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Communal Seniors Council as an Institution of Social Participation in Local Government

Gminna rada seniorów jako instytucja partycypacji społecznej w samorządzie terytorialnym

SUMMARY

The article deals with the issues of Communal Seniors Council as an institution of social participation in local government. The considerations start with the discussion of the concept and the essence of social participation and participation of the elderly in public life. Then, the Communal Seniors Councils were analysed in the light of the Act on the Municipal Self-Government, the functions of the Seniors' Councils, as well as the social participation of the elderly in the United Kingdom and Germany also were presented.

Keywords: participation; civil society; local government

INTRODUCTION

The modern essence of civil society is connected with the demand for participation and means challenging the public-private dichotomy, encouraging participation in public life, which is not of a political nature. The public domain is the intermediate space between private and public life, where individuals enter as private persons, not in order to confirm their seclusion, but above all to overcome it without becoming the cogs of the state machine[1]. Thus, it is possible to indicate civil rights, which include, among others, the rights of the inhabitants of a given

[1] P. Świtał, *Prawne formy udziału obywateli w życiu publicznym – wybrane aspekty*, [in:] *Prawa człowieka we współczesnym świecie. Zagadnienia wybrane*, red. P. Świtał, W. Wojtyła, Radom 2018, pp. 158–159.

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local community to carry out various forms of self-organization, which are used to satisfy the individual and collective needs of the local community[2].

The aim of the article is to show the social participation of older people by discussing the Communal Seniors Councils. The notion and essence of social participation and the participation of older people in public life were analysed. Then, the Communal Seniors Councils were discussed in the light of the Act on Municipal Self-Government, the functions of Seniors' Councils and the social participation of the elderly in the UK and Germany also were analysed.

CONCEPT AND ESSENCE OF SOCIAL PARTICIPATION

Social participation is the active participation of the inhabitants of a given local government community in important matters for it, its inhabitants or specific social groups. It is the inclusion in the process of creating planning documents, making key decisions and solving local problems. A characteristic feature of participation is related to the active participation of all partners involved in the process of co-operation. Social participation consists in the communication of residents with the communal authorities and their mutual cooperation[3]. Civil participation is a phenomenon in which the community of residents of a given local government unit or state participates in activities focused on identifying and solving various common problems and needs. Social participation is a manifestation of organizing and associating people who, thanks to their own knowledge, skills, experience and commitment, aim to set and then achieve jointly defined goals[4].

According to P. Świtał, social participation assumes the participation of residents in designing and making decisions affecting the functioning of this community in almost every aspect: social, economic, health, economic, cultural or environmental, and thus the involvement of the individual in the decision-making process, which may be conclusive or opinion-forming. In further considerations, the author emphasizes that the starting point for the considerations of social participation as a form of exercising power is the postulate to create a participatory model of public administration. In this model, the emphasis is not so much on the aspect of economic efficiency of administration's operation as on the aspect of democratisation, participation in administration's operation both of its direct executors as well as potential addressees and beneficiaries of public administration's operation[5].

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[2] P. Romaniuk, *Istota partycypacji obywatelskiej w samorządzie terytorialnym elementem zarządzania i budowy zaufania do instytucji publicznych*, [in:] *Sprawiedliwość i zaufanie do władz publicznych w prawie administracyjnym*, red. M. Stahl, M. Kasiński, K. Wlaźlak, Warszawa 2015, pp. 348–349.

[3] J. Kwiatkowski, *Partycypacja społeczna i rozwój społeczny*, Warszawa 2003, p. 9.

[4] P. Romaniuk, *op. cit.*, p. 342.

[5] P. Świtał, *op. cit.*, p. 160.

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PARTICIPATION OF OLDER PEOPLE IN PUBLIC LIFE

The progressing process of population ageing in Poland is almost universally known and statistically proven[6]. The way older people function has an increasing impact on the life of society as a whole. Activation of elderly people, taking into account their specific needs and expectations and making use of the potential of this group, as well as developing instruments which will enable seniors to get involved in the life of the local community and encourage public participation, are therefore becoming more and more important tasks of public authorities and non-governmental organizations, especially those which dedicate their offer to the elderly. This is a difficult challenge because, as the results of many studies show, being an elderly person is often associated in Poland with social exclusion, which is manifested in this group, among others, by a low percentage of people participating in any form of education, low professional activity, low percentage of elderly people using modern telecommunication technologies, poor material situation and passive way of spending free time[7].

The involvement of seniors in making decisions that concern them is still rare. Activities addressed to older people so far were primarily aimed at activating them in two main areas: professional and cultural and educational. However, it is much worse when we analyse the perception of seniors as citizens who are worth of and should be involved in the decision-making processes in the areas of public policies and services concerning this social group[8].

COMMUNAL SENIORS COUNCILS IN THE LIGHT OF THE ACT ON MUNICIPAL SELF-GOVERNMENT

In accordance with Article 5c (1) of the Act of 8 March 1990 on Municipal Self-Government[9], the commune promotes intergenerational solidarity and creates conditions for stimulating civil activity of the elderly in local government. The view of the Supreme Administrative Court in its assessment should be agreed upon, whose empowerment to define the concept of senior is closely linked to the power of the body constituting local government units to appoint a seniors council and to determine the procedure for the election of its members and rules of operation. Determining the age of entitlement to participate in the Seniors' Council is extreme-

[6] W. Borczyk, D. Jachimowicz, W. Nalepa, *Gminne Rady Seniorów w praktyce – wybrane zagadnienia*, Nowy Sącz 2014, pp. 11–12.

[7] *Ibidem*.

[8] *Ibidem*.

[9] Consolidated text Journal of Laws 2019, item 506 as amended.

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ly important as representatives of the elderly are to be members of it. Therefore, in order to fulfil the instruction contained in Article 5c of the Act on Municipal Self-Government, it is necessary for the municipal council to give the notion of seniority a specific meaning, as the lack of this regulation would, in fact, make the functioning of the Seniors Council impossible and would violate the authority of the local government unit to appoint the Communal Seniors Council, give it its statutes and determine the procedure for the election of its members and the rules of its operation[10]. The case law on the above issue is not uniform. The Supreme Administrative Court in its judgement of 6 February 2019 stated that:

> It is incorrect [...] to state that the resolution in question is a normative act within the meaning of Article 40 (1) of the Act on Municipal Self-Government. It is not a general act, addressed to an unspecified number of addressees, but an internal management act. The provisions of the statute of the Communal Seniors Council set out the tasks, guidelines for the employees of the municipality concerning the establishment of the Communal Seniors Council. The whole procedure of its selection of members is carried out inside the municipality. The statute of the Communal Seniors Council does not imply any competence to undertake activities consisting of consulting, advising in certain recurring circumstances. Thus, the legal norms of this institution are not of abstract nature. The Communal Seniors Council is established for the internal needs of the municipality[11].

The Seniors Council is a consultative, advisory and initiative body[12]. It is appointed by the municipal council at the request of the circles concerned or on its own initiative, by way of a resolution, adopted by a simple majority of votes, in an open vote. The appointing body of the commune may conduct public consultations with the inhabitants in this respect[13]. The resolution on the appointment and statute of the Seniors Council is addressed to the local community and social organizations and concerns their rights and obligations. It is a general act, addressed to an undefined circle of addressees and having legal effects outside the commune's organizational structures. This act has features of generality and abstraction that allow it to be considered a normative act. Consequently, the resolution meets the characteristics of local law acts, which require prior publication in the official journal in order to come into force[14].

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[10] Judgement of the Supreme Administrative Court of 27 October 2017, II OSK 349/16, LEX No. 2436163.

[11] Judgement of the Supreme Administrative Court of 6 February 2019, II OSK 3545/18, https://sip.lex.pl/orzeczenia-i-pisma-urzedowe/orzeczenia-sadow/ii-osk-3545-18-charakter-prawny-uchwal-wydawanych-na-522724627 [access: 31.03.2019].

[12] R. Marchaj, *Komentarz do art. 5c*, [in:] *Ustawa o samorządzie gminnym. Komentarz*, red. B. Dolnicki, Warszawa 2018.

[13] M. Augustyniak, *Prawa i obowiązki radnego jednostki samorządu terytorialnego. Praktyczna wykładnia przepisów prawnych, wzory uchwał i schematy działań*, Warszawa 2014, pp. 56–60.

[14] Supervisory decision of the Kujawsko-Pomorskie Province Governor of 14 March 2014, NZS 2014/3/54, LEX No. 1483433.

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For the proper functioning of the Communal Seniors Council, the municipal council should grant it statute, specifying the rules for the election of its members and the scope of its activities[15]. Statutory rights should secure the right of the elderly to participate actively in the life of the local community, in particular by ensuring close cooperation with local government bodies. This would have a greater impact on the representation of their interests, the fulfilment of their needs and expectations, as well as greater opportunities to solve problems of importance to them[16].

The Radom Seniors Council was established on the basis of the resolution of the City Council of 17 March 2014[17]. It brings together representatives of senior citizens and entities acting for the benefit of the elderly, in particular representatives of non-governmental organizations and entities running Universities of the Third Age[18]. Its aim is to integrate, support and represent communities through:

- disseminating knowledge about the needs, rights and opportunities of the elderly, and thus strengthening the influence of the elderly on the decisions taken by local authorities,
- cooperation with the city authorities in resolving important issues and expectations,
- actions to strengthen intergenerational social ties,
- making proposals for tasks and activities for seniors,
- supporting all forms of seniors' activity,
- issuing opinions and formulating conclusions for the development of the activities of the local government for seniors,
- commenting on acts of local law[19].

The Radom Seniors Council consists of seven representatives of the elderly and representatives of entities acting for the benefit of the elderly, two members designated by the Chairman of the Radom City Council in consultation with the City Council and two members designated by the executive body of the City of Radom. The term of office of the Council is 2 years, starting from the date of appointment of its members[20].

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[15] M. Augustyniak, *op. cit*.

[16] T. Moll, *Rada seniorów – sposób realizacji potrzeby zwiększania aktywności społecznej osób starszych*, „Samorząd Terytorialny" 2015, nr 11, pp. 66–76.

[17] Resolution No. 703/2014 of the Radom City Council of 17 March 2014 on the appointment of the Radom Seniors Council and its statute, http://bip.radom.pl/ra/rada-miejska/uchwaly/26723,Uchwala-nr-7032014-w-sprawie-powolania-Radomskiej-Rady-Seniorow-i-nadania-jej-st.html [access: 30.03.2019].

[18] § 2 of the Statute of the Radom Seniors Council, http://bip.radom.pl/download/69/42282/statut.pdf [access: 30.03.2019].

[19] § 3 of the Statute of the Radom Seniors Council.

[20] § 4 of the Statute of the Radom Seniors Council.

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Members are recruited by way of the announcement of the President of the City by making it public on the notice board of the City Hall and on the website of the City of Radom. Members of the Council shall be elected in direct, secret ballot at an open meeting convened by the executive body of the City of Radom within no more than 30 days from the date of completion of acceptance of candidates' applications, as specified in the announcement on the recruitment of candidates for members of the Radom Senior Council. The persons entitled to vote for the candidate are the residents of Radom who are over 60 years of age[21].

Members of the Seniors Council of the City of Radom are appointed, by ordinance, by the executive body of the City of Radom[22]. The Seniors Council shall work at meetings which shall take place as required, but at least quarterly[23]. Resolutions of the Council shall be adopted in an open vote by a simple majority of votes in the presence of at least half of its members[24].

FUNCTIONS OF SENIORS COUNCILS

The consultative function consists of consulting on draft resolutions concerning senior citizens' matters in the municipality. This is not an easy task, as it requires specialist knowledge in the field of public policies, local government activities, as well as the way of creating documents. Another difficulty may also be related to the way of communicating during consultations, as older people do not commonly use new technologies, such as e-mail. Therefore, it is good practice to meet in person members of Seniors Councils with employees of public administration who prepare particular draft resolutions[25].

The advisory function is the design of specific solutions for the life of older people in the municipality. Optional solutions include, e.g., the introduction of senior citizens' cards. Seniors Councils may also participate in the monitoring or evaluation of the implementation of adopted resolutions, programmes or projects[26].

The initiative function concerns the co-organization of local events aimed at older people. It is carried out in various ways and may also be connected with the diagnosis of the needs of older people in the municipality. When analysing the initiative function, attention should also be paid to the integration of various organizations and environments supporting older people in the commune. In this

[21] § 5 of the Statute of the Radom Seniors Council.
[22] § 6 of the Statute of the Radom Seniors Council.
[23] § 10 of the Statute of the Radom Seniors Council.
[24] § 12 of the Statute of the Radom Seniors Council.
[25] K. Sztop-Rutkowska, *Rady Seniorów w działaniu*, Białystok 2017, pp. 15–16.
[26] *Ibidem*, pp. 17–18.

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case, the Seniors Council can be an effective link between their activities as well as turn their particular interests into common solutions[27].

PARTICIPATION OF OLDER PEOPLE IN THE UNITED KINGDOM

Seniors forums are one of the forms of social activation of older people at the local level within independent civil groups, whose aim is to create a permanent space for older people to speak out on issues important to them. The main areas in which the forums are held are public services aimed at older people, especially care services, provided at levels from local to central. These can be groups of several or several dozen people, but they may also include around one thousand individuals with strongly structured bodies. Regular meetings, exchange of information, information campaigns and various animation activities take place within the forums. The forums are run by older people who work on a voluntary basis. The membership is voluntary and informal[28].

PARTICIPATION OF OLDER PEOPLE IN GERMANY

Senior citizens in Berlin engage free of charge for the benefit of the elderly on the basis of the Berlin law on self-determination of senior citizens' organizations, which came into force in 2006 as the first such law. In 2011, the law was amended and seniors can cooperate on the basis of this law in their municipalities completely independently, without any legal obligation and regardless of their religion. In other lands, there are other regulations allowing seniors to create their own self-government and involve seniors in the decision-making process. German Seniors Councils are established in every local authority to represent the elderly, support them and hold intergenerational dialogue. They cooperate with the city authorities especially in those areas where decisions will have an impact on older people or future seniors. The existence of Councils is an obligatory element. In a situation where the above-mentioned body has not been established in the municipality, the local government is obliged to establish a special office for seniors. Their competencies include:

- representing the interests of older people,
- conducting public consultation prior to decisions relating to seniors policy,

[27] *Ibidem*, pp. 18–19.

[28] E. Stokłuska, *Fora seniorów w Wielkiej Brytanii – Program AGE UK Speaking Up For Our Age*, https://partycypacjaobywatelska.pl/wp-content/uploads/2015/09/kejs-_fora_seniorow_uk.pdf [access: 31.03.2019].

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- supporting self-determination of older people,
- making state advisory bodies and members of political and municipal parties aware of the needs of senior citizens,
- promoting the decent treatment of persons in need of care,
- promoting a stronger sense of subjective security, creating a climate conducive to intergenerational cooperation,
- ensuring active participation of Berlin senior citizens in social, cultural and political life and in voluntary activities.

All senior citizens who have their place of residence in the district may be appointed to the District Council for Senior Citizens in Germany. Two months before the election, the district council calls publicly for the participation of the representation. This is done by means of senior citizens' organizations, senior citizens' homes and retirement homes, as well as organizations that organize leisure time for seniors. Everyone has the right to send a candidacy. In case of a large number of applications, elections may be held. However, they do not take place in a spectacular way, there are no large campaigns. The selection of members is based on extensive consultations, not a campaign where there are winners and losers[29].

CONCLUSIONS

Summarizing the above considerations, it should be stated that the Communal Seniors Council fosters intergenerational solidarity and creates conditions for the civil activity, e.g. by issuing opinions and formulating proposals for the development of local government activity for the benefit of seniors. What connects and what separates Polish Seniors Councils from seniors organizations in the UK or Germany? First of all, membership, which is formal in our country. In the United Kingdom or Germany, however, these groups operate on a voluntary basis. Another issue is the diverse range of competencies and composition. However, they have one goal – to activate older people in public life.

[29] *Rady Seniorów w Niemczech*, https://polityka.zaczyn.org/rady-seniorow-w-niemczech [access: 31.03.2019].

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STRESZCZENIE

W artykule podjęto problematykę gminnej rady seniorów jako instytucji partycypacji społecznej w samorządzie terytorialnym. Rozważania rozpoczynają się od omówienia pojęcia i istoty partycypacji społecznej oraz partycypacji osób starszych w życiu publicznym. Następnie zanalizowano gminne rady seniorów w świetle ustawy o samorządzie gminnym i funkcje rad seniorów oraz opisano partycypację społeczną osób starszych w Wielkiej Brytanii i Niemczech.

Słowa kluczowe: partycypacja; społeczeństwo obywatelskie; samorząd terytorialny

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