

## The local community: an entity discriminated against in spatial decision-making in Poland?

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**Abstract.** The article concerns the legal dimension of local communities' participation in selected aspects of shaping space in Poland. The results of the review of legal regulations are presented, including interpretations of regulations made by other authors. Examples taken from previous research were used to show the functioning of these regulations in practice and their consequences. The aim of the article is to assess the legal conditions for the participation of local communities in spatial planning, planning of protected areas and location of investments in Poland, in relation to selected theoretical concepts, as well as to assess the consequences of these conditions. In the legal dimension, the participation of the local community in shaping space is symbolic, in the terminology of the Arnstein ladder. The dominant model is a non-binding opinion on ready-made projects and plans, instead of collaboration in their creation.

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## 1. Introduction

The local community is one of the key players in modern concepts of socio-economic development and its management. The high value and rank of the local community as an entity is also a result of international conventions and various documents establishing the policies of the European Union. Today, no one questions the right of residents to participate in public decisions that affect them. One of the most important public issues for them is the space in which they operate.

Space is shaped on three levels: strategic (consisting in determining the general directions of its development), planning (defining the purpose and use of land) and material, consisting in the implementation of specific projects in space. This hierarchy is superimposed on the sectoral arrangement of areas of spatial development (e.g. nature protection, agriculture, public roads, revitalisation), which results from the competences and hierarchy of public institutions and changing requirements of European policies. Another dimension of this system is the territorial dimension – the shaping of space takes place in territorial administrative units or in units distinguished on the basis of function. Overlapping of the three systems: “horizontal” – associated with the degree of generality (sectoral and territorial) creates a chaotic and illogical mosaic of procedures for shaping the space in which various types of plans, strategies, programmes and decisions function. Their role is not always clear and their interdependencies are complicated. Local communities may find it particularly difficult to understand this system and their own role in it. This problem is exacerbated by the fact, which some researchers point out (e.g. Siemiński 2007; Ociepa-Kubicka 2014), that Poland lacks education in the field of spatial planning and development. The article discusses selected elements of the mosaic. It was assumed that the most important elements from the point of view of local communities are those that have a direct impact on the possibility of using space and that determine the quality of places of residence.

The article is a kind of review consisting of four essential parts. The first one discusses selected theoretical currents that refer to the participation of local communities in shaping space. The three subsequent parts are devoted to: spatial planning at the

commune level, planning of protected areas (the planning level) and location of investments likely to have a significant impact on the environment (the material level), with reference to theory. In each of these three thematic areas, the results of the review of legal regulations determining the participation of local communities in shaping space are presented, including interpretations of the law made by other authors. Empirical examples taken from previous research are presented to show how these laws work in practice. The aim of the article is to assess the legal conditions for the participation of local communities in spatial planning, planning of protected areas and location of investments in Poland in relation to selected theoretical concepts, as well as to assess the consequences of these conditions. The theoretical concepts are: collaborative planning, the Arnstein ladder, and socio-spatial learning.

From the point of view of this study, the concept of the public sphere is important. The article concerns the participation of the local community in shaping the space in the public sphere. It was assumed that it covers that part of social life in which citizens act in matters of importance to the general public, doing so within the existing rights, civil liberties and norms (Itrich-Drabbarek 2009). Therefore, activities within the scope of shaping space in the public sphere will exclude any application for development conditions for private property or afforestation of private agricultural use (such manifestations of shaping space belong to the private sphere). Activities in the public sphere will include, for example: an individual's submission of a proposal to a local spatial development plan concerning single-family housing, or submission of a comment in environmental proceedings.

## 2. Methods and sources

The article reviews 15 legal acts concerning: spatial planning, planning of protected areas and location of investments (they are listed at the end of the article). Provisions relating to the participation of the local community in the planning or decision-making procedure were searched and assessed in each of the legal acts.

Next, articles and other scientific publications presenting interpretations of these legal regulations

in the field of public participation or presenting empirical research (the functioning of these regulations in practice) were searched in the Google Scholar database (using various combinations of key words). The results of our own research published in 2016–17 were used, among others.

### 3. Theoretical outline of the problems

The field of spatial planning in the industrial era was dominated by the positivist model of understanding space. Spatial planning was treated as a rational decision-making process, based on “facts”, i.e. objective expert knowledge (Davoudi, 2012) and objective cause–effect relationships. In recent years, the sciences of space have seen a decisive shift towards the humanist paradigm. This also applies to the sphere of spatial planning. The theory of planning is evolving towards a more “fluid”, relational understanding of space and more collaborative management of space. The growing role of the local community is a characteristic feature of the contemporary development of spatial planning theory (Natarajan, 2013). Since the 1960s, most Western democracies have been looking for ways to expand the role of citizens in the field of planning, land use and environmental policy (Rydin 1999). The concepts of spatial planning have evolved over time – from normative, rational models in the spirit of positivism emphasising the leading and key role of the planner without the involvement of society, which developed in the first half of the 20th century, to various concepts in the post-modern spirit, taking into account the importance of dispersed and competing interests of different actors, or treating planning decisions as a result of negotiations (Lane 2005), as collaborative planning. The heralds of the theory of collaborative planning can be found in the United States as early as the 1960s. According to Healey (1997), it was Davidoff (1965) and Gans (1969) who put forward the idea of taking into account different values and interests in planning, especially in relation to disadvantaged groups, and involving citizens in the advocacy planning process. The necessity of representing the least audible and visible interests in planning was stressed, and the most important breakthrough, in comparison to earlier planning concepts, was the rejection of the

assumption that the public interest is uniform (Lane 2005). In the United States, collaborative planning began to be practised in the early 1970s (Innes and Booher 1999). Due to the growing inability of institutions, laws and courts to make proper planning decisions, planners began to experiment with various collaborative planning practices (Goldstein and Butler 2010).

Collaboration is a process of involving actors who have different approaches to a given problem and different ways of understanding it, and consists in learning about these differences in search of common solutions to this problem (Grey, 1989; cf. Elbakidze et al., 2015). Collaborative planning is seen on the one hand as a way of dealing with conflicts. On the other hand, it can be understood as a social response to changing conditions in increasingly networked societies, where differences in knowledge and values are increasing, knowledge is dispersed, and efficient functioning requires the creation of flexible links between multiple actors. As Healey (1997) emphasises, collaborative planning is embedded in the theories of social networks. In Europe, this concept was largely based on J. Habermas’s theory of communication rationality (1999). As many authors (e.g. Ryan et al., 2006; Foster-Fisherman et al., 2001) emphasise, referring to J. Habermas, the basis for collaborative planning is a communication system based on information exchange and discussion. Social participation is a fundamental element of planning; it cannot take place without the real involvement of interested actors (Lane, 2005). Collaborative planning requires building relationships beyond cultural, institutional and organisational divisions, and therefore requires social mobilisation, understanding and trust. The effort of cooperation for the planning of common space serves to build social, intellectual and political capital, and thus to build new institutional resources (Healey, 1997: 311).

However, the assumptions of an ideal communication activity described by Habermas in the real world are never fulfilled. It is not always possible to reach agreement between the parties, which results from an irreducible diversity of points of view. In the decision-making process, it is often necessary to deal with contradictory and irreconcilable opinions. Therefore, the solution is to find a compromise. Participation in real-life situations always combines elements of consensus- and good-oriented cooperation

with elements of compromise-oriented negotiation – mutual adjustment of particular goals (van den Hove, 2006). The concept of the common good is also difficult to define unambiguously and depends on the spatial scale. Similarly, it is difficult to define what public opinion is (Faehnle et al., 2014).

Residents are undoubtedly key stakeholders in collaborative planning, as they will be directly affected by the effects of planning decisions. Although they do not have expert knowledge, they are most often the best experts on issues related to their place of residence (Patel et al., 2007; Natarajan, 2017). Space planning is a process that must be based on knowledge. Knowledge is one of the most common terms used in spatial planning theory. The fact that the inhabitants of a given area possess place-specific knowledge and experience that differs from and complements professional knowledge is one of the most important benefits of social participation in spatial planning (Sevenant and Antrop, 2010; Rydin and Pennington, 2000; Drazkiewicz et al., 2015; Natarajan, 2017).

Spatial planning with community participation is an arena for learning through cooperation. L. Natarajan (2017) introduces the notion of socio-spatial learning, which is based on the assumption that as a result of social involvement, the knowledge resources in spatial planning are modified. Socio-spatial learning takes place within a network of planning actors, among which local residents play an important role. The local community is a special type among entities cooperating in spatial planning. It is a dispersed stakeholder – it consists of units with different spatial experiences. The local community is at the same time the “client” of the plan, whose records will influence it. Due to its dispersion it has the potential to provide very detailed and local knowledge about the specificity of particular places, as well as knowledge from many perspectives, concerning various policies integrating in space. The possibility to provide this knowledge results from spatial practices (lived space) as understood by H. Lefebvre, i.e. the way the space is used. Research conducted by L. Natarajan (2017) has shown that residents provide knowledge about not only single points in space, but showing multiple relationships between places (Natarajan, 2017).

Other authors, too, highlight positive aspects of community involvement in planning and decision-making processes, such as: the adaptation

of decisions to local conditions; the integration of different perspectives, which favours innovation-friendly decisions; the raising of public awareness; the strengthening of local democracy; and the reducing of conflicts (e.g. Renn, 2003; Soneryd, 2004; Drazkiewicz et al., 2015; Brown et al., 2018).

Nature and landscape conservation is just one example of an area in which the participation of local communities is essential. Despite the negative aspects of participation, which include a reduction in the environmental quality of decisions that results from taking into account local socio-economic interests (Drazkiewicz et al., 2015), the literature recognises the need to verify the top-down scheme that is characteristic of planning in this field. The classification systems used in this scheme, and which were developed by experts, do not take into account the local relationship between landscape and man (Pinto-Correira et al., 2006; cf. Stenseke, 2009). These classification systems are developed in the centre, and they are used mainly in the periphery, where from the centre’s point of view valuable areas are to be protected. Social participation in nature and landscape conservation is most effective if it concerns specific areas and problems, but it will not work in creating complex strategies for large areas (Selman, 2004). Modern research also pays attention to socio-spatial learning in the field of planning protected areas. The studies by G. Brown (2012) and G. Brown et al. (2015) conducted in New Zealand and Australia are important in this respect, and indicate a relatively high degree of consistency between “non-professional” data obtained from the public on high-value nature sites and professional data (Brown et al., 2015). Although community data (e.g. using GIS tools) will not replace scientific data in planning protected areas, they can play an important role in creating solutions to complex social and environmental planning problems by spatially integrating nature conservation objectives with community values and preferences (Brown et al., 2015). The most common theoretical point of reference for researchers of social participation in spatial planning is the ladder of S. Arnstein (1969), which defines eight levels of social participation in public decision-making. The two lowest (1 – manipulation, 2 – therapy) mean no participation; the next (3 – informing, 4 – consultation, 5 – placing) mean symbolic participation (tokenism), while the highest (6 – partnership, 7 – delegated power,



8 – citizen control) mean real participation – citizen power. The ladder is extremely popular, but it is also subject to criticism. Its criticism is mainly related to the fact that it is oriented top-down – it presents the levels of power delegation from the perspective of those in power (Soneryd, 2004).

Despite the concepts and views on social participation in the process of making decisions about space that have been developing for decades, there is still a discussion about who and what methods should be included in space planning in its various aspects – and at what stages; about what the scope of participation should be; and how the effectiveness of methods can be evaluated. The question remains open as to how to construct a participatory process that meets the needs and goals of planners, stakeholders and society and is at the same time effective, including cost-effective (Verbrugge et al., 2019). There is no consensus as to whether the highest levels of participation (according to Arnstein) are the best – e.g. Eiter and Vik (2015) recognise that in the sphere of spatial planning the sixth level (partnership) is the most desirable and appropriate. Nowadays, “classic” problems related to the participation of inhabitants in the process of deciding about the space are still noticed and emphasised in the literature. “Participation is rarely comprehensive, while the data produced seldom translates into influential knowledge. As a result, participatory planning can be frustrating both for the participants and for those arranging such processes” (Kahila-Tani et al. 2019: 45). G. Cumming and C. Norwood (2012) write, on the example of the United States, about the weak position and alienation of residents from planning procedures, and the inefficiency of procedures for involving residents in spatial planning. N. Mostegl et al. (2017) point out that the planning procedures required by law in Austria and Germany do not provide real opportunities for discussion, exchanges of views, dialogue or learning. The position of lay knowledge and local experience compared to scientific knowledge, which is much more valued by decision-makers and institutions in Finland and other countries (Faehnle et al., 2014), remains weak.

There is a need to involve citizens in planning and decision-making processes in their initial stages (Mostegl et al., 2017), to use differentiated participation tools to take into account a broad spectrum of interests in space, and to avoid limiting

participation to small, elite groups (Kahila-Tani et al., 2019). There is a need to pay attention in planning to sense of place (Verbrugge et al., 2019), and to increase the role of residents in the policy processes in which normative statements are defined as a basis for planning (Faehnle et al., 2014).

### 3.1. Local community in spatial planning procedures

The purpose, conditions of use and development of areas in Poland are specified in local spatial development plans (MPZP) created in communes, according to the Act on Spatial Planning and Development (2003a). The MPZP is an act of local law. When an area is covered by a plan, each project in the space must comply with it. From the point of view of the local community it is therefore a very important document, because it specifies the rules and possibilities of development and use of private and public land. Polish law imposes an obligation on the plan executor to involve the public in the process of its preparation by collecting proposals, comments on the draft plan and organising a debate on the draft plan. Public participation in this process, in its legal and practical dimension, has already been discussed and commented on by Polish authors. Therefore, this discussion's most important conclusions concerning the role of the local community will be presented here.

In Polish law there is a lack of separate and clear articulation of the issue of citizens' participation in planning processes; moreover, there are no guaranteed forms of social participation available for minority and discriminated groups (Siemiński 2007). The authorities are not obliged to dialogue with residents, who in the procedure of preparing and adopting planning documents remain in the position of supplicants. Residents do not have the right to demand the development or modification of the plan, and do not have any influence on the schedule of planning processes (Furman 2014). Anyone can submit applications and comments to the plans, regardless of their place of residence and connection to the area. The provisions of the Act do not specify any particular role of residents in this process. However, it seems that the local community should have

more of a voice in the process of deciding where to live than should “the rest of the world”.

Although the legislator provides the local community with the right to participate in the public discussion on the solutions adopted in the draft plan, its location in the planning procedure is not conducive to taking into account the comments of residents. This discussion takes place after laborious procedures for obtaining agreements and opinions. Taking the comments into account, i.e. changing the project, would require that successive stages of the procedure be repeated (Kopeć, 2009). Rather, local authorities avoid prolonging this time-consuming and costly process. The actual function of the discussion on the plan is therefore to present the residents with an adopted and already very advanced project and to exchange views on it. The discussion does not allow the residents to co-create the plan. Moreover, draft plans during administrative hearings are often presented in a cursory manner, in a way that is incomprehensible to residents (Ociepa-Kubicka, 2014), and accessible presentation techniques are rarely used (Jaworski, 2014).

The mayor, according to the law, examines the proposals and the comments on the plan, but this does not have any consequences. The decisions of the mayor on proposals and comments cannot be submitted as appeals to appeal bodies, nor to the administrative court. Inhabitants submitting applications at the initial stage of the procedure do not know what applications others are submitting, and no form of dialogue is envisaged. The list of applications is only published at the end of the procedure. According to H. Izdebski et al. (2007), the provisions of the Act are so general that they give the public authority a large margin of discretion to influence the outcome of participation. From the point of view of the Arnstein ladder, the participation of the local community in the planning process represents level 4/5 (symbolic participation; Arnstein, 1969).

The research carried out by A. Zastawnik (2013) in the Małopolskie, Śląskie and Lubelskie Voivodeships into the process of creating several dozen local spatial development plans gives a picture of the actual participation of residents in this process. Proposals for plans are laconic, and in the vast majority of cases they concerned reclassification of individual agricultural parcels (or similar) into construction parcels. There are no proposals concerning pub-

lic spaces or local community problems related to space. And submitting proposals to the plan is the only stage in which the inhabitants can participate in the creation of the plan project. It follows from this that the local plan is treated by the inhabitants only as a tool enabling them to obtain a specific benefit related to their private property. Such an approach contradicts the idea of spatial planning. As noted by A. Zastawnik (2013, p. 90), “such a state of affairs proves, on the one hand, low awareness of the society about planning and spatial issues and, on the other hand, low quality of information prepared in the commune about undertaken or ongoing studies and lack of effectiveness in sending them to the inhabitants”. Also, the research on administrative hearings (discussions on the plan) conducted by W. Siemiński (2012; cf: Siemiński, 2018) shows that residents express themselves primarily on their individual issues.

The comments to the draft plan, as examined by A. Zastawnik (2013), are in turn much more developed and thematically richer. They are the expression of the opinions of the inhabitants on the design of local space. But at this stage of the procedure, at which the project is almost ready, only minor remarks have a chance to be taken into account. Essential comments from the public concerning the concept of the plan have no chance to be taken into account.

The local authorities have the right to organise discussions with the inhabitants in the initial stages or to introduce other, additional forms of participation. However, as noted by A. Zastawnik (2013, p. 91), “negotiations and a thorough discussion at the initial stage of preparing the planning study happens extremely rarely, because both the commune authorities and the majority of designers avoid extending the procedure”. W. Siemiński (2016) also writes about avoiding authentic negotiations with the local community. The commune authorities, focusing on meeting the statutory requirements, do not pay enough attention to making the residents aware of the essence of the planning process and the role of the residents in it. The results of research conducted in Kraków also showed that the impact of consultation procedures on the process of drawing up local plans is negligible, despite the significant involvement of residents (Hołuj and Hołuj 2016).

The model of planning procedure adopted in the Polish law is shown schematically in Fig. 1. It does not require joint development of plans by stakeholders; it does not foster consensus building, creative cooperation in order to develop the idea of a plan or that the local space be regarded as a common good. It favours an individual, “egoistic” approach among the inhabitants towards creating a plan. The proposals of residents should be the subject of local negotiations with the participation of planners and authorities at the initial stages of planning works. In the participatory model (Fig. 1), the plan project, which is the result of the cooperation of these entities, should be directed to the subsequent stages of the procedure.

Both the contemporary shape of the planning procedure and common planning practice have little in common with the principles of collaborative planning: a real discussion on a fragment of space, exchange of views, seeking agreement between the main actors, joint creation of a vision of space. There is also no place for socio-spatial learning according to L. Natarajan (2017) – the local community is not treated as a special entity providing important knowledge in the planning process, but as a so-called “everyone”. The local knowledge of communities should have a “strong reframing power for spatial planning, being policy-holistic, multi-dimen-

sional and experiential in nature” (Natarajan, 2017: 21).

It should be stressed here that in Poland there are more and more examples of local communities being involved in spatial planning in a collaborative way, but they mainly concern large cities (e.g. Kaczmarek and Wójcicki, 2016; Hajduk, 2018). However, these examples are often related to the implementation of pilot projects with external (mainly EU) funding. According to Ł. Damurski (2017), however, it is difficult to find municipalities that want to participate in projects to expand the forms of participation in spatial planning, even if they have external funding for such a project. It is therefore difficult to expect that in the coming years collaborative planning practices will become commonplace outside large cities or that the inhabitants will feel their real impact on space.

### 3.2. Local community in planning of protected areas

There are several forms of area-based nature and landscape protection in Poland that restrict the use of the space they directly concern and adjacent space (buffer zones). Therefore, their establishment is an important public matter for the local

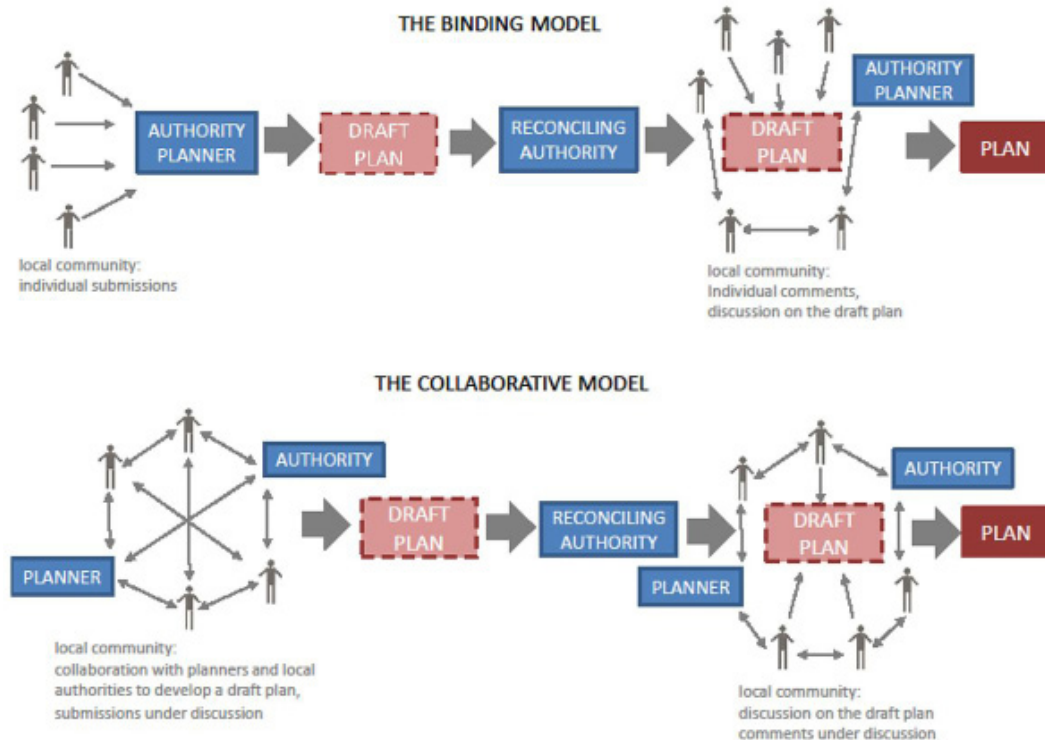


Fig. 1. Models of the planning procedure: that practised in Poland and a collaborative model

Source: own elaboration

community, as it has specific consequences. In the procedures established by the Act on Nature Conservation (2004) for creating and defining boundaries of protected areas, i.e. national parks, landscape parks, protected landscape areas or Natura 2000, the participation of inhabitants is not provided for (only the commune councils participate in this procedure). In the fragments of the Act devoted to the establishment of protected areas there is no mention of the local community or inhabitants at all. Therefore, we can speak of the lowest level of participation within the meaning of the Arnstein ladder. It is indisputable that if these areas are to protect unique nature and landscape, they must be designated based on scientific knowledge. It seems, however, that local communities should at least discuss the creation and course of borders of protected areas in order to minimise the risk of possible tensions and social protests. The legislator does not even require that inhabitants be informed (e.g. through an announcement) of the planned establishment of a protected area, and the catalogue of data that must be included in publicly available lists (according to the Act on Access to Environmental Information, Public Participation in Environment Protection and on Environmental Impact Assessments, 2008b) includes no requirement to include data on the creation of forms of protection.

Protection plans are created for protected areas. According to the Act on Nature Conservation (2004), their projects prepared for landscape parks, national parks and nature reserves are subject to public consultations in accordance with the principles of the Act on Access to Environmental Information... (2008b). This means that everyone has the right to obtain knowledge about draft plans, and to submit comments and proposals to them, and the body preparing the document must respond to these proposals and comments, i.e. inform the general public to what extent they have been taken into account; in addition, the body may, but does not have to, hold an administrative hearing in this matter. The role of individuals, social, economic or other entities (referred to as “everyone”) is only consultative and non-binding in the light of the Act. As noted by A. Haładaj (2012), the law does not provide for the early involvement of society in the drafting of a document, nor for a repetition of the procedure with social participation – that is, it does

not provide for actual socialisation. It is therefore merely a response to the requirements of EU law.

It is significant that the local community, the inhabitants of the area covered by a given document, are not highlighted in any way in the provisions of the law. Neither does the regulation on drawing up protection plans (Decree... 2005) mention anything about the role of residents in this process. No protection plans are created for protected landscape areas, and the arrangements for protection and selection of prohibitions in force in a given area are made by way of a resolution of the Voivodeship Assembly. Draft resolutions are subject to consultation with municipal councils. The legislator does not provide for the participation of residents in this process. In 2015, new legal regulations concerning landscape protection were introduced into the legal system (Act on... 2015a), resulting from, among others, the adoption of the European Landscape Convention by Poland, as well as from the ineffectiveness of the existing tools for landscape protection. The regulations impose on authorities the requirement of social consultation: resolutions of municipal councils concerning the rules of locating small architectural objects (advertising boards, fences, etc.), landscape audit and resolutions being the basis for determining so-called landscape protection zones. Draft documents are made available for public inspection and comments are collected that must be considered by the authorities. During the discussion on the methodology of conducting a landscape audit, guidelines were developed that proposed a high level of socialisation of this process (Solon, 2014), in line with the contemporary approach to landscape planning and management. However, they were not reflected in the adopted regulation on landscape audit preparation (Decree..., 2019). There are no additional requirements for public participation; only the optional possibility of conducting surveys on the identity and familiarity of the landscape is mentioned. As concluded by Majchrowska and Papińska (2018), such a form of regulations does not encourage a wider discussion about the impact of the landscape on people's quality of life and making the society more sensitive to the unsatisfactory state of landscape order in Poland.

Only in the case of drawing up a draft protection plan and protection tasks for a Natura 2000 area is there a requirement to enable persons operating in



the area to participate in drawing up a draft plan (Decree... 2010). It is therefore, on the one hand, a recognition of the local community and, on the other, a step towards collaborative planning. Socialisation occurs already at the stage of project creation, and not only when the project is drawn up, as in the case of plans for the protection of national or landscape parks. However, the legislator does not specify what the participation of persons operating in a given area in the creation of protection plans and protection tasks for Natura 2000 areas is to look like, and thus what the role of these persons is in creating plans.

It is worth looking at how the participation of local communities in creating and planning protected areas can be seen in practice. C. Wodzikowski (2005) described the example of the creation of the Tuchola Forest National Park (one of the youngest Polish national parks) in 1996 (*The Bory Tucholskie National Park was established under the previous Act on Nature Conservation (1991), which did not provide for public participation in the creation of national parks and did not require any agreement with municipal councils*). Before its creation, plans for its creation were known only in the scientific community and central offices. Neither local authorities nor local communities were informed at the design stage. Residents obtained contradictory information from the media. Also, the voivodeship administration was not involved in the information campaign. The authoritarian way in which the park was created caused strong protests among local communities, for whom the forest was a source of income. Local protest committees were established and local governments joined the protests (Wodzikowski 2005). As a result, the area of the park was reduced to less than a third than had been assumed in the original version. When trying to enlarge the park in 2008, social tensions occurred again, because, as A. Hibszer (2008) points out, the authorities again made the mistake of not discussing with the local community.

In connection with the policy of the European Union, Poland was obliged to create a European ecological Natura 2000 network on its territory. According to research in different parts of Poland, there was a predominance of non-negotiable and non-participatory ways of creating them and delimiting their borders (Guzal-Dec and Zwolińska-Ligaj, 2010; Kłodziński, 2012; Bołtromiuk, 2012; Gotkiewicz,

2014), centralised decision-making, ignoring of local and traditional knowledge; and under-informing of the public (Piwowarczyk and Wróbel, 2016). The only voivodeship that stood out in this respect was Małopolskie, where some actions were taken to socialise the process of creating Natura 2000 areas. Aside from this, there were hardly any actual consultations with representatives of local governments and residents (Grodzińska-Jurczak and Cent, 2010). This caused such negative phenomena as: widespread and persistent reluctance of local communities to introduce Natura 2000 areas, distrust and lack of understanding for the idea of Natura 2000, and conflicts with environmental protection services (Cent et al., 2010; Bołtromiuk, 2012; Głogowska et al., 2013).

The research conducted on the area of the Green Lungs of Poland shows that one in three mayors of the 33 communes in which Natura 2000 areas operate declared their lack of interest in carrying out an information campaign on their subject among the inhabitants. "In such areas, residents usually derive their knowledge of protected areas from unreliable sources. (Mickiewicz and Gotkiewicz, 2010: 149). The nationwide report also shows that information about the possibility of public participation in the creation of plans for protection tasks was not sufficiently disseminated, especially by local governments (Report..., 2013). The results of studies on the consultation of plans for protection tasks correspond to this, indicating that the institutions are mainly involved in them. Only a few percent of comments submitted in the process of creating documents came from members of local communities (Warchalska-Troll, 2018).

As the review of legal regulations shows, as well as the empirical examples of the creation of protected areas described in the literature, the concept of collaborative planning is not applicable in this field of space shaping either. The current level of public participation in decision-making concerning protected areas can be considered low. This is mainly due to the lack of any such tradition in this area. Moreover, there is a prevailing stereotype that any question addressed to the community is done so for the sake of appearances only, and serves to fulfil legal requirements (Michalek and Kruk-Dowigiałło, 2015). Participation in the shaping of protected areas is still treated with great reserve by administrative bodies and scientific circles and there is a

conviction as to its low effectiveness (Luzar-Błaż et al., 2017). The process of planning Natura 2000 areas has shown that although in the rhetorical layer quite a lot of importance is attached to the role of the inhabitants in this process, in practice they are not treated equally to other entities (Piwowarczyk and Wróbel, 2016). When public participation in landscape protection planning is not taken seriously from the beginning, social protests and the rejection of the plans by residents are hardly surprising (Wu et al., 2017).

Just like in the field of spatial planning, there is no socio-spatial learning as understood by L. Natarajan (2017). The local community is not an entity whose knowledge and experience are used in the process of planning protected areas. According to L. Natarajan (2017: 21), in planning there is a need for greater awareness of the potential for socio-spatial learning in the arena of public participation, and increased attention to its internalisation within the longer-term memories of planning institutions.

### 3.3. Local community in the process of locating projects of potential significant environmental impact

Large infrastructural, industrial or agricultural investments, often of a supra-local character, are of interest to local communities. Due to their potential impacts (especially threats to the quality of living places) and, on the other hand, their specific benefits (e.g. improved accessibility – road projects), residents generally want to have an impact on the related decision-making process.

The location of such large projects should be preceded by an open dialogue between all parties, especially those affected by such projects (Lidskog, 1997). It is significant that in Polish law there is no obligation for the investor or any administrative body to conduct public consultations at an early stage of planning, including the stage of preparing location variants for large investments, e.g. roads, railway lines (Iwińska, 2010). Although investors usually consult on large infrastructural projects with local communities, which is good practice, there are no legal regulations in this respect and it is a voluntary activity.

In Poland, investments are located on the basis of a local development plan (MPZP), or, in the ab-

sence thereof, on the basis of a decision on zoning conditions or a decision on the location of a public-purpose investment. In the proceedings leading to the issuance of these decisions, the legislator does not provide for any form of public consultation. Only the closest neighbours are entitled to express their opinion on the investment under investigation. This is a serious inconsistency in the spatial planning system, as the location decision replaces the local plan (MPZP) where such a plan has not been adopted. Taking into account the widespread use of the decision instead of the plan and the lack of requirement that it comply with the document of local spatial policy (SUIKZP), it turns out that to a large extent spatial development takes place without any public consultation, and in particular without any consultation with the local community. It should be stressed, however, that in the case of a decision to determine the location of a public purpose investment, the parties to the proceedings are notified by way of a notice, including in the manner customary in a given commune. Thus, the legislator makes the information about the planned project publicly available. Residents may therefore learn about the proceedings, although they may not participate in them. This corresponds to the third level of the Arnstein ladder.

In the case of controversial planned investments, the commune authorities, despite the lack of a legal basis, often try to allow the local community to have a say. There have been cases of negative location decisions issued to investors, justified by resolutions of rural meetings (*village resolution body*), expressing local communities' disapproval of investments. However, the jurisprudence shows that when making decisions on land development conditions, the mayor has no right to be guided by public opinion. The justification for the decision on the location of a wind power plant (IV SA/Po 302/14) states that the possibility for the first instance authority to base a negative decision on a lack of social approval would make the decision on the determination of development conditions a decision of a similar nature to a discretionary one (Bednarek-Szczepańska, 2016).

Polish law provides for a number of decisions that allow for simplification and shortening of procedures leading to the location of large infrastructural investments, such as decisions on permitting road investment (Act..., 2003c), on locating a rail-

way line (Act..., 2003b), on determining the strategic location of an investment in the transmission network (Act..., 2015b), and on permitting investment in flood-control structures (Act, 2010). These decisions are defined as specific substitutes for spatial planning (Dobrowolski, 2012). The legislator does not provide for public participation in proceedings leading to their issuance. At the same time, these are investments requiring environmental impact assessment, so only at this stage is the public guaranteed the possibility of participation. In these cases, as in the case of proceedings to determine the location of public purpose investments, the local community is informed by way of an announcement and in the manner customary in the given municipality. However, the legislator points out that this is a form of informing the parties to the proceedings.

Public participation is required in permit procedures for certain types of investments: issuing a permit for a thermal waste treatment plant (Act..., 2012), operating a mining waste treatment plant (Act..., 2008), integrated permit (Act..., 2001), and approval of a mining plant operation plan (Act... 2011). In such cases, public consultations are also held on the basis of the Act on the Access to... (2008).

The law provides for public involvement in the proceedings within the framework of which the environmental impact assessment (EIA) is carried out (or in the Natura 2000 area), in accordance with the principles of the Act on the Access... (2008). The vast majority of investments that inhabitants perceive as burdensome are subject to environmental impact assessment. Everyone has the right to submit comments and motions in the proceedings, to which the authority must refer; in addition, the authority may hold an administrative hearing on the matter. As previously mentioned, the role of individual persons, social, economic or other entities (defined as “everyone”) is, in the light of the Act, only consultative and non-binding. These principles represent the fourth/fifth level of the Arnstein ladder. The legislator did not grant any special rights to the local community, i.e. to the inhabitants of the area affected by the investment, in this respect. In the absence of a local spatial development plan, environmental proceedings are often the only way for residents to formally express their opinion on a controversial planned investment.

In the case of projects for which the authority did not find it necessary to prepare an environmental report, no public consultations are conducted. In such a situation, the procedures do not provide for any formal participation of residents in the proceedings, regardless of their opinion on the perceived impacts of the investment. As a result of the conducted proceedings on the environmental impact assessment of the project, an environmental decision is issued. If the residents do not agree with the decision, they have no right to appeal against it, if they are not the direct neighbours of the plot on which it is planned. Neither the mayor nor the village council has such a right. This can only be done by a social organisation. The law therefore favours organisations such as NGOs, which, under the existing law, may challenge the decision, while residents do not have this privilege. This confirms the opinion of J. Kotus (2018) that contemporary civil society in Poland is rather a society of civil organisations. This type of legal regulations does not favour inhabitants’ sense of empowerment.

The above review of the law indicates that the formal position of the local community in decision-making processes concerning the location of investments is rather weak. The law does not even allow local authorities to be guided by the opinion of residents when issuing a location decision. The residents are therefore not really relevant in this process. The procedures determining local authorities’ decisions are far from the idea of collaborative planning.

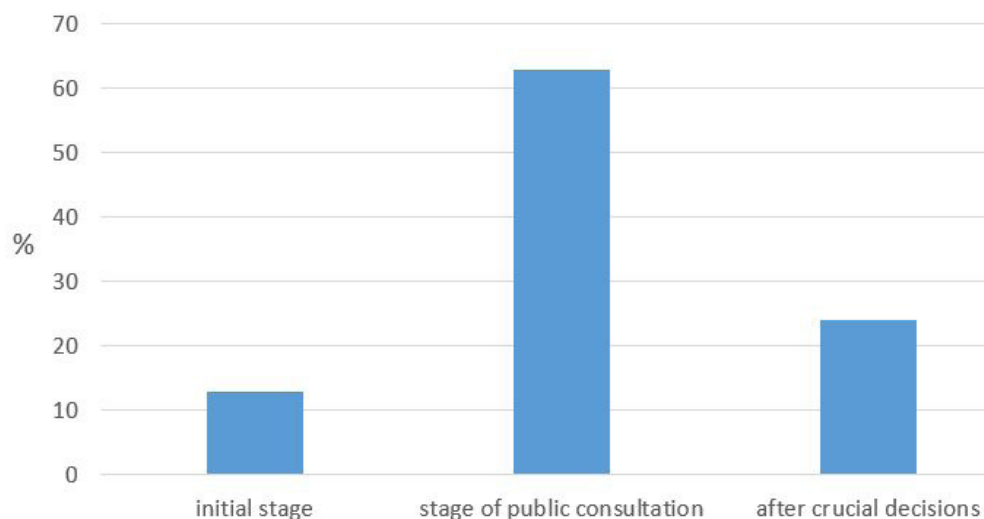
The results of empirical research will be presented below, showing the actual role of the community in the processes of locating controversial projects. The research shows that residents are most often surprised by the investments planned in their place of residence and learn about them at advanced stages of the decision-making process (Michałowska, 2008; Bednarek-Szczepańska and Dmochowska-Dudek, 2016). A nationwide survey conducted in 2015 that covered 116 cases of local conflicts over the location of an investment shows that residents rarely learned about the planned investment before the stage of formal consultations, and in almost one quarter of cases they learned only after key decisions (environmental decision or location decision) had already been made (Fig. 2). This proves that the local authorities did not pay sufficient attention to early dialogue with the community. Local authori-

ties focus mainly on fulfilling the statutory requirements to provide information at specific times and places, whether or not these are effective ways to reach potential stakeholders. Meeting these requirements does not pose the slightest problem for local authorities (Siemiński, 2007). The procedures leading to the location of an investment are so complex for a layman that even if the information about the planned investment is noticed, the residents do not know how they can react and what their impact on the course of the case may be. Therefore, they feel under-informed and omitted (Bednarek-Szczepańska and Dmochowska-Dudek, 2016).

At the EIA stage, the key role is played by authorities agreeing and giving opinions on investment projects. The quoted research shows that in 85% of cases the agreements and opinions for controversial investment projects were positive. In practice, therefore, it is rare for these authorities to block the implementation of a project. The authorities' agreement or positive opinion is often incomprehensible to the residents, who are convinced of the inconvenience they face. The example of persistent nuisance is evident here, which is inextricably linked to the location of certain types of investments (e.g. breeding farms) and which are always highlighted by the inhabitants who are affected by them (Bednarek-Szczepańska and Dmochowska-Dudek 2016). However, there are no odour emission standards in Polish law, so the investor cannot be accused of exceeding the standards. Therefore,

there is no room for socio-spatial learning in the decision-making process. The experience of the residents is not important in it; it is not used because there is no room for it in the procedure.

The possibilities of public participation guaranteed by the law do not ensure the desired influence on the process of locating an investment. Therefore, the local community takes bottom-up actions, outside the standard procedures, to influence decisions concerning the space. Figure 3 shows the share of communities that took a specific form of action to influence decision-makers (according to the mentioned research on local conflicts). Residents opposed to the location of investments very often sought support from external entities: organisations, scientists, nature protection institutions, parliamentarians. They publicised their problem in the media and contacted other protesting local communities. Specific forms of social self-organisation were created. It is worth noting that in about 40% of cases, decisions were submitted to appeal bodies. This proves that decisions were taken that were unfavourable to the residents and that it was impossible to reach an agreement between the commune authorities, residents and the investor. The percentage of cases in which inhabitants' activities were formalised (e.g. associations were established) was quite high. As indicated above, only in this form can the local community become a party to the proceedings and, for example, have the right to appeal against the decision.



**Fig. 2.** Stages in the decision-making process at which local communities learned about planned onerous investments, based on research on local conflicts in Poland (N=116)

Source: Bednarek-Szczepańska and Dmochowska-Dudek, 2016



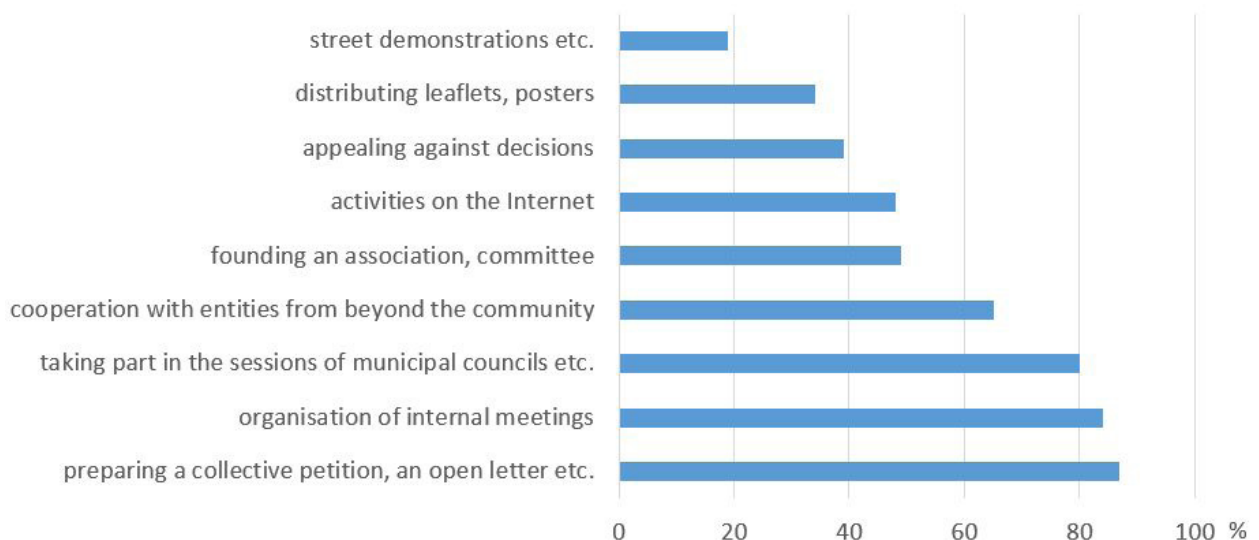
In the face of an advanced social conflict, local authorities often succumb to protesting residents, trying to increase the importance of their opinions in the decision-making process at an advanced stage. In research (Bednarek-Szczepańska and Dmochowska-Dudek, 2016; 2017), different practices have been identified: issuing negative environmental or location decisions to an investor despite insufficient legal grounds (or contrary to positive agreements), which results in investors appealing against these decisions, and then referring the case to court; imposing additional requirements on investors regarding the investment, change of location; *ad-hoc* preparation of planning documents in order to regulate the rules of location of controversial investments, including to limit the possibility of locating investments that have been opposed by residents (e.g. setting a minimum distance between such investments and residential buildings, setting their technical parameters) and others. These practices are often a surprise to investors, on the verge of the law or in contradiction of the idea of spatial planning.

Surprising local communities with planned investments, and those communities' defensive actions are consequences of, among other things, insufficient communication between administrative bodies and the local community, which is limited to fulfilling a formal obligation. This does not mean that initiating dialogue early will always avoid conflict, but it will allow any disagreement to be deter-

mined, interests clarified, and mutual understanding increased (Lidskog, 1997).

#### 4. Conclusions

The most important legal acts regulating spatial planning, area protection and conditions for the location and implementation of large projects in Poland contain provisions concerning the involvement of the society (including local society) in decision-making processes. The most frequently required form of public participation in spatial planning by Polish law is consultation, which consists in collecting comments and proposals with the requirement that the authority refer to them. It boils down to the fact that decision-makers are obliged to listen to the community's comments on the projects they have created. Comparing this to the Arnstein ladder, it is equivalent to the fourth/fifth step of the ladder. The role of the community is mainly to evaluate finished projects without real effectiveness. It is not a co-creator of solutions for space and it is not a co-creator of knowledge in the socio-spatial learning process. The shaping of space in the three analysed aspects is far from the collaborative planning model. The position of the local community in the law and in the practice of shaping space is therefore weak. The dominant model is two-way communication. It is desirable to develop structures of com-



**Fig. 3.** Activities undertaken by communities opposing the location of investments, based on research on local conflicts in Poland (N=116)

Source: Bednarek-Szczepańska and Dmochowska-Dudek, 2016

munication and decision-making at the local level that integrate – in an organised, non-chaotic matter – technical expertise, legal requirements and social values (Renn 2006).

At some stages of space shaping, the law does not guarantee social participation at all, and does not even require that the local community be informed of planned changes in space. This relates to, for example, the creation of protected areas or proceedings on issuing a decision on permission to execute a road investment. When issuing a location decision for an investment, local authorities cannot even be guided by public opinion if the planned location of the investment does not violate the law.

In the analysed legal regulations, in most cases, no special role was given to the local community in the procedures influencing the spatial development, in comparison to other entities. Everyone can participate in most of the consultation procedures on equal terms. Residents are not discriminated against, but also do not have any additional rights to decide about the space around them. Only in the case of preparation of protection plans and plans of protection tasks for Natura 2000 areas does the legislator indicate explicit local entities as participants in this process.

A manifestation of the lack of logic in formulating the principles of social participation is the lack of obligation to conduct public consultations in proceedings on the issue of a number of decisions that are “substitutes for spatial planning” (translating the term *substytuty planowania przestrzennego* coined by G. Dobrowolski [2012]): decisions on permission to implement road investment, on the location of a railway line, on determining the location of strategic investment in the transmission network, etc. The disproportion between the participation rules established for various stages of project design should be assessed as negative. There is no obligation to consult the local community on the preliminary stages of varianting and determining the location of supra-local investments, in particular those that may have a significant impact on the environment (i.e. large, controversial projects, and those of greatest social interest). And it is this stage that seems to be crucial for the community. On the other hand, the law gives the community the opportunity to express its opinion on the detailed parameters of a project determined in a decision on environmental conditions, and, in the case of some investments,

at the stage of various types of specialist permits. One may wonder whether such a form of regulations is sensible.

The consequence of the existing legal conditions is, above all, the feeling of being under-informed and excluded among the local community, the feeling of being treated as objects, and these are connected with social protests and grassroots activity against planned changes in space that surprise local communities. In terms of planning of protected areas, one of the important consequences is the negative attitude and reluctance of local communities to introduce area protection. In the field of spatial planning we can speak about the primacy of procedure over the essence of the planning process. The majority of local authorities avoid extending the extensive procedure. And local communities treat the local zoning plan as a tool for dealing with individual needs related to their property.

As mentioned in the introduction, the shaping of local space takes place on the basis of a rather complicated system of plans, strategies, programmes and decisions adopted or issued by various entities. It should be emphasised that new instruments and mechanisms are being introduced to this system that are supposed to increase the participation of communities in shaping the space at the local level, such as the *sołectwo* (village) fund, participatory budget and local initiative. They are a sign of ascending to the higher levels of the Arnstein ladder and implementing socio-spatial learning. But they usually concern small, relatively inexpensive investments. The processes of space revitalisation have been codified, with an exceptionally detailed treatment of the issue of social participation. However, one might get the impression that this is primarily a reference to the approach to local development that is currently dominant in Europe. The involvement of citizens with the help of modern tools is intended to encourage the acquisition of financial resources for revitalisation. As J. Kotus (2018) concludes, at present, various ideas of local authorities for participation are flourishing, which often does not translate into a real sense of empowerment of citizens.

In the world, despite many years of development of the theory of spatial planning based on cooperation, its practical use remains low (e.g. Maynard et al., 2015; Kahila-Tani et al., 2016; Delitheou et al., 2019) and consists mainly of experimental activities (Nyseth et al., 2019). The participation of local

communities in planning is still carried out mainly through traditional methods of social consultation (Baker et al., 2010; Elbakidze, 2015). Participation is rarely an in-depth, exhaustive and comprehensive process and the resulting information is not sufficiently translated into planning knowledge, which is frustrating both for the local community and for planners and authorities (cf. Kahila-Tani et al., 2019). The example of Poland is therefore not an isolated one.

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