
Selected Legal and Economic Consequences of the COVID-19 Pandemic that Impact the Organization of Participatory Budgeting in Poland

Submitted 23/10/21, 1st revision 03/11/21, 2nd revision 23/11/21, accepted 10/12/21

Jakub Baranowski¹

Abstract:

Purpose: The purpose of this article is to demonstrate the consequences of the global COVID-19 pandemic that impact the operation and organization of one of the most important participatory processes in Poland—participatory budgeting.

Design/Methodology/Approach: The article discusses selected legal and economic consequences of holding participatory budgeting during the COVID-19 pandemic and at the same time identifies postulates for the future.

Findings: The article has proven that the largest Polish cities, where participatory budgeting is obligatory, did not experience economic consequences of the COVID-19 pandemic. On the contrary, in a municipality where this obligation did not apply, the authorities decided to suspend the procedure and allocate the funds to other, more important public purposes.

Practical Implications: The result of the analysis shows that Polish participatory budgeting-related legislation is not ready for unforeseeable, emergency crisis situations. The inflexibility of legal regulations magnified by social concerns for the consequences of the pandemic and also uncertainty as to economic effects of such situations unequivocally show that provisions for extraordinary situations must be introduced.

Originality/Value: This research is the author's original study.

Keywords: Participatory budgeting, local self-government law, administrative law, law aspects, economic aspects.

JEL codes: K23, K29.

Paper Type: Research article.

¹University of Szczecin, Szczecin, Poland, jakub.baranowski@usz.edu.pl;

1. Introduction

Since the 1980s, participatory budgeting² has become part of the canon of participatory processes in many countries worldwide. The essence of participatory budgeting involves delegating decision-making concerning part of a budget of a given local government unit to its residents. Residents aim to put forward certain ideas on how to change the local reality, while local authorities are tasked with implementing these later (Ganuza and Baiocchi, 2012). This implementation must be effective (Mosiejko, 2020), given that the process is binding.

PB's contrast with standard public budget-making, in which bureaucrats or politicians decide the allocation of public resources to specific tasks (Gilman, 2016), is what may explain the growing role of participatory budgeting among local communities. The success of participatory budgeting in particular depends on citizens' engagement in this process—if active residents do not submit task proposals, there are no projects to choose from and implement. Such understanding of participatory budgeting means engaging residents and community groups to discuss municipalities' priorities and at the same time giving the local community a role in the scrutiny and monitoring of the process (Williams, Denny, and Bristow, 2017). Also, we mustn't forget that participatory budgeting also stipulates improvement of local authority-residents relations (Buele, Vidueira, Yague, and Cuesta, 2020).

The first Polish municipality to start the idea of participatory budgeting was Sopot, a town on the Baltic Sea with a population of 35 thousand. The first ever edition of participatory budgeting was held in 2011, followed in subsequent years by other Polish cities that opted to offer this tool to residents and thus popularised this form of public participation. Up until 2018 participatory budgeting had been conducted under provisions on regular public consultations, but PB's popularity (in 2017, 320 out of 950 Polish towns carried out this project) somewhat forced certain legislative changes. Participatory budgeting today in Poland functions at the level of local government, which may take the form of a municipal self-government (Municipal Self-Government Law), a county self-government (County Self-Government Law) or a regional self-government—provincial self-government (Provincial Self-Government Law).

This publication refers to outcomes of one of the greatest crisis situations worldwide recently—the outbreak of the COVID-19 pandemic—in the legal and economic aspect that affects the organization of participatory budgeting in Poland. The paper discusses selected problems that the author believes most important. For the needs of this study, the author uses regulations on participatory budgeting at the municipal level.

²*The abbreviation PB will be used interchangeably.*

2. Materials and Methods

The article focuses on the legal analysis of provisions that specify the organization of participatory budgeting in Poland at the municipal self-government level and also on the analysis of economic consequences of holding PB during a crisis situation sauced by the outbreak of the pandemic.

The author uses an analysis of the law in force to shed light on and to examine Poland's legal status pertaining to participatory budgeting. He also uses the empirical method by means of which he analyses the economic consequences of the COVID-19 pandemic that affect PB functioning in selected Polish municipalities.

Moreover, he combines the empirical method with the statistical methods to show—using figures—reference data for financing the PB procedure before the outbreak of the pandemic and in selected years of its duration. The results are to show whether and to what degree i.a. the legislator's failure to respond has impacted one of the most important forms of public participation (PB).

3. Results

3.1 Legal Aspects of the Impact of the COVID-19 Pandemic on the Organization of Participatory Budgeting in Poland

Participatory budgeting has been functioning formally in the Polish legal order since 2018. In this time the Polish legislator has decided to regulate the question of the existence of this form of public participation by assigning it a rank in self-government laws. Such a move, which implements this idea in the life of local communities, entailed relevant legal consequences.

The amendments done to the Municipal Self-Government Law ultimately classified the PB procedure as a special form of public consultation. Participatory budgeting differs from the regular consultation mode in the fact, i.a., that the outcome of consultations under PB is binding on the municipality (Ziółkowski, 2018) whereby projects picked by residents in the annual vote must be implemented (Municipal Self-Government Law, Article 51a(3) and (4), 1990).

Additionally, the legislator ordered some municipalities to organise and carry out the participatory budgeting procedure every year. This obligation was imposed on cities with county rights³ (close to 70 largest cities in Poland). The reasoning behind it was that cities give a guarantee of conducting the procedure in a permanent and stable manner. Apart from the introduction of this obligations, the Polish legislator ordered these cities to finance participatory budgeting as an adequate (0.5%) percentage of

³*This should be understood as Polish cities in which the President (of a city) holds the executive authority. Hereinafter referred to as "cities".*

the municipality's outlays in the most recent report on exercising the budget (Municipal Self-Government Law, Article 5a(5), 1990). Such a legal construct of this provision stipulates that the amounts under participatory budgeting increase as the city ups its expenditures. It needs to be added that the Polish legal order still allows for other municipalities to not organise participatory budgeting.

When presenting these legislative amendments, we must see them as revolutionary. Up until 2018, PB matters had not been regulated at all in the Polish legislation. When carrying out this procedure, municipalities relied on regulations governing the process of regular public consultation, adjusting them locally to requirements set for participatory budgeting.

In the year of the outbreak of the COVID-19 pandemic, PB infrastructure, like any other aspect of the state's functioning, was not prepared for a radical change in operation. The fact that residents could not be contacted directly and the hindered promotion of participatory budgeting could not be compared with the health care system's fight against the pandemic. It became obvious that holding a procedure that was based on direct contact with residents, under such epidemic-related circumstances, was extremely difficult.

The problem was spotted by local government officials and also by Polish MPs. Anna Wasilewska, MP, in her question no. 5911 to the President of the Council of Ministers, appealed to the Prime Minister and the Council of Ministers to approve the expectations of representatives of local government on suspending the implementation of participatory budgeting in the year of the COVID-19 pandemic (MP question no. 5911, 2020). Additionally, the State Economy and Innovation Commission, together with the Budget and Public Finance Commission of the Senate of the Republic of Poland (upper house of the Polish parliament) tried to introduce this solution to the COVID law (Act of 2 March 2020 on special solutions, 2020) by means of this regulation:

"In 2020, the decision-making authority of a local government unit may suspend the implementation of participatory budgeting and the preparation for participatory budgeting for 2021" (Report of the State Economy and Innovation Commission, together with the Budget and Public Finance Commission of the Senate of the Republic of Poland, 2020). The amendment was approved by the Commissions and the Senate, but the Sejm of the Republic of Poland (lower house of the Parliament) ultimately rejected it, which meant that this amendment did not enter into force.

This manoeuvre meant that the legal order for cities in such a difficult epidemiological situation did not change. This stance of the Polish parliament may be interpreted twofold. On the one hand, as an expression of social approval for the importance of PB procedures, which are so essential that even in the face of considerable pandemic-related obstacles, the Parliament recognizes the need to implement it. On the other hand, a solution less satisfactory from the participatory

perspective, the Parliament held that regulation of other issues, more critical for public life if looked at from this perspective, is more important than participatory budgeting. Unfortunately, it is difficult to interpret this issue unequivocally as the lack of a relevant legislative amendment has never been explicated. As a practical consequence of this state of affairs, local governments obliged to organize annual participatory budgeting had to get prepared to carry it out.

Research conducted on the functioning of participatory budgeting in the pandemic points out that as a result of COVID-19 at least 126 cities opted out of organizing PB (Barometr, 2020). In an attempt to demonstrate the scale of this occurrence, we must note that in 2017 the number of municipalities that implemented participatory budgeting was 320 (Partycypacja publiczna – raport, 2020).

The legislator's inactivity meant that municipalities were left to themselves in the organization of an extensive participatory process during the pandemic. At the same time, it seems that the experience of local governments, that is moving to on-line communication with residents or PB promotion on the Internet, may pay off in the future. However, the legislator's failure to interfere by not allowing PB suspension in the pandemic year does not deserve credit. Municipalities had to face financial problems and for some the funds that they had to allocate for the organization of participatory budgeting were necessary in a completely different area of LGU operation.

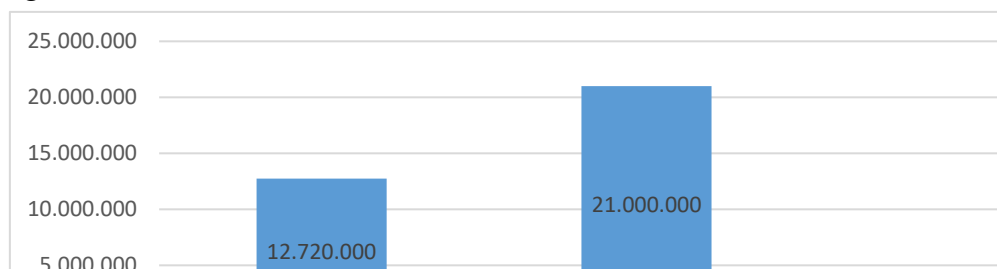
In 2021, the Polish legislator also failed to implement legal measures that would make it easier for local government authorities to function in the pandemic when it comes to PB.

3.2 Economic Impact of the COVID-19 Pandemic on the Organization of Participatory Budgeting in Poland — Example of Selected Polish Cities

Given the fact that there were no legislative changes pertaining to PB during the COVID-19 pandemic, cities were obliged to create the relevant budget in the amount specified by statute. We cannot overlook the circumstances either. 2020 and 2021 were two of the most difficult years for local government units' finances due to, i.a., the lockdown-triggered recession (Łubina, 2021).

The economic factor that has become a permanent element of participatory budgeting involves the amount allocated by municipalities to the creation of the participatory process. The figure below shows expenditure on creating participatory budgeting in 2019-2020 in two cities that have the obligation to prepare it and also in a municipality not obliged to launch PB every year.

Figure 1. The PB amount in 2019



Source: Data for Szczecin and Poznań comes from evaluation reports (in PLN million, EUR 1 = PLN 4.53). Data for Racibórz Municipality comes from the Ordinance of the President of the City, 2020.

For comparison, Figure 2 shows amounts that these LGUs allocated for participatory budgeting in 2020.

Figure 2. The PB amount in 2020



Source: Data from Szczecin and Poznań comes from evaluation reports (in PLN million, EUR 1 = PLN 4.53). Data for Racibórz Municipality comes from the PB's internet website (Internet site of participatory budgeting in Racibórz, 2020).

We can see one difference when comparing these figures—municipalities that have the obligation to organize participatory budgeting every year either remain at the same level of financing (Poznań) or the amount allocated to participatory budgeting increases (Szczecin). This is mainly due to the construction of the legal provision in force. The provision that lays down this obligation is correlated with the minimum value of the municipality's expenditure included in the most recent report on implementing the budget. Therefore, an increase in the PB amount in these cities will be directly proportional to the increase in the expenditure, understood also as financial expenditure. Moreover, this sum is established as a minimum, whereby cities may allocate higher amounts to participatory budgeting.

It must be noted that Racibórz chose not to create this budget in 2020. As was publically announced, this was caused by the COVID-19 pandemic (Information on opting out of participatory budgeting in Racibórz, 2020). The economic consequence of this decision was that funds not allocated to participatory budgeting

were assigned to other purposes. The one-year break in PB in Racibórz did not mean that this procedure was completely abandoned in this LGU. In 2021 participatory budgeting was organized there again (Internet site of participatory budgeting in Racibórz, 2021).

This takes us to the conclusion that the COVID-19 pandemic did not have an adverse effect on the economic aspect of this process in cities. It is unequivocally associated with legal consequences of the lack of legislator's interference in conducting participatory budgeting—maintaining the obligation to hold it in the largest Polish cities along with the minimum ratio of spending on it meant that cities outlaid the same amounts on PB as before the pandemic or higher. Therefore, taking Racibórz as an example, we may put forward a thesis that when it comes to the legislator's interference in the PB process and to allowing municipalities to suspend it for the time of the pandemic, some of the largest cities decided to do the latter.

4. Conclusions

The COVID-19 pandemic made each country to re-design their priorities. The analysis has shown that Polish legislation was not ready for the crisis situation. This was down to the inflexible provision in force, which imposed the obligation to implement participatory budgeting in cities regardless of the extraordinary circumstances. Since the Polish legislator failed to interfere, Poland's largest cities had to hold participatory budgeting and adapt to new circumstances. On the positive note, the cities were given the opportunity to practice organizing the procedure in an extremely difficult epidemiological situation. On the other hand, funds earmarked for participatory budgeting could have been allocated for fighting the COVID-19 pandemic and for returning to normality.

The Polish legislator played the main role in the economic context. It seems that if the Polish legal order had introduced laws that would have allowed suspension of PB, some of the largest Polish cities could have opted for it. Racibórz showed an example of activity of suspending participatory budgeting as this city was not obliged under the statute to organize PB. The cities selected by the author which organized participatory budgeting in the first year of the pandemic either increased relevant funding or kept it untouched. In the following years, owing to the legal structure of the provision on the obligation to organize participatory budgeting, should a municipality's spending increase, funds allocated for PB will also increase evenly.

In summary, despite the current crisis situation and inflexible legislation related to participatory budgeting, legal and economic consequences of the COVID-19 pandemic did not have an adverse effect on PB implementation in cities where the legislator imposed the obligation to organise it. It may be assumed that if this obligation was effective in all municipalities, participatory budgeting could develop during the pandemic. Switching to on-line communication meant that municipalities

acquired new tools for cooperating with residents without having to risk direct contact in the difficult epidemic situation. Nevertheless, failure to introduce an option to suspend participatory budgeting does not deserve credit after all—the then situation required for funds allocated to participatory budgeting to be re-assigned to fight the pandemic. Such a provision should have been introduced into the Polish legal order.

References:

- Act of 2 March 2020 on special solutions related to the prevention of, counteracting and combating COVID-19, other infectious diseases and emergencies caused by them (Dz.U. (Journal of Laws) of 2020, item 374, as amended).
- Buele, I., Videuira, P., Yague, L.J., Cuesta, F. 2020. The Participatory Budgeting and Its contribution to Local Management and Governance: Review of Experience of Rural Communities from the Ecuadorian Amazon Rainforest. *Sustainability*, 12(11), 4659. <https://doi.org/10.3390/su12114659>.
- Ewaluacja Poznańskiego Budżetu Obywatelskiego. 2020. <https://budzet.um.poznan.pl/pbo2020/wp-content/uploads/2020/01/Raport-ewaluacja-PBO20-2.pdf>. 3.
- Ewaluacja Poznańskiego Budżetu Obywatelskiego. 2021. <https://budzet.um.poznan.pl/pbo21/wp-content/uploads/2021/01/Ewaluacja-PBO21-wyniki-ankiet-5.01.pdf>. 2.
- Ewaluacja Szczecińskiego Budżetu Obywatelskiego. 2020. https://konsultuj.szczecin.pl/files/4D594CF09A1040D1961623C0692FC3C8/SBO2020_raport_z_ewaluacji.pdf.
- Ewaluacja Szczecińskiego Budżetu Obywatelskiego. 2021. <https://sbo.szczecin.eu/sites/default/files/inline-files/Raport%20ewaluacyjny%20SBO%202021.pdf>.
- Ganuz, E., Baiocchi, G. 2012. The Power of Ambiguity: How Participatory Budgeting Travels The Globe. *Journal of Public Deliberatio*, 2-3. doi: <https://doi.org/10.16997/jdd.142>.
- Gilman, R.H. 2016. *Engaging Citizens: Participatory Budgeting and the Inclusive Governance Movement within the United States*. Ash Center for Democratic Governance and Innovation. Harvard Kennedy School, 3. <https://ash.harvard.edu/files/ash/files/participatory-budgeting-paper.pdf>.
- Information on opting out of participatory budgeting in Racibórz. 2021. <https://bo.raciborz.pl/realizacje/projekty-zrealizowane-w-latach-20202021>.
- Internet site of participatory budgeting in Racibórz. 2022. <https://bo.raciborz.pl/realizacje/projekty-zrealizowane-w-latach-20212022>.
- Łubina, J. 2021. Oddziaływanie pandemii COVID-19 na finanse jednostek samorządu terytorialnego. *Prawo budżetowe Państwa i Samorządu*, 109. <https://apcz.umk.pl/PBPS/article/view/36596/30832>.
- Martela, B., Bubak, G., Janik, L. 2021. *Barometr budżetu obywatelskiego*. <https://obserwatorium.miasta.pl/wp-content/uploads/2021/06/Barometr-budzetu-obywatelskiego-Martela-Bubak-Janik-opm-irmir-2020.pdf>. 9.
- Mosiejko, A. 2020. *Budżet obywatelski w praktyce samorządów*. Wolters Kluwer, 16.
- Municipal Self-Government Law of 8 March 1990 (consolidated text, Dz.U. (Journal of Laws) of 2021, item 1372, 1834).

-
- Ordinance no. RZ. 8-00142/2019 of the President of the City of Racibórz of 21 March 2019 on calls under participatory budgeting for 2020.
- Pistelok, P., Martela, B. 2020. Raport o stanie polskich miast. Partycypacja publiczna. http://obserwatorium.miasta.pl/wp-content/uploads/2020/01/Partycypacja-publiczna_raport-o-stanie-polskich-miast-Martela-Pistelok_Obserwatorium-Polityki-Miejskiej-irmir.pdf.
- Question no. 5911 of Ms Anna Wasilewska, MP to the President of the Council of Ministers. <https://www.sejm.gov.pl/sejm9.nsf/InterpelacjaTresc.xsp?key=BPMA27>.
- Report of the State Economy and Innovation Commission and the Budget and Public Finance Commission of the Senate of the Republic of Poland of 31 March 2020. Senate Document no. 96 Z. 35- 36.
- Resolution no. V/154/19 of the Council of the City of Szczecin of 26 March 2019 on introducing rules and procedures for conducting Szczecin' Participatory Budgeting (Dz. Urz. Woj. Zach. (Official Journal of the West Pomerania Province) item 2437). https://sbo.szczecin.eu/sites/default/files/inline-files/Regulamin_SBO_Uchwala.pdf.
- Stokłuska, E. 2015. Opis przykładu partycypacji budżetu obywatelski w Sopocie. Pracownia Badań i Innowacji Społecznych Stocznia. 4. https://partycypacjaobywatelska.pl/wp-content/uploads/2015/09/praktyka_budzet_obywatelski_sopot.pdf.
- Williams, E., St. Denny, E., Bristow, D. 2017. Participatory Budgeting. An Evidence Review. Public Policy Institute for Wales, 3. <https://www.oidp.net/docs/repo/doc215.pdf>.
- Ziółkowski, D. 2018. Art. 5a Ustawa o samorządzie gminnym. Gajewski, S., Jakubowski, A. (eds.). Ustawy samorządowe. Komentarz. C.H. Beck. 16-17.