem zgodzili się na zabudowę Górek).

The so-called "Defenders of the Czechowskie Hills" staged several dozen different events, discussions, actions and picket lines between February 2016 and July 2019. Social media constituted their main information platform. Depending on the significance of the event, from a few dozen to several thousand Facebook users got together around the group of activists. For example, the action "Referendum: Categorical 'No' for Blocks on the Czechowskie Hills" assembled over 3,000 people.¹²

11 The list of materials on the Czechowskie Hills events, https://www.facebook.com/pg/tdnicz/events/?ref=page_internal, (18.11.2019); <https://www.facebook.com/events/2074350269342846/>, <https://www.lublin112.pl/walka-o-gorki-czechowskie-wciaz-trwa-mobilizacja-przed-glosowaniem-radnych/> (18.11.2019).

12 Findings on the basis of the analysis of the data published in the social media by the so-called "Defenders of the Czechowskie Hills".

At the same time, associations and committees linked to the developer undertook “grassroots” actions¹³ intended to demonstrate social support for the implementation of the idea of developing the Czechowskie Hills. This side presented the undertaking as mainly focused on creating the park and tidying up the area, while the construction of the residential estate was pushed into the background. On the initiative of, e.g. the Social Initiative of Building a Park on the Czechowskie Hills [Społeczna Inicjatywa Budowy Parku na Górkach Czechowskich], a petition supporting the developer’s plans was submitted to the city authorities. It was signed by 8 people over 2 years (Portal petycje.com, b). Besides, these organisations submitted remarks on the draft land-use plan in favour of the Czechowskie Hills’ development.

The decision-making process and the civic participation described above were widely discussed in the local media and the public space. TVP Lublin hosted a number of debates and programmes with the participation of the opponents of development and representatives of TBV.¹⁴ The subject was also addressed directly before the referendum at a debate organised by student research circles at the Faculty of Political Science (UMCS news) and on local radio stations (Ostatnia debata przed referendum ws. Górek Czechowskich).

Conclusions

Local governments function in a world where everything can be measured and evaluated. Numerous rankings compare them in respect of their size, number of inhabitants, attractiveness for

- 13 Their names contained such words as “social committee”, “initiative” and “association”, and it can be assumed, by connections in social networks or people in the management boards, that these were activities inspired or even carried out by the TBV company.
- 14 The list of materials on the Czechowskie Hills produced by TVP Lublin <https://lublin.tvp.pl/szukaj?query=g%C3%B3rki%20czechowskie>

young people, pensioners, families with children, investors, and even openness to inhabitants' ideas. Mayors of the largest cities boast about their high positions in rankings or undermine the methodology of reports in which they got lower appraisal than expected. One of the areas of competition is co-participation. Lublin occupies high positions in various rankings in terms of the number and innovativeness of its citizen participation tools. This is reflected in the following quotation: "Lublin is the first Polish city which introduced the Green Budget, involving residents in creating green areas in Lublin, whereby they exert influence on improving the functionality of urban green areas. The project (City for People – Lublin Urban Movement) provides another example of cooperation between inhabitants and the city authorities"¹⁵ [...]. Lublin can be held up as a model of how to develop civic society and foster social involvement, which is proved by a huge number of registered foundations, associations and social organisations" (Ranking of Polish sustainable towns. ACRADIS report). However, the report of 2019, a source of pride for the city authorities, when considered after an in-depth analysis of data and stages of the decision-making process, seems only a visually attractive, superficial and short collection of pieces of information which were juxtaposed in a way distorting reality. Simultaneously, the report is available on the Internet, and is probably even quoted in scientific works to support the thesis about active citizen participation in Lublin. Undoubtedly, Lublin uses many methods and tools to include its inhabitants in co-participating in the decision-making process. As seen above, it also seeks innovative forms of social consultations in order to make this process more attractive. The gathered material proves¹⁶ that the city authorities find it crucial to maintain their good reputation, in particular by cashing in on easy and pleasant decision-making initiatives, e.g. a participatory or a green budget, in which there are no losers. It is much more difficult to use citizen

15 One of the main organisations against the development.

16 Not necessarily included in the body of the article on account of the focus given to the situation of the Czechowskie Hills.

participation tools in problematic situations, when a compromise is difficult to reach. Law demands that some moves of local government be publicly consulted on, yet does not bind the authorities with the outcomes of the consultations.

Determining the future of the Czechowskie Hills, the authorities of Lublin adopted a whole range of citizen participation tools, including a two-time presentation of the draft land-use plan for review, a citizens' assembly and a local referendum, conducted for the first time in the history of the city. Nevertheless, the aforesaid examples seem only to be a marketing strategy and a way of inspiring the feeling of decisiveness among residents. Did it make any sense to organise different social consultations, involving energy and public funds, if the authorities had their own plan, coincident with the developer's concept? Justifying the rejection of the conclusions from the debates and the voting, the authorities stressed that the city did not own the contentious area, which posed a number of legal complications.¹⁷ Nevertheless, this fact did not prevent the city authorities from burdening inhabitants with the responsibility for the decision on several occasions. As a result of three-year-long stormy social consultations of different forms, the compromise arrived at meant the development of 25 ha out of 30 ha of the contentious area voted on in the referendum (*Zapadł wyrok na Górki Czechowskie*). Analysing the problem from the perspective of functionality, i.e. the effectiveness of using such instruments as a local referendum in large cities, it could be reasonably assumed that a voter turnout of 30% (making the referendum binding) would not be reached, especially since the problem concerned only part of the city and some inhabitants. Interestingly enough, inhabitants of the housing estates adjacent to the Czechowskie Hills, who did

17 E.g., the invocation of the act colloquially called the "lex developer", which will lead to urban planning chaos because of the lack of urban regulations, the possibility of the investor's seeking damages for potentially lost income from the city in the case of changes to the land-use plan, which could be altered in order to preserve greenery in the Czechowskie Hills or to add services affecting the quality of life of adjacent housing estates.

not come out well in the 2013 research on their civic attitude, were highly active in the years 2016–2019. This was reflected in the outcome of the referendum: if it had been held only in their estates, it would have been binding and the area would have remained undeveloped by the votes of a vast majority. The observations of a citizens' assembly lead to the conclusion, on the other hand, that it is a rather advisory and non-binding form, as in the case of social consultations. However, the employment of this form of civic participation was an innovation.

Taking into consideration the number of applied citizen participation tools and the frequency of their use, it should be stated that the city of Lublin employs many such tools and methods to involve inhabitants in the decision-making process. As seen above, it also seeks innovative forms of social consultations in order to make this process more attractive. Citizen participation can logically be assumed to be a sign of local government engaging the local community in decision-making processes. However, it may also result from a local conflict and inhabitants' opposition to the direction taken by the mayor and the majority in the municipal council. The case of Lublin supports the theory that the more imposed a solution in the process of consultations, and the more complicated the contention and the higher number of local actors (especially affluent ones),¹⁸ the greater the civic activity of ordinary inhabitants.

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State Centered Tradition in Turkish Politics

Abstract: Since much has been written about the quality of democracy in Turkey recently, one can ask the question how one man and his political party managed to personalize the state with its structures and diminish the political influence of opponents within eighteen years – Recep Tayyip Erdoğan's Justice and Development Party (Adalet ve Kalkınma Partisi, AKP) has been created just one year before the Turkey's earthquake elections of 2002 which has started AKP's era. The 2017 constitutional referendum in Turkey made president Erdoğan the country's sole ruler with a presidential system having no check and balance mechanisms. This would not be possible without such charismatic and brilliant political leader like R.T. Erdoğan who managed to marginalize Kemalist establishment together with its elite and traditional supporters, i.e. military.

This paper basically argues that this success would not be possible without exploitation of deeply rooted state-centered tradition in Turkish politics, started just with creation of Republic in 1923, continued through twentieth century by Kemalists and their political institutions, and then transformed by R.T. Erdoğan and his conception of "New Turkey". The inhabited political institutions and particular state-centered political culture paved the way for transformation within power elite and establishment of presidential system. With a view to analyze this process

the state-centered tradition in Turkey will be analyzed together with political proceedings in AKP's era.

Key words: State Centered Tradition, Kemalists, R.T. Erdoğan, AKP, Elites.

Introduction

With no doubts Turkish politics since the creation of the Republic of Turkey can be perceived as a fascinating one. The transition from the rather archaic and feudal form of state, i.e. Ottoman Empire, pushed the country towards broadly understood modernity together with unprecedented and tremendous social, political and economical changes in the 1920s marked by the creation of the Republic in 1923. The newly created state had really less in common with its predecessor together with its modern administration, state apparatus and new political elite described as Kemalists united around the creator of the Republic of Turkey, Mustafa Kemal Atatürk and bounded by one particular ideology, i.e. Kemalism. The most important issue in this transition process is that Mustafa Kemal Atatürk and his followers managed to diminish the influence of traditional Ottoman elites like Muslim clerics and sultanic administration which has been rapidly replaced by the military, Kemalist bureaucracy and new capitalist social class loyal to the state elite. The establishment of the Republic formed a political regime that, contrary to the Ottoman Empire, created strong state-centered administrative and political institutions with strong inclinations to impose particular regulations, laws and social mechanism on the society. One can say that a state has become a center of the politics in Turkey and the society has become its subject while having political, social, economical and cultural reforms imposed from the top. As Ergun Özbüdün argues "...the state is valued in its own right, is relatively autonomous from society, and plays a tutelary and paternalistic role. This paternalistic image is reflected in the popular expression *devlet baba (father state)*" (Özbüdün 2000: 128).

This paper basically argues that state centered tradition is a main feature of Turkish politics since 1923. The dominance of the state, its leaders and their supporters on the society remains a significant feature of the Turkish political culture even today, in the political entity ruled personally by the Recep Tayyip Erdoğan and his Justice and Development Party (AKP, Adalet ve Kalkınma Partisi). What is even more important is that this state centered tradition in Turkey paved the way for power of this political force i.e. AKP that does not share any common ideological views with the Kemalist establishment, however it uses the same power mechanisms important for the state-society relations.

State Centered Tradition in Turkey

It is interesting to notice that state centered politics has been fully established in Turkey just in the 1920s together with the centralized unitary ideology of Mustafa Kemal Atatürk. It was then when the state and its apparatus became the principal agency aimed at building a modern nation together with national economy, both so lacking in the archaic Ottoman Empire. The Kemalism was an ideology of modernization with a clear aim of carrying Turkey to that-time contemporary level of civilization. Within the framework of the republican regime Mustafa Kemal Atatürk and his followers wanted to transform the society into a modern one, simply to say, close to its western counterparts. With a view to do so Kemalism was created as a guiding ideological system in the country. It needs to be underlined here that from the very beginning this ideological paradigm had two basic features. First it was the assumption that modernization should be interpreted as being identical to the West as a reference point, thus is reminiscent of Westernisation (Öniş 2004: 5). It is a paradox that broadly understood modernization in the area of politics, economy, social and cultural aspects has been linked to the state and its strength. All Kemalist principles, focused on famous six arrows, i.e. republicanism, nationalism, populism,

revolutionism, secularism and etatism, aimed at creation of national, secular state with modern economical system within this state-centered ideology and top-down attempts of reforms. From this period on the state and its elite became the only and one entity, eligible to decide about the future of social construction, political regime and economical processes in Turkey. What is more, the strong belief that religious state, like Ottoman Empire, cannot be modern (Kahraman 2002: 125–134), associated modernization with secularism and excluded huge segments of the society from the politics making processes and the state had a central institutional role. To be honest here, the Kemalist elite had an ambition to make Turkey modern with undemocratic measures acting in the name of the state and assuming a complete autonomy from other groups in the country (Özbüdün 1993: 252). The second important context of Kemalist activities is that the new regime from the very beginning had two important guardians, i.e. Turkish military and private enterprise sector dependent on the state elite in accordance with the principle of etatism. Both have been strongly associated with the bureaucratic state elite within the state-centric political entity.

The mentioned events determined Turkish politics in the twentieth century. The exclusion of the several social segments from the politics deepened socio-political cleavage, i.e. central-periphery making the state and its Kemalist elite the center and especially pro-religious oriented segments of the society, the periphery. Within the undemocratic conditions of the early Republic and 1924 Turkish Constitution, this construction was a successful tool aimed at creation of modern state, similar to the western countries. It must be underlined here that it was a time when the state became the center of all modernization processes and top-down implementation became immanent feature and a part of elites mentality which in such centralized countries often tend to be authoritarian (Linz 1975). Mustafa Kemal Atatürk and his political followers are not an exception.

During the single-party Kemalist regime, with Republican Peoples Party (CHP, Cumhuriyet Halk Partisi) in power the alliance

between the military, bureaucrats and Kemalists was quite successful in modernizing the country. In such centralized state the ruling elite, on the one hand, managed to impose the reforms on the society, on the other hand, it also preserved the social cleavages since huge segments of the society have been and remained excluded from the vital political decision making processes.

The 1946 marks a tremendous change in Turkish politics and a transition to the multi-party politics. It was in the 1950 when for the first time in the history of modern Turkey the ruling Kemalist CHP has been replaced in the government by its political opponents i.e. Democratic Party (DP, *Democrat Partisi*). For ten years the Kemalist establishment remained in the political and parliamentary opposition, however maintained its informal influence on the state apparatus due to previously mentioned alliance with military especially, who perceived themselves as the guardians of the state and its principles with a secularism in the first place. The DP's rule ends with 1960 military coup d'état; the government has been overthrown and the party closed. The military junta accused DP of undermining republican values like secularism although the party did not alter the basic features of the republican regime. As the result of the coup the new constitution of Turkey has been created in 1961. The essence of this constitution clearly reveals the way how Kemalist elites or its part, i.e. military, thought about Turkey and the state in general, and also how top-down implementation of the laws and regulations was significant in that country.

The 1961 Constitution has been created under strong military pressure since civilian governments has been suspended in the 1960–1961 period. This act has two basic features. First of all, it can be considered a modern one while in theory it had established a more democratic political regime, simply to say a parliamentary model, and also expanded the catalogue of rights and freedoms of the individuals. On the other hand, the 1961 Constitution has been strongly influenced by the military who virtually placed the civilian governments and political parties under their control with two particular institutions, i.e. Constitutional Court and National

Security Council. The former was a novelty in Turkey and except of classical functions of its western counterparts was also empowered to investigate any activities perceived as dangerous for the basic principles of the state, mainly the secularism. As a consequence, the Court could decide on closure of particular political party that became a common practice in Turkey. The letter was to be composed out of the chosen civilian ministers, Chief of the General Staff and some high-ranked generals. In theory National Security Council was to advise and recommend on the national security issues, however in practice it soon appeared as a body with tremendous informal influence on civilian politics. As Tanör points out "it was a symbol of privileged position of the military bureaucracy towards civilian executive" (Tanör 1996: 304).

One can say that the 1961 Constitution was in favor of pluralistic modernity, however it strongly strengthened the power of state elite, particularly the military. As a result it created a political entity with highly fragmented structures. This pluralistic construction soon led to the fragmentation of the whole political system, resulting in further radicalization of political parties and emergence of extremist fractions from both sides of political spectrum. Contrary the military expected, the state failed to impose democratic political culture and trust, thus creating rather chaotic and divided polity.

The growth of internal anarchy, struggles of radical groups and instability of weak, often coalition governments, made the Turkish military step in again just in the 1980. Together with the second direct coup d'état the civilian government has been suspended and an army ruled Turkey in the 1980–1983 period. That time coup has had far more influence on Turkish politics than the 1960 one. Once again the state elite decided to implement and impose a new Constitution as a remedy for the political system instability. Since the detailed analysis is behind the scope of this paper, it is enough to state that the 1982 Constitution should be considered an illiberal one; its basic feature was a centralization of power by the state elite together with formal increase of military power via National Security Council. From that time on the NSC was empowered with

broad competences to influence both domestic and foreign policies of Turkey. It became a "militarized body which did not advise but rather informed the Council of Ministers about its decisions" (Bayramoğlu 2004: 84–85). During the 1980–1983 military rule the new political reality in Turkey has been created together with much less liberal regulations on civil society and rights, political parties, the media. The closure of all pre-1980 political parties, raising influence of the Constitutional Court made the Turkish Politics even more state-centered with governmental structures in which the military remained involved as the ultimate guardian of the Kemalist state and its principles. Another important issue is that the under this Constitution the President of the Republic had an active and creative role with powers far greater than usually these organs do have in a parliamentary system. Enough to say that until the twenty-first century this post was occupied by people linked to the military since the first president was Kenan Evren, the 1980 coup leader. His successors also shared an army background until 2007 when Abdullah Gül from AKP was elected.

Turkish politics in the twentieth century remains under strong influence and control of the elites which identified themselves with the state. The state-centered tradition, started together with the creation of the Republic in 1923 and dominated the nature of domestic proceedings in Turkey, while the state and its elite became the center of all crucial decisions and, as it has been showed, did not hesitate to take unprecedented measures with a view to protect its privileged position. While imposing the rules of political game the army together with the Kemalist elite monopolized the structures of the state, putting themselves in the center. The society became a subject rather on which the regulations are implemented in the highly top-down processes compromising with the elitist mentality and the overall perception of the state.

One could expect that this way of thinking about the state and its role in the politics would be transformed after 2001, together with rise of Justice and Development Party and its seizure of power in 2002. As it will be shown these expectations proved to be premature.

AKP and the State

This section seeks to explain the dynamics of state-centered approach during the Justice and Development Party's tenure. A party that has been ruling Turkey since 2002 elections and its leader R.T. Erdoğan within eighteen years managed to marginalize political opposition and stabilize themselves in the center. What is more, since the 2017 constitutional referendum Turkey in practice does have a presidential system in which, unlike in , for instance, American system, check and balance mechanism does not exist, and the presidential power is in practice almost unlimited. With R.T. Erdoğan in office the personalization of Turkish politics is now evident. In this context it is interesting to analyze how the huge state-centered tradition in Turkish politics has been used and exploited by this politician in order to centralize his personal power.

The 2002 elections were an earthquake in Turkish politics; the AKP, established just in 2001, managed not only to win but also to create non-coalitional government, first since 1980s. At the beginning AKP functioned in a rather hostile political environment; while the party had clearly pro-Islamic background in the Kemalist establishment, still in control over state institutions, monitored its activities and made the party's leaders take rather cautious measures. Just enough to say that in the 1997 military closed down pro-Islamic Welfare Party (Refah Partisi) and made its leader, that time prime minister Necemttin Erbakan give up the power. The AKP's leadership with R.T. Erdoğan had this in their mind and at the beginning did not take any steps that could be considered incompliant with basic state values guarded by the military and Kemalist bureaucracy. Instead of that they implemented a package of reforms aimed at completing Turkey's European Union accession process that gained impetus in 1999 at the EU Helsinki Summit. With a view to fulfill the Copenhagen Criteria Turkey started to reform its legal system in such areas like economy, judiciary, civil rights and rule of law. In a country with strong authoritarian legacy and normative values identified with the state under

undemocratic 1982 Constitution this was not to be an easy task, though the elimination process was to be done by several judicial reforms adopted by the Turkish parliament since 2001. With no doubts AKP gave this process a new impetus. In 2003 the Seventh Democratization Package reduced the National Security Council's role in the political system together with subjecting its acts to the judicial review by the Constitutional Court. Later, with further reforms, the decisions of NCS lost their priority, gaining clearly advisory character. The abolition of the State Security Courts in 2004 and subjecting all public expenditures, including those of military institutions, to the civilian judicial control, were also a step towards successful civilian control of the army. During the first term in office, 2002–2007, Justice and Development Party managed to reduce the formal influence of military on civilian politics. In the following years, together with electoral successes an informal prestige of the military remained under constant attacks together with plot accusations and purges within an armed forces. All this together contributed to the diminishing of the military position within Turkish political system.

It is worth mentioning that during early years of AKP's political activity R.T. Erdoğan presented his party as a new phenomenon with broad electoral platform that differed from the traditional forces of Turkish politics. According to him the state-centered tradition should be replaced by the idea of "service", as he claimed: "The service to the people should be considered the first and the basic task of the state representatives, mainly the bureaucracy. According to us it does not mean any special privileges or immunities. Bureaucracy should not look at the people from above, it should not make the things harder. Quite the contrary, it should serve its citizens, and like in the Western countries, should contribute to the public interest" (Erdoğan 2004: 193–194). These words are an exemplification how he wanted AKP to be perceived: as a reformative force in Turkish politics. It must be underlined here that this kind of political appeal was quite successful and catchy not only for religious parts of the society, but also for all those who opposed

the state centered approach to politics represented by the Kemalist establishment.

All these factors together contributed to continuous AKP's electoral success in the consecutive parliamentary elections. What is more, the party and its leader have been supported by conservative religious urban middle class that soon became a new economic force in Turkey, loyal to AKP and a counterbalance to traditional pro-Kemalist entrepreneurs.

It is interesting to follow in Turkey a gradual process of retreat from democratic values towards undemocratic measures during AKP's era. In the relative short period R.T. Erdoğan reduced an influence of military, created a new economic background for his party and started to expand his personal control over the state apparatus with nominating his party-loyal followers for crucial posts in public administration and judiciary.

Conclusion

The 2017 Constitutional referendum in Turkey should be perceived as a final step in the centralization processes done by the Justice and Development Party within almost twenty years. The strong state-centered tradition that can be traced back to the 1920s has been used by the dominant party as a tool. Democratizing reforms of the early 2000s contributed largely to the diminishing of the role of traditional state guardians, mainly the military. Consecutive electoral successes stabilized AKP's power and finally led to the elite replacement within still highly state oriented political culture. The "New Turkey" does have a new political elite composed of R.T. Erdoğan and his political followers, the AKP, and the dependent economic sector. Simultaneous struggle with political opposition, free media sector and several civil society associations proved the way how state-society relations are understood; once again in the history of politics in Turkey the capture of the state institutions

fruited in elitist mentality and top-down implementation mechanism became such a characteristic attitude.

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Fig. 1. Revitalisation programme development procedure as a foundation for health impact assessment (HIA) in Poland

