

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.

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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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