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Legal and Axiological Aspects of Participatory Budgeting Procedure in Poland and the Czech Republic¹

Abstract: The aim of the paper is to analyse the impact of participatory budgeting (PB) principles and procedures on public values. PB means a year-long decision-making process through which citizens negotiate among themselves and with local government officials, generally in organized meetings, and then vote over the allocation of local spending. We hypothesize that PB legal principles and procedures are not axiologically neutral but they do have a positive or negative influence on public values. We base our analysis on the case of two cities, taking the criterion of their similarity regarding ranking position in terms of the number of inhabitants and the percentage of the city budget allocated for the participatory budget, i.e. Kraków (Poland) and Brno (Czech Republic). For the analysis we use the category of nodal public values comprising: human dignity, sustainability, citizen involvement, openness, confidentiality, compromise, integrity, and robustness. Our research has confirmed that the PB principle and procedures are not axiologically neutral but sometimes they have positive and sometimes negative influence on public values. That will allow, in the next step of research, to determine the legal regulations that would strengthen particular public values via the PB procedure and, by this means, to enhance accountability for the spending of local funds.

Keywords: participatory budgeting, values, legal norms, Kraków, Brno

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1. Theoretical Framework

The main characteristic of the democratic system consists in electing citizens' representatives to make public decisions, including financial decisions, that are in the public interest and valid at both central and local government level. However, the citizens' activity is primarily limited to participation in elections. Using Tocqueville's² words each individual endures being bound because he sees that it is not a man or a class, but the citizens emerge for a moment from dependency in order to indicate their master and return to it. In consequence, contemporary societies are struggling with "a participation pathology" (i.e. the lack of citizens' conviction that participation can help to solve public problems) and with "a representation pathology" (i.e. the reduced citizens' sense of being represented by those they had elected).³ In such circumstances, public spending in the public interest is limited by the principal-agent problem.⁴ The separation of ownership and control causes serious conflicts of interests, as the politicians (agents) elected (employed) by the citizens (principal) do not always act in the interests of the latter but seek instead to realise their own agendas, thus the principal's moral hazard problem appears,⁵ requiring solid public values bases.

To resolve these deficits of democracy, the political sciences propose the concept of participatory democracy,⁶ deliberative democracy⁷ or direct democracy,⁸ whereas public management science attempts to solve the problem via the similar governance concept.⁹ Local governance that – in contrast to the previously dominant concept of local government – includes the citizens and the residents of local communities in the decision-making process without limitation of their role (as hitherto the concept of local government) at most to the choosing of their representatives in local elections. Participatory budgeting (PB) is a part of the concept of public governance which assumes the citizens' participation in the decision-making process. This concept constitutes an extension of the New Public Management approach which began to dominate in public administration in the eighties of the previous century, when belief

2 A. de Tocqueville, *Democracy in America*, Indianapolis 2010.

3 G. Allegretti, *Paying Attention To The Participants' Perceptions in Order to Trigger a Virtuous Circle*, (in:) *Hope For Democracy – 25 Years of Participatory Budgeting*, São Brás de Alportel 2014.

4 C. Jensen, W.H. Meckling, *Theory of the firm: Managerial behavior, agency costs and ownership structure*, "Journal of Financial Economics" 1976, vol. 4, no. 3.

5 G.J. Miller, A.B. Whitford, *The Principal's Moral Hazard: Constraints on the Use of Incentives in Hierarchy*, "Journal Of Public Administration Research And Theory" 2006, vol. 17, no. 2.

6 C. Pateman, *Participation, and Democratic Theory*, Cambridge 1970.

7 J. Bohman, *The Coming of Age of Deliberative Democracy*, "Journal of Political Philosophy" 1998, vol. 6, no. 4.

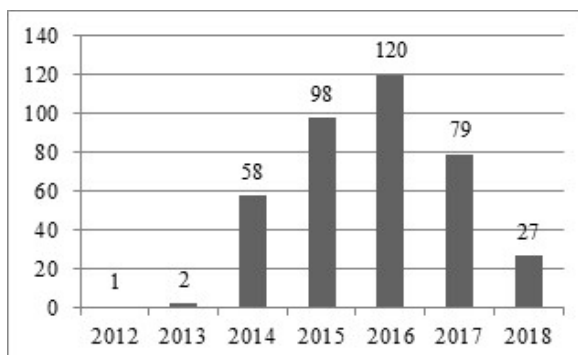
8 M. Saward, *Terms of Democracy*, Cambridge 1998.

9 J. Kooiman, *Participatory Governance*, (in:) J. Grote, B. Gbikpi (eds.), *Governance. A Social-Political Perspective*, Opladen 2002.

in the effectiveness of Weber's model of bureaucratic administration finally collapsed.¹⁰ Participatory budgeting means a year-long decision-making process through which citizens negotiate among themselves and with local government officials, generally in organised meetings, and then vote over the allocation of local spending.¹¹ The decisions taken in such way are then incorporated in local budgets. The introduction of PB to the traditional local budgetary procedure reduces (but does not eliminate - until such time that all local government expenditure is covered by PB) the discretionary decisions of bureaucrats and officials about the allocation of public expenditure.

Although complete comparative data is lacking, Poland is probably the country where PB has developed on the widest scale among all Central and East European countries (CEE).¹² The first PB in Poland was extracted from the municipal budget of Sopot city in 2012 (voting took place one year earlier) and till this time the number of towns and cities applying PB continues to increase, achieving in 2018 a total of 385. More recently, PB has gained popularity in other CEE countries, e.g. in the Czech Republic, where till now 78 towns and cities have implemented it. Here, the first experiments with PB took place during 2012 and 2014 in four towns (Nelahozeves, Příbor, Pržno, and Třanovice), however as the implementation of PB principles was not officially realised until 2014, it is considered that PB in the Czech Republic started from this year. We present detailed data on the number of PB implementations in particular years in the following charts:

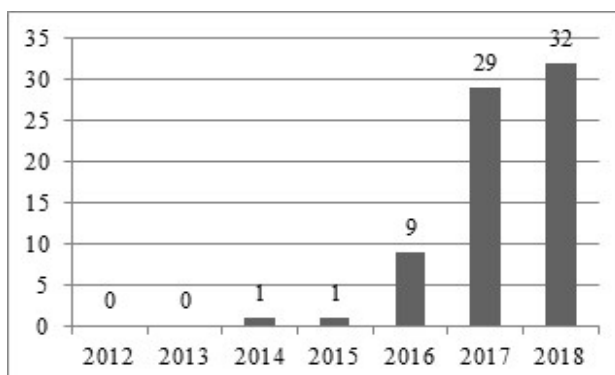
Chart 1. Number of PB implementations in Poland



Source: U.K. Zawadzka-Pąk, *Ochrona dobra wspólnego poprzez budżet partycypacyjny (obywatelski). Studium aksjologiczno-prawne*, Białystok 2019.

- 10 U.K. Zawadzka-Pąk, E. Lotko, Participatory Budgeting under the Pressure of Fiscal Austerity in three Polish Cities, (in:) D. Šramková, M. Janovec, J. Valdhans (eds.), *Stabilita a stabilizace podnikatelského prostředí*, Brno 2018.
- 11 B. Wampler, When Does Participatory Democracy Deepen the Quality of Democracy, "Comparative Politics" 2008, vol. 41, no. 1.
- 12 Y. Sintomer, A. Röcke, C. Herzberg, *Participatory Budgeting in Europe. Democracy and Public Governance*, New York 2016, p. 23.

Chart 2. Number of PB implementations in the Czech Republic



Source: V. Černý, *Participatory budgeting in the Czech Republic - lessons learnt*, www.slideslive.com/s/vojtech-cerny-755.

2. Methodology and Data

The aim of the paper is to analyse the impact of PB principles and procedures on public values. We hypothesis as follows: *PB legal principles and procedures are not axiologically neutral but have a positive or negative influence on public values.*

Although some previous researchers have explored the question of a link between PB and particular public values, little attention was paid to public values as an instrument for reducing the moral hazard problem resulting from the separation of ownership and power between citizens and local politicians. Therefore, to fill this research gap we base on the existing catalogue of public values reconstructed by T.B. Jørgensen and B. Bozeman¹³ from approximately 230 studies dealing with this topic. Registered in this way, 72 values were considered in the dimensions of proximity, hierarchy and causality. The proximity of values tells about the closeness of one particular value to another, the hierarchy of values pertains to their relative primacy, the causality happens when one value is a means to an end. In our paper, we take the classification of values in relation to their proximity. In this context, these are: nodal values (values with a large number of related values that appear to occupy a central position in a network of values); neighbour values (values close to each other in meaning but which are nevertheless not identical) and covalues (values which are related to one another in the sense that they frequently appear at the same time or covary). The nodal values will serve us for ordering the structure of the paper,

13 T.B. Jørgensen, T. Bozeman, *The Public Values Universe: An Inventory*, "Administration & Society" 2007, vol. 39, no. 3, p. 369-370.

whereas the neighbour values and will serve to précise the notion of nodal values, and to widen in a systematic way the scope of the analysis. The covalues are omitted in our analysis, as they are too remote from the core notion of the nodal values. In Table 1. we enumerate the nodal values, the neighbour values, and the covalues, whereas in table 2. we explain the notion of particular nodal values.

Table 1. Nodal Values, Neighbour Values, and Covalues

Nodal Value	Neighbour Values	Covalues
Human dignity	Citizens' self-development, citizen involvement, protection of the rights of the individual	Justice, benevolence, voice of the future, equity
Sustainability	Voice of the future	Stability, continuity, the common good, the public interest, moral standards, ethical consciousness, solidarity
Citizen involvement	The will of the people, listening to public, opinion, responsiveness,	Dialogue, balancing interests, self-development
Openness	Responsiveness, listening to public opinion	Accountability, rule of law, dialogue, democracy, the will of the people, collective choice
Secrecy	<i>(No neighbour values registered)</i>	Stability, continuity, the rule of law, protection of the rights of the individual, productivity, effectiveness
Compromise	Balancing interests	Reasonableness, fairness, dialogue, adaptability, robustness
Integrity	Honesty, dignity, fairness, ethical consciousness, moral standards, professionalism, openness, impartiality, loyalty to the regime	<i>(No covalues registered)</i>
Robustness	Stability, adaptability, reliability	Legality, social cohesion, flexibility, responsiveness, rule of law, timeliness, effectiveness

Source: T.B. Jørgensen, T. Bozeman, *The Public Values Universe: An Inventory*, "Administration & Society" 2007, no. 3, p. 371.

Table 2. Essence of Nodal Values

Nodal value	Notion
Human dignity	Acting according to principles to a high degree, being prepared to bear the burdens of other people and protecting other people ¹
Sustainability	Bequeathing of a clean environment and plentiful resources to our descendants, requiring that the economy, the environment, and human society be seen as three interacting, interconnected, and overlapping prime systems ²
Citizen involvement	Citizen participation in administrative decision-making and management processes ³
Openness	Lack of secrecy, access to information, and transparency of the process ⁴
Secrecy	Concealing certain information from certain individuals or groups as some policies and processes, if they were made public, could not be carried out as effectively if at all ⁵
Compromise	Ethical agreement reached as a result of reciprocal concessions ⁶
Integrity	The wildcarded term that can be viewed in eight different ways: as wholeness, as being integrated into the environment, as professional responsibility, as conscious and open action based on moral reflection, as a (number of) value(s) or virtue(s), including incorruptibility, as accordance with laws and codes, as accordance with relevant values and norms, and finally, as exemplary moral behaviour ⁷
Robustness	The suitable combination of the stability and the adaptability, being immune to outside influences, and the ability to flow with the tide when necessary ⁸

Source: authors own compilation bases on the literature cited.

1. G. Grzybek, *Etyka rozwoju a wychowanie*, Rzeszów 2010, p. 46.
2. T.B. Jørgensen, T. Bozeman, *The Public...*, op. cit., p. 362; J. Robinson, J. Tinker, *Reconciling Ecological, Economic and Social Imperatives: A New Conceptual Framework*, (in:) T. Schrecker, *Surviving Globalism: The Social and Economic Challenges*, New York 1997, p. 4.
3. K. Yang, S.K. Pandey, *Further Dissecting the Black Box of Citizen Participation: When Does Citizen Involvement Lead to Good Outcomes?*, "Public Administration Review" 2011, vol. 67, no. 2.
4. D. Rossmann, E.A. Shanahan, *Defining and Achieving Normative Democratic Values in Participatory Budgeting Processes*, "Public Administration Review" 2012, vol. 72, no. 1, p. 57.
5. D.F. Thompson, *Democratic Secrecy*, "Political Science Quarterly" 1999, vol. 114, no. 2, p. 19.
6. M.E. Guy, *Ethical Decisions Making in Everyday Work Situations*. Westport 1990, p. 19.
7. L. Huberts, *The Integrity of Governance. What It Is, What We Know, What Is Done, and Where to Go*, Hampshire 2014, p. 39.
8. T.B. Jørgensen, T. Bozeman, *The Public...*, op. cit., p. 366.

We base our analysis on the case of two cities, taking the criterion of their similarity regarding ranking position in terms of the number of inhabitants and percentage of the city budget allocated for PB purposes. In the table below, we summarise the main characteristics of the two selected cities and their PB.

Table 3. General characteristics of the analysed cities and their participatory budgeting

Country	Poland	The Czech Republic
City	Kraków	Brno
Population	762448	379 527
Ranking position according to population	2.	2.
Year of PB implementation	2015	2017
Percentage of local budget allocated to PB 2018 Edition	0,17%	0,22%
Percentage of inhabitants taking part in the PB 2018 Edition (voting took place in 2017)	4,21 %	3,6 %
Number of selected PB projects	113 citywide projects and 467 overall, all selected by voting	16 district projects, all selected by voting
Examples of citywide PB projects	planting trees; bicycle routes; cottages for stray cats; retrofitting of fire and rescue services; revitalisation of parks and streets; chill out zones (sun loungers); city deliberators	<i>(No citywide PB projects)</i>
Examples of district PB projects	recreation and sports parks; playgrounds; first aid training, including instruction on the use of defibrillators; educational and sports activities; project for integrating people with disabilities and the elderly with society; facilities for the disabled; purchase of air purifiers for kindergartens; smog-absorbing green spaces; nesting boxes for birds;	playgrounds, parks; revitalisation of green areas; public toilets; analysis for improving environment in the city; creating clubrooms, new sports areas; improving bus stations; educational. trails; improving pavements and roads; new bicycle routes; new libraries; building for modern-art creation

Source: authors own elaboration.

The paper bases on multiple research methods. Apart from desk-research (the analysis of data on the participatory budgets and PB procedures), qualitative methods were also applied, i.e. by way of semi-structured interviews conducted in Kraków and in Brno with local high-level civil servants responsible for PB, municipal councilors and PB participants.

3. Strengthening and Weakening of Public Values in Participatory Budgeting Procedure in Kraków and Brno

In the two consecutive tables we give examples of strengthening and weakening of public values in participatory budgeting procedure in the two analysed cities. The examples were formulated based on analysis of the PB rules and procedures, the PB project, and the interviews.

Table 4. Strengthening Public Values in Participatory Budgeting Procedure in Kraków and Brno

Country	Poland	The Czech Republic
City	Kraków	Brno
Human dignity	<ul style="list-style-type: none"> - Some PB projects counteract violations of human dignity, e.g. financing assistance for disabled and elderly people. Residents also proposed (even if not chosen) projects to conduct self-defence training, the aim of which is to reduce violence against women and weaker people. - Participation in PB gives the residents a sense of agency. 	<ul style="list-style-type: none"> - Some PB project have the potential to increase human dignity, e.g. in 2017 three projects shaping this value were proposed. The first project dealt with creating webpages with information about the current needs of disabled people. The second dealt with PC literacy for the elderly. The third dealt with parking for disabled people.
Sustainability	<ul style="list-style-type: none"> - Some PB projects (smog absorbers, park revitalizations) support sustainable development. - Municipal PB has become an inspiration to build a civil society in a broader context, through the establishment of BP at the Jagiellonian University, financed from the university's funds. 	<ul style="list-style-type: none"> - There are many PB projects aimed at sustainability, e.g. environmental improvement, park and green areas revitalization, bicycle routes and educational training.
Citizen involvement	<ul style="list-style-type: none"> - Residents phone the municipal office and ask when a PB project will be completed. - The inhabitants demand the PB projects to be marked with a sign informing that it was financed from PB (sometimes even if a project has yet to be completed). 	<ul style="list-style-type: none"> - Residents try to suggest PB projects which can help others and improve the quality of life. - It is possible to contact the project author and to ask questions.
Openness	<ul style="list-style-type: none"> - PB itself fulfils both an informative and educational function. Involved residents learn about the functioning of the city: the cost of public tasks, legal procedures, public procurement, the principle of annuity, and the local spatial and development plan, etc.). - Information on the progress of PB projects implementation is published online in the monthly Krakow Public Information Bulletin. 	<ul style="list-style-type: none"> - City hall has created a PB webpage "damenavas.cz" that explains the principles of PB, informs about proposed projects and the realisation of selected projects with progress photos. The number of voters participating and all current news about PB are also presented. The same information can be found in the social media, i.e. Facebook. - Brněnský Metropolitan (the Brno newspaper) publishes information about PB on a monthly basis.
Secrecy	<ul style="list-style-type: none"> - Voting on PB projects is secret. - Personal data of project authors are protected and not included in the project description. 	<ul style="list-style-type: none"> - Voting on PB projects is secret. To vote the residents need only submit the number of their ID card. Voting is conducted via the Internet on the "damenavas.cz" website. - Personal data of project authors are protected. Only the name of the project author and a photo (if the project author agrees) appears on the "damenavas.cz" website.

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Compromise	<ul style="list-style-type: none"> – The PB rules allow for the implementation of both “hard” projects (i.e. investment) and “soft” projects (i.e. services). 	<ul style="list-style-type: none"> – Different PB projects are proposed and residents can choose the ones they feel to be the most appropriate. – PB projects selected for realisation provide benefits for many residents as they concern, e.g. environmental tasks, improving information about public transport arrivals at the main train station, watchtower, new bicycle routes, etc.
Integrity	<ul style="list-style-type: none"> – PB projects must meet public availability requirement, so that all residents can use the projects, just as all residents can vote for them. Thus, for example, projects implemented in schools (playgrounds, playing fields, etc.) are made available to residents outside school hours. 	<ul style="list-style-type: none"> – PB increases integrity in society because all residents can choose the projects which bring global advantages and integrate all residents (e.g. projects for a better environment).
Robustness	<ul style="list-style-type: none"> – Having consulted the regional accounting office, who stated that the purchase of a glider and the organisation of a series of training courses on it, does not constitute a task related to satisfying the collective needs of the community, the President of Kraków decided to resign from implementation of the controversial “Krakow Wings” project and implement the PB project instead. 	<ul style="list-style-type: none"> – All proposed projects are analysed in terms of their realisation. Information about the possibility of realisation is placed on the websites and residents have the possibility to be kept informed in this regard. Typically, only projects with no remarks against realisation are selected.

Source: authors own elaboration.

Table 5. Weakening Public Values in Participatory Budgeting Procedure in Kraków and Brno

Country	Poland	The Czech Republic
City	Kraków	Brno
Human dignity	<ul style="list-style-type: none"> – Applicants of selected PB projects sometimes treat themselves as superior to applicants of unselected projects. 	<ul style="list-style-type: none"> – Although proposed, PB projects aimed at strengthening human dignity (e.g. improving the situation of disabled or elderly people) were not chosen for realisation.
Sustainability	<ul style="list-style-type: none"> – There are (rare) cases in which residents in one year choose a PB project (e.g. a playground), and the following year, another group of residents submit a project for its removal. Sustainable development of the city is therefore endangered by a lack of sufficient discussion on the real needs of the residents. 	<ul style="list-style-type: none"> – Some PB projects are realised because they are very popular but their utilisation is doubtful, as in the case of ice skating on Brno Reservoir. If ice resurfacing is financed by PB (due to mild weather conditions), the facility is only usable for one month in the year.
Citizen involvement	<ul style="list-style-type: none"> – The turnout in PB voting falls year by year. – Few residents attend informative meetings on PB procedures and projects. – Often residents resign from participation in PB if a project they have supported fails to be accepted. 	<ul style="list-style-type: none"> – Many residents become frustrated if they have supported a PB project that was not finally selected. Such negative experience tends to weaken their involvement in future years.
Openness	<ul style="list-style-type: none"> – Information about PB meetings and the voting itself does not reach all residents. – Many municipal councillors do not perceive PB as an opportunity to show themselves as an animator of communication between residents or as a person open to cooperation and the building of dialogue. 	<ul style="list-style-type: none"> – Information about PB does not reached all residents. Older people in particular tend to experience problems in gaining information about PB, especially insofar that most information is only available on the Internet.
Secrecy	<p><i>(No examples of violation of this value have been identified)</i></p>	<ul style="list-style-type: none"> – Some people do not believe that online voting favours secrecy.

Compromise	<ul style="list-style-type: none"> – Often there is a lack of compromise because discussion on submitted projects is missing. This results in protests against some implemented PB projects. – PB does not necessarily enable the real needs of residents to be identified. Therefore, PB projects are not always the effect of compromise in implementing the needs of local communities. 	<ul style="list-style-type: none"> – In the final days of voting, restlessness increases and the position of projects remains fluid in relation to which of them will ultimately be supported. Sometimes the difference between a supported and unsupported project amounts to only a few votes (e.g. in 2017 it was only 48 votes, whereas every resident has a total of 5 votes).
Integrity	<ul style="list-style-type: none"> – Some district councils (or elements within district councils) consider PB to be a threat to their position because they prefer to retain control over the representation and decision-making processes involving inhabitants. – Some district councils do not express interest in municipal PB, sometimes consciously leaning toward obstructing the process by allocating small funds or organising few meetings with residents. One city district failed in total to participate in PB. – Part of the media is also more interested in reporting PB weaknesses, which attract readers' attention, rather than disseminating more objective news about PB projects. 	<ul style="list-style-type: none"> – The attitudes toward PB depends on the will of local decision making bodies. If a district council wants to believe that PB is a good way to solve some local problems then PB is supported. If a district council does not want PB, the process will not be initiated.
Robustness	<ul style="list-style-type: none"> Deadlines for the implementation of PB procedure included in the districts statutes are not synchronised in time with the PB implementation schedule of the city as a whole, which means that there is very little time to organise consultations with residents, a very important element of deliberation, but which is virtually non-existent in the city. 	<p>The time for PB implementation is not fixed (e.g. 1 year). Till the end of the year only 5 out of 16 projects chosen in 2017 were realised and 3 of these projects came to fruition on less than a 50 % majority.</p>

Source: authors own elaboration.

4. Conclusions

Our research has confirmed that the PB principle and procedures are not axiologically neutral but sometimes they have positive influence on public values and sometimes a negative one. That would allow, in the next step of our research, to determine the legal regulations that would strengthen particular public values via the PB procedure and by this means, to enhance accountability for the spending of local funds. The preliminary analysis of PB legal regulations leads to the conclusion that especially the legal norms of local rank, and eventually having a statutory basis, should be taken into consideration.

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