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# PUBLIC PARTICIPATION IN LOCAL PUBLIC ACTION IN CROATIA AND SERBIA

## Abstract

Participation of citizens in local public affairs is of critical importance for the quality of democracy at local level. The article makes a comparison between Croatia and Serbia regarding the use of instruments of participation in local public action. Two countries under comparison have some differences in spite of the fact that both of them were part of the former Yugoslavia. The authors show that developments in Croatia and Serbia are quite similar and rather low despite the formal differences between the two countries. The article addresses and explains the factors that support the main hypothesis of the paper and propose direction of change.

**Keywords:** participation, local government, democratic innovation, participatory budgeting, digital participation, Croatia, Serbia

## I Introduction

Participation of citizens in local public affairs is of critical importance for the quality of democracy at local level. Among several types of participation, this paper deals namely with political participation at local level of public governance. Political participation has always been and still is an essential element of citizenship and democratic political order. Forms of participation multiply over time and today citizens have various channels for participation [...] *starting from voting*, as a main type of political participation. Participation [...] *has progressively come to include campaigning and contacting, then protest and new social movements, civic engagement, political consumerism, creative forms – especially when it*

*comes to participation in protest activities – and, more recently, internet and social media. The result is that citizens today have at their disposal a much wider range of ways to express themselves politically and participate in politics.*<sup>1</sup>

Instruments of local public participation could be categorized into several groups depending on various criteria. In academic literature one could find various classifications of participation forms. Koprić and Klarić make distinction between traditional and new forms of participation. Traditional forms include local referendums, civic initiatives, deliberative assemblies, neighbourhood councils, and occasional consultative local assemblies. New forms, on the other hand, are direct election of executive bodies, strengthening of their leadership role, recall referendums and independent local lists.<sup>2</sup> There are also classifications of the European standards for participatory governance which recognizes the following group of standards: a) representative democracy (local elections), b) direct democracy (local referendums, petitions, opinion polls, user surveys, round tables, meetings of local residents, ombudsman service), c) e-governance (open access to information, e-consultation, distribution of information, surveys). Furthermore, there are special standards of participatory governance which include channels of influence of particular social groups at local level such as NGO's, women, youth, disabled persons, national minorities and foreigners.<sup>3</sup>

Reflections on local self-government and local democracy are part of a broader academic and practical discussion of the nature of modern democracy, especially local democracy. In this context, research and analysis of democratic innovation practices is interesting, especially because such practices are [...] *proliferating in all areas of governance, from politics to policy and public administration. These new processes and institutions seek to reimagine and deepen the role of citizens in public governance and collective decision-making.*<sup>4</sup>

Democratic innovation is a relatively new multidisciplinary research field, and the literature on this field is multiplying, especially after 2010. A very detailed and recent review

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<sup>1</sup> Marco GIUGNI, Participation as a fundamental value of citizenship: political participation and its transformation, In Dario ČEPO (ed.), *European Values and Challenges of EU Membership*, Zagreb, Centre for democracy and Law Miko Tripalo, 2020, p. 90.

<sup>2</sup> Ivan KOPRIĆ and Mirko KLARIĆ, New Developments in Local Democracy in Croatia, *Hrvatska i komparativna javna uprava / Croatian and Comparative Public Administration*, No. 2, 2015, pp. 389-414

<sup>3</sup> For detailed analysis of mentioned general and special European standards see Dana DOBRIC JAMBROVIC, European Standards in Regulating Public Participation on Subnational Levels: The Case of Croatia, In Carlos Nunes SILVA (ed.), *Contemporary Trends in Local Governance, Local and Urban Governance*, Springer Nature Switzerland, 2020, pp. 217-239, [https://doi.org/10.1007/978-3-030-52516-3\\_11](https://doi.org/10.1007/978-3-030-52516-3_11)

<sup>4</sup> Stephen ELSTUB and Oliver ESCOBAR, *Handbook of Democratic Innovation and Governance*, Edward Elgar, 2019, p. 3.

of literature and experiences in different fields and continents is provided by the extensive (38 chapters) book *Handbook of Democratic Innovation and Governance* from 2009. In the introductory text, editors Elstub and Escobar define democratic innovation as [...] *processes and institutions that are new to a policy issue, policy role or level of governance and developed to reimagine and deepen the role of citizens in governance processes by increasing opportunities for participation, deliberation and influence.*<sup>5</sup> Furthermore, Smith defines democratic innovation as [...] *institutions specifically designed to increase and deepen citizen participation in the political decision-making process.*<sup>6</sup>

The mechanisms through which the practice of democratic innovation is manifested are numerous and can be classified into different categories. Elstub and Escobar distinguish five groups (families) of instruments of democratic innovation. The first group of instruments includes various forms of public forums (*mini-publics*) characterized by a very intensive advisory discussion of smaller groups of citizens, most often selected by sampling. Typical examples from this family of instruments are citizens' assemblies, civic juries, planning stations, consensus conferences, civic panels and advisory surveys. The next group of instruments consists of participatory budgeting instruments that have expanded from Porto Alegre (Brazil) to other continents and taken different variations. The third group are the instruments created around citizens' decision-making by voting, and the most well-known methods are referendum, civic initiative, but also various forms of direct democracy and civic legislative initiative. The fourth group of instruments is called collaborative governance and encompasses a very diverse array of instruments that highlight the cooperation of the public, private, and civil sectors. This includes different forms of co-production, partnerships between different actors, etc. The last group of instruments of democratic innovation refers to governance in the digital environment under the umbrella name of digital participation.<sup>7</sup>

## **I.A Local government in Croatia and Serbia – an overview**

The paper compares Croatia and Serbia regarding the use of instruments of participation in local public action. The main hypothesis of this research is that public participation in local

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<sup>5</sup> Ibid, p. 14.

<sup>6</sup> Graham SMITH, *Democratic innovations: Designing institutions for citizen participation*, Cambridge, UK: Cambridge University Press, 2009.

<sup>7</sup> Stephen ELSTUB and Oliver ESCOBAR, op. cit, pg. 2; Stephen ELSTUB and Oliver ESCOBAR, *A Typology of Democratic Innovations* (paper presented at Political Studies Association's Annual Conference, 10th-12th April, 2017), Glasgow, United Kingdom, 2017.

public action in Croatia and Serbia are quite similar and rather low despite the formal differences between the two countries (EU membership, size and competences of local self-government units, legal framework which regulates public participation at local level, etc.). It addresses and explains the factors that support the main hypothesis of the paper and proposes direction of change.

	<i>Croatia</i>	<i>Serbia</i>
No. of tiers	Two tier system	One tier system
No & type of local units	556 basic local units (City of Zagreb + 127 towns + 428 municipalities)	174 basic local units (City of Belgrade + 28 towns + 145 municipalities)
Second (regional) tier	20 Counties ( <i>županije</i> ) as second tier of regional self-government units	-
Special status	City of Zagreb with special status as capital city and a county	City of Belgrade
Average size of local units	Around 7,300 inhabitants	Around 49,000 inhabitants
Average size of 2nd tier units	200,000 inhabitants	-
Local elections turnout	around 48% of voters in last five local elections (2001, 2005, 2009, 2013, 2017)	Around 57% of voters in last six local elections (2000, 2004, 2008, 2012, 2016, 2020)

Source: developed by authors

Two compared countries are particularly suitable for comparison due to several reasons. They both inherit similar tradition of local self-government organization from the former Yugoslavia. However, institutional development of the compared countries in the last almost thirty years led to some differences in the local government systems of the compared countries. While Croatia increased its number of local units for almost six times, Serbia's territorial organization remained intact, resulting in difference in average size of local units in these two countries. Average Croatian self-government unit has a little more than 7.000 inhabitants while average Serbian local unit is with almost 50.000 inhabitants six times bigger. Unlike Serbia which has one tier local self-government organization, Croatia introduced counties (*županije*) as the second tier of self-government units. Regarding the local election turnout, it could be noticed that Serbia has slightly higher election turnout (57 percent) while turnout on Croatian local elections is slightly less than 50 percent. In order to increase the legitimacy of the whole

system Croatian introduced direct election of mayors in 2009, while Serbia abolished it two years earlier, namely in 2007.

## **II Public participation in local public action in Croatia**

Public participation in local public action is regulated by general law which regulates local and regional self-government. The Law was initially adopted in 2001 and amended thirteen times since.<sup>8</sup> However, parts which regulate local participation in local actions haven't experienced significant changes in recent years despite the fact that the use of these instruments (citizens' initiative and local referenda) are quite low. The last amendment took place in December 2020 and this amendment introduced only minor changes in regulation of citizen participation instruments. The possibility to submit citizens' petitions and proposals by electronic means was introduced, but only if it is "... in accordance with the technical capabilities" of the local self-government unit.

There are several main instruments of citizen's participation in local public action in Croatia. Citizens can participate in decision-making through local referendum and citizen assemblies. Local referendum can be used for dual purpose. Firstly, a referendum may be called to decide on a proposal to change the local self-government statute, on a proposal for a general act or other issue within the scope of the representative body, as well as on other issues determined by law and the statute of local self-government unit. Secondly, local referendum can be used for recall of directly elected executive bodies in local self-government units, i.e. municipality, town and county major. Citizens' assemblies may be convened to express citizens' opinions on issues from the self-governing scope of local self-government unit and to discuss the needs and interests of citizens of local importance. These assemblies are convened for part of the local self-government unit (settlement, neighborhood or their parts). Citizens can also submit citizens' initiative which can take place in the form of petitions and proposals for adoption of formal decisions. Citizens have the right to propose to the representative body of a local and regional self-government unit to adopt a general act or resolve a certain issue within its scope and submit petitions on issues within the self-governing scope of a municipality, city or county of local significance, in accordance with the law and statute.

Parallel with this formal instruments of participation, there are cases of less formal inclusion of citizens in local decision making which could be used as a good examples of the

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<sup>8</sup> Law on Local and Regional Self-Government (in Croatian), Official Gazette 33/01, 60/01, 129/05, 109/07, 125/08, 36/09, 36/09, 150/11, 144/12, 19/13, 137/15, 123/17, 98/19, 144/20.

way how legislation could be changed in order to enhance the inclusion of citizens in local democratic processes.<sup>9</sup>

Citizen participation in decision-making on local issues is one of the main indicators of the state and vitality of local democracy. In the first place, the local elections should be emphasized, and after the introduction of direct elections, elections for executive bodies in local self-government. So far, seven cycles of regular elections have been held in Croatia. Turnout in the general local elections ranged from a relatively high rate of 67% and 71% in the first and second rounds of local elections (1993, 1997), to 42%, the lowest general turnout in the 2005 local elections. In the last three election cycles (2017, 2013 and 2009) turnout has stabilized at 47% and 48%, respectively, and even the last five of the seven election cycles overall turnout is less than 50% of voters. As presented data show, introduction of direct elections of mayors didn't resulted in higher turnout, although one of the reason of its introduction was to increase the voters' turnout.

Although the legislator has provided mechanisms for direct participation of citizens in decision-making in local self-government, such mechanisms are insufficiently, or almost never used. The data show that mechanisms of direct citizen participation in decision-making are extremely rarely used. The citizens' initiative was recorded only 11 times in 389 local self-government units covered by the research conducted in 2015.<sup>10</sup> Also, only 18 binding local referendums were held.<sup>11</sup>

The reasons for the poor use of direct decision-making instruments are numerous and complex. Some of them most likely stem from low civic awareness, lack of responsibility and civic culture and education of citizens to live in a democratic society, technical complexity of implementation of these instruments, weak position of local self-government in the overall government architecture and other similar factors. All of the above undermines the importance of local self-government and local democratic-political institutions. The central state, as part of its overall responsibility for the functioning of democratic political institutions, should take more seriously their elimination and work to strengthen local democracy.

Autonomous voter lists at the local level participate on average with about 10% of seats

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<sup>9</sup> Part of this chapter has been previously published in Croatian in Vedran ĐULABIĆ, *Lokalna samouprava i lokalna demokracija u Hrvatskoj: koliko prostora za demokratske inovacije*, In Dario ČEPO (ed.), *European Values and Challenges of EU Membership*, Zagreb, Centre for democracy and Law Miko Tripalo, 2020, pp. 143-170.

<sup>10</sup> Ivan KOPRIĆ and Mirko KLARIĆ, *op. cit.* (p. 2), p. 397.

<sup>11</sup> Romea MANOJLOVIĆ TOMAN, Tijana VUKOJIČIĆ TOMIĆ, *Načelo demokracije Europske povelje o lokalnoj samoupravi i sudjelovanje građana u hrvatskoj lokalnoj samoupravi*, In: Ivan KOPRIĆ (ed.), *Europeizacija hrvatske lokalne samouprave*, Zagreb: Institut za javnu upravu, 2018, pp. 343-371

in local representative bodies, although they win almost 20% of the vote in elections.<sup>12</sup> However, their share in the 2017 local elections increased to almost 16%.<sup>13</sup> The success of independent lists and candidates is positively correlated with the size of local units. Thus, they have the most success in small local units, usually municipalities and small towns, then in larger cities, while their weakest result is at the county level. In small units, political processes are highly personalized, which reduces the impact of party infrastructure, while the influence of parties is more significant the larger the unit. In larger units, the degree of personalization is somewhat lower, as fewer citizens are familiar with candidates for local representative bodies and executive positions. Smaller financial, personnel and logistics capacities need to be engaged in smaller units than in larger units. This encourages independent political actors to get involved in local political life. Putting this in the context of lower voter turnout in local elections, the chances of independent candidates to succeed are somewhat higher. Due to the fragmentation of the territorial structure of local self-government, which results in relatively small local units on average, it is to be expected that non-partisan candidates and lists will continue to be significantly present in local politics.

Other forms of democratic innovation that still occupy only a sporadic place in Croatian local self-government. Although there is documented practice on innovation and best practices in local self-government,<sup>14</sup> in the meantime several initiatives have been developed that represent a form of democratic innovation in terms of involving citizens in some aspects of local self-government. These are examples of participatory budgeting and participatory management of local units.

Participatory budgeting started in Croatia with the city of Pazin, which in 2014 launched a participatory budgeting project for 2015 called *Pazin budget*. The project was initially financed from the European Structural and Investment Funds, but after the completion of the project, a participatory approach to budgeting became an integral part of budgeting in Pazin.

Available data suggest that about 35 cities (27% of all cities) have some experience that can be linked to participatory budgeting. However, this information should be taken with great reserve, because in most of these cities it is only a rudimentary effort to involve citizens in the preparation of the budget. The road to a real participatory budget characterized by transparency

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<sup>12</sup> Ivan KOPRIĆ and Mirko KLARIĆ, op. cit. (p. 2.), p. 399.

<sup>13</sup> Ivan KOPRIĆ, *Suvremeni trendovi u razvoju lokalne samouprave i hrvatska lokalna i regionalna samouprava*, In: Ivan KOPRIĆ (ed.), *Europeizacija hrvatske lokalne samouprave*, Zagreb: Institut za javnu upravu, 2018 (pp. 1-56), p. 34.

<sup>14</sup> INPULS, *Inovacije i najbolja praksa u lokalnoj samoupravi 2013*, Udruga gradova, 2013.

and citizen decision-making on the budget is still quite a long one.

From this point of view, cities can be divided into three groups. The first group consists of *leaders* and is characterized by the fact that they have a structured, transparent and democratically legitimized involvement of citizens in the budget process. In these cities, at least two budgets have been made in this way. There are only slightly less than a dozen examples (about 6% of all cities) in which more serious participatory local budgeting is carried out.<sup>15</sup> In some of them, participatory budgeting is the result of the implementation of specific projects aimed at institutionalizing such a form of budgeting. After the completion of the implemented projects, participatory budgeting is still practiced.

The second group are *newcomers*, and these are units that have shown interest in involving citizens, but the process is not yet fully structured although some steps have been taken in this direction. Thus, during 2018, citizens were invited in some cities and some possibilities of their involvement in budgeting were opened. Most often, it is about posting a form for submitting proposals on the website, comments of citizens on social networks, inviting citizens through local media (usually radio), or direct contact of executive officials with citizens in the field. A little less than 30 additional cities fall into this category.

The third group are *disinterested*, and these are cities that have so far not shown greater interest in involving citizens in budgeting or have taken any action in the direction of citizen involvement, but stick to the traditional way of drafting and adopting the budget.

These examples of participatory budgeting combine citizen involvement through various forms of physical participation (local committees, focus groups, workshops, forums, etc.) with digital forms of participation, primarily through applications that make it easier for citizens to review budget items, but also participate in the planning process budget.

### **III. Local public participation in Serbia**

#### **III.A Traditional means of direct participation**

Similar to Croatian experiences described above, recent surveys into practice of local public participation in Serbia show the devastating fact that traditional means of direct participation (such as citizens initiatives, referenda and citizens' assemblies, which fall into Elstub's and Escobar's third category of citizens' decision-making by voting) are still very

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<sup>15</sup> Data mainly exist for cities, while participatory budgeting in municipalities is still unexplored and undocumented.



rarely used and often with no real effect to local policies and regulation.

Earlier research showed there was annually around 40 referenda in all local governments, but that still in the majority of local governments referenda were not used at all. Almost 90% of the organised referenda concerned collection of self-contribution taxes. The same research showed that citizens in smaller local governments (which are, on average still among the largest in Europe<sup>16</sup>) used these tools significantly more often than in the biggest towns. Citizens' initiatives, the most utilized tool, concerned solving everyday problems, from their immediate living environment.<sup>17</sup> More recent analysis, conducted on representative samples of local governments, show that there is still a significant number of local governments in which there were neither local referenda, nor citizens' initiatives during the previous three to five years. Most of these initiatives (more than 60%), as well as referenda (74%), have been initiated by *mesne zajednice* (which can be translated as neighbourhood districts).<sup>18</sup> They are part of the heritage of the former SFRY,<sup>19</sup> maintained in Serbian systemic legislation on local government until this day, as a tool for a more direct involvement of citizens in local issues. However, their potential as tools for wider citizen participation has not been utilized in the past two decades.<sup>20</sup>

The outdated and demanding legal framework on these forms of direct participation certainly contributes to the result, but cannot be viewed as its sole cause. These issues are regulated by the systemic law on local self-government<sup>21</sup> and the law on referenda and civic initiatives. The Law on Local Self-government envisages referenda, citizens' initiatives and citizens assemblies, as formal means of direct participation. Its regulations are elaborated in local statutes. The latter law is from the 1990s, and is particularly demanding in respect of formal conditions and procedure of submission of citizens' initiatives as a form of proposing

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<sup>16</sup> As shown in the table in subsection I.A of this paper. However, since local government is organized on a single level there are large discrepancies in the size of individual units. On the one hand, according to the data of the national statistical office, there are 16 local governments with less than 10.000 inhabitants, and on the other, there are 14 towns with over 100.000 inhabitants, including the City of Belgrade with almost 2 million inhabitants. See: Dušan GAVRILOVIĆ, Municipalities and Regions of the Republic of Serbia, Statistical Office of the Republic of Serbia, <https://www.stat.gov.rs/en-US/publikacije/publication/?p=12234> (accessed 29 October 2020), 2019.

<sup>17</sup> See: Miloš MOJSILOVIĆ, Neposredno učešće građana u upravljanju lokalnom zajednicom/Problemi, izazovi i preporuke za unapređenje procesa. OSCE Mission to Serbia, 2011, pp. 114-119.

<sup>18</sup> E.g. Standing Conference of Towns and Municipalities – SCTM, Analiza učinka i kapaciteta jedinica lokalnih samouprava u primeni principa dobrog upravljanja, 2018, pp. 29-30. UNDP Office in Serbia, Indeks odgovornosti lokalnih skupština za 2019. godinu, 2019.

<sup>19</sup> See e.g. Gene S. LEONARDSON and Dimitar MIRČEV, A Structure for Participatory Democracy in the Local Community: The Yugoslav Constitution of 1974, *Comparative Politics*, Vol. 11, No. 2, 1979, pp. 189-203.

<sup>20</sup> Bogoljub MILOSAVLJEVIĆ, Reforma lokalne samouprave u Srbiji, *Croatian and Comparative Public Administration*, No. 3, 2012, pp. 749-768.

<sup>21</sup> Law on Local Self-government (Zakon o lokalnoj samoupravi – Serbian only). Official Gazette RS, No. 129/2007, 83/2014, 101/2016, 47/2018.

local regulations.<sup>22</sup>

Nevertheless, some efforts are directed towards improvements of the legal framework, such as amendments to the systemic law on local self-government in 2018, aimed *inter alia*, to open a wider space for public participation, mainly through introducing obligatory public consultations, as well as further regulation of neighbourhood districts (*mesne zajednice*). Amendments reduced the percentage of signature necessary for a citizens' initiative to 5% of the local electorate, widened the list of local regulations for which it is necessary to conduct a public debate, enabled public debates on citizens' demand and introduced an obligation on the part of local administration to announce their intention to prepare draft regulations. More detailed regulation of neighbourhood districts was triggered by recent caselaw of the Serbian Constitutional Court in which they were described as *communities based on interest in which citizens satisfy their general, mutual and everyday needs*.<sup>23</sup>

Additionally, a draft law on referendum and citizens' initiatives was prepared in 2019, but is yet to enter into parliamentary procedure. Finally, during the past several years, other legislation also introduced compulsory public consultation in the process of adoption of local budgets, introduction of self-contribution taxes, policy planning, building and construction, environmental impact assessment.

Further work is needed on improvement of other means of participation, in particular wider use of citizens right to petition and public criticism in general. Other than changes in legislation this would demand a change in attitudes (on the part of local decision-makers, as well as citizens) and mutual understanding on the role and benefits of the wider public. Different tools could be used to that end, including digital technologies, as well as the old-fashioned direct conversation between the citizens and their representatives.

### **III.B Possible reasons in the background of low levels of direct participation in Serbia**

Besides reasons already listed in the case of Croatia, the situation at hand in Serbia, has

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<sup>22</sup> Law on the Referendum and Citizens' Initiative (Zakon o referendumu i narodnoj inicijativi – Serbian only), Official Gazette of the Republic of Serbia, No. 48/1994, 11/1998. Provisions of this law are particularly strict in relation to collecting the necessary number of signatures in support of the initiative (since 2018, 5% of the electorate in the concrete local government). The intention to collect signatures is to be notified both to the local authorities, as well as the police and there is a strict 7 days limit to collect them. For criticism of such solution and its negative influence on motivation for citizen participation see: MOJSILOVIĆ, *op. cit.* (p. 8), pp 114-115 or Bogoljub MILOSAVLJEVIC and Jelena JERINIC, Komentar Zakona o lokalnoj samoupravi. Službeni glasnik, 2020, pp. 302-303.

<sup>23</sup> Bogoljub MILOSAVLJEVIC and Jelena JERINIC, *op. cit.* (p. 9), pp. 321-346.

to be evaluated bearing in mind at least two other facts – proportional local elections and the overall state of participatory,<sup>24</sup> as well as a general lack of trust in (local) authorities.

Underlying election legislation facilitates domination of political parties over representative bodies on all three levels of government. Proportional elections favour political party lists and only rarely in local elections do we see electoral lists submitted by citizen groups and citizen initiatives or non-partisan candidates, without clear affiliation to the main nationwide political parties. The parties' dominant role is also visible through a specific "domino effect" of national political majority on lower levels of government. Changes in central-level coalitions are almost immediately reflected on the local level.<sup>25</sup> Direct election of mayors was abolished in 2007.

Together with centralised decision-making inside party structures, this easily leads to a participatory, where government structures are effectively controlled by political parties. At the local level, local assemblies are essentially stripped of their representative function. The public continuously perceives political parties as highly corrupt (surveys in the course of several years never showed a percentage lower than 70). Serbian citizens recognise the major forms of corrupt practices led by political parties such as misappropriation or careless handling of public resources by public officials or giving gifts and bribes. Such views of political parties are also reflected on the perception of corruption in public institutions, which are mostly led by party members. Still, voter turnout is still relatively high (close to 60%), but decreasing steadily over the years.

Unfavourable electoral conditions and media censorship were behind the decision of most opposition parties to boycott the June 2020 elections, which were organised amidst the COVID-19 pandemic and marked by a larger number of reported irregularities than in previous electoral cycles.<sup>26</sup> Elections were held on all levels of government, including those for 154 local assemblies, resulting in only one local government and one municipality within the City

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<sup>24</sup> According to some, participatory was the feature of Serbian political system from the beginning of this century, up to 2012, while from then on the system can be characterized as a *hijacked and appropriated state*, in the meaning that *the leader of the ruling party in Serbia built a powerful party organization which is able to hijack the state and its institutions and to use its resources to benefit ruling elites and their supporters*. See: Djordje, PAVICEVIC, Serbia: hijacked and appropriated state, in Marion KRASKE (ed.), *Captured States in the Balkans*, Sarajevo, Heinrich Böll Foundation, 2017, pp. 31-35.

<sup>25</sup> Snežana VUJADINOVIĆ, Dejan ŠABIĆ and Mirjana GAJIĆ, Local government in Serbia: Between legislation and practice, *Zbornik radova - Geografski fakultet Univerziteta u Beogradu*, Vol. 64, 2016, pp. 73-90.

<sup>26</sup> See: OSCE/ODIHR, Republic of Serbia Parliamentary Elections 21 June 2020 - ODIHR Special Election Assessment Mission Final Report (<https://www.osce.org/files/f/documents/a/3/466026.pdf>, accessed 29 October 2020), 2020; or Željka CVEJIN, Elections in Serbia – Simulation of Democracy, CRTA (<https://crtars/wp-content/uploads/2020/09/Elections-in-Serbia-Simulation-of-Democracy.pdf>, accessed 29 October 2020), 2020.

of Belgrade<sup>27</sup> not governed by the ruling coalition, which now dominates all three levels of government – national provincial and local.

### III.C In pursuit of new forms of democratic innovation

As mentioned above, legislation governing specific sectors has, in the past years, introduced new or developed existing modes of, principally, public consultation. First, a set of environmental laws was introduced in 2004, to bring the legislation in line with EU standards and, *inter alia*, in respect of public participation, with the principles of the Aarhus Convention.<sup>28</sup> Similarly, since 2014, public consultation is mandatory under planning and construction legislation, in the process of adopting spatial and urban plans, but its application has so far been poorly evaluated by scholars due to the unclear definition of mechanisms for effective involvement of stakeholders, which practically leaves the fate of participation to planners (or local decision-makers), threatening to lead to an even greater disinterest of the citizens.<sup>29</sup>

Like in Croatia, Serbian local governments are now faced with the demand to plan their budgets in a participatory manner. This was first promoted through donor funded projects supporting local government reform and is now considered as part of the obligations posed under the Law on Budget System.<sup>30</sup>

The most recent, 2018 Law on the Planning System was meant to introduce a comprehensive methodological framework for management of public policy development, i.e. a coordinated national system of policy planning, and set as one of its leading principles publicity and partnership, based on the presumption that public policy is determined within a transparent consultative process. It, therefore, obliges decision-makers on all levels of government (including local governments) to perform consultations in all phases in the course of drafting policy documents and public debates on all draft documents. Although it is seen as

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<sup>27</sup> According to the Law on Local Self-governments, towns can decide to establish two or more town municipalities on their territory. Due to the single-level organization of local government, only the town has the status of a local government unit, while town municipalities can only perform some of the town's own competences and is not considered a local government unit by law. See: Bogoljub MILOSAVLJEVIĆ and Jelena JERINIĆ, Territorial Organisation of the Republic of Serbia – Possibilities for Reform, Serbian Architectural Journal, No. 7, 2015, p. 410.

<sup>28</sup> See: Darko NADIĆ, Environmental Policy of Serbia and Challenges of Accession to Europe, Anali Hrvatskog politološkog društva, Vol. 9 No. 1, 2012, pp. 317-333.

<sup>29</sup> See e.g. Iva ČUKIĆ, Mogućnost participativnog upravljanja urbanim razvojem, In: Iva ČUKIĆ (ed.), Ka drugačijem gradu, Ministarstvo prostora, 2017, pp. 45-56.

<sup>30</sup> Zakon o budžetskom sistemu (in Serbian only), Official Gazette RS, No. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013, 108/2013, 142/2014, 68/2015, 103/2015, 99/2016, 113/2017, 95/2018, 31/2019, 72/2019.

a huge step ahead in the field of public policy and a piece of legislation which fundamentally alters how decisions are made that are important for the development of Serbia's society as a whole, this law has also been criticised, among other reasons, for not institutionalising a wider stakeholder dialogue, but leaving the dominant role in initiation, formulation and realisation of public policies to the public sector.<sup>31</sup> Besides urban planners, criticism of the law also came from legal scholars, but truth be told, its effects on the local level are yet to be seen and evaluated, as well as its potential to promote a more meaningful public involvement. Experiences from a small number of pilot municipalities, in which projects dedicated to implementation of the new law were realised showed the possibility to develop the basis for local development plans in a participatory manner (e.g. using interactive workshops and focus groups), with participation of all relevant stakeholders from the local community.<sup>32</sup>

Even though it is hard to find a local government in Serbia which, so far, has not adopted at least one strategic policy document, be it an overall development strategy or a sectoral one, experiences of real participatory planning have been developed only recently. First such plans date from the 2005, and most were initiated and technically supported by donor and development organisations.<sup>33</sup>

Like policy planning, the idea of participatory budgeting was also introduced through international projects. In comparison to the Croatian example of participatory budgeting, even though the Budget System Law of 2009 introduced the obligation of local executive bodies to *familiarise the citizens with the draft budget act*, the practice of effective consultation of citizens concerning the budget is still lacking, *inter alia* due to poor planning of the budget process, not leaving enough time for consultation and acting on citizens' proposals and comments.<sup>34</sup>

More recently, 2018 amendments of the Law on Local Self-Government introduced an

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<sup>31</sup> See: Marija MARUNA, Ratka ČOLIĆ and Danijela MILOVANOVIĆ RODIĆ, A New Regulatory Framework as both an Incentive and Constraint to Urban Governance in Serbia, In: Jean-Claude Bolay et al. (eds.), A Support to Urban Development Process, École polytechnique fédérale de Lausanne (EPFL) Cooperation and development center (CODEV) and Institute of Architecture and Urban & Spatial Planning of Serbia (IAUS), 2018, pp. 80-107.

<sup>32</sup> The Standing Conference of Towns and Municipalities, national local government association, plays a significant role in standardization of development planning on the local level. E.g. during 2019, with the support of Slovak Aid and UNDP, it piloted a new approach towards policy coordination according to the new Law on the planning system, in five pilot local governments. See [https://www.rs.undp.org/content/serbia/en/home/presscenter/articles/2019/unapre\\_enje-upravljanja-i-ekonomskog-planiranja-u-lokalnim-samou.html](https://www.rs.undp.org/content/serbia/en/home/presscenter/articles/2019/unapre_enje-upravljanja-i-ekonomskog-planiranja-u-lokalnim-samou.html) (accessed 28 October 2020).

<sup>33</sup> The process of mapping local strategic documents began in 2007, by an effort of the SCTM and the then Team of the Deputy PM for Poverty Reduction (now Social Inclusion and Poverty Reduction Unit), who still maintain a comprehensive online database of these documents - <http://strategije.skgo.org> (accessed 29 October 2020).

<sup>34</sup> SCTM, *op. cit.* (p. 8).

obligatory public debate on the local budget, as regards its part on planning investments. It has been reported that these have been organised by 77% of local governments, but that there is still room for improvement of their practice.<sup>35</sup>

In this sphere, as well, more advanced results achieved in a fewer number of pilot municipalities, receiving additional support of expert organisations and development projects. Comprehensive studies on local budgeting practice covering all local governments are not available, but some research analysing several development projects shows that they utilise different tools for involving citizens – from consultative surveys on priority projects in the earlier initiatives, in which citizens could select areas in which the local government should invest more funds to a more deliberative approach in the more recent ones, in which citizens could both propose and vote on the projects which should be financed by the local government. Also, a recent trend is that more often consultative surveys are conducted online, via internet sites or mobile phone applications.<sup>36</sup>

However, researchers have also noticed that the key problems in establishment of participatory budgeting practices lie in the very functioning of the local government finance system in Serbia in which most of local government revenues (up to 70%) is practically earmarked by legislation, so there is not much left for citizen deliberation. Additionally, citizens are not well informed of the budget process itself.<sup>37</sup>

In recent years, there is an increase in use informal tools (e.g. online petitions, as rudimentary form of digital participation) or informal citizen initiatives and social movements (e.g. Don't let Belgrade D(r)own; Let's Defend the Rivers of Stara Planina) protesting against infrastructure and urban development projects and construction of mini-hydro plants.<sup>38</sup> The Planning and Construction Law, as well as environmental legislation provide for mandatory public insight procedures, but without proper guarantees that the comments from the public are considered in the procedure of final adoption of plans. Likewise, the new Law on the Planning

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<sup>35</sup> Transparentnost Srbija, Local Self-Government Transparency Index 2020 – Final report, [https://www.transparentnost.org.rs/images/dokumenti\\_uz\\_vesti/LTI\\_2020\\_final\\_report\\_ENG.pdf](https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/LTI_2020_final_report_ENG.pdf) (accessed 29 October 2020), 2020, p. 11. The same report notes an increase in the overall number of public debates (other than on the municipal budget), with more than 72% of local governments organizing some form of a public hearing or debate during 2019. However, only some of them later published reports on public debates which contained information on proposals received from citizens and reasons for the acceptance/refusal of those proposals. See pages 22-23 of the report.

<sup>36</sup> E.g. Ivana DAMJANOVIĆ, Participativni eksperimenti u Srbiji: demokratske inovacije?, *Srpska politička misao*, No. 2/2018, pp. 36-37, list several such projects realised in the period from 2006 to 2016.

<sup>37</sup> *Ibid.*

<sup>38</sup> Gazela PUDAR DRAŠKO, Irena FIKET and Jelena VASILJEVIĆ, Big dreams and small steps: comparative perspectives on the social movement struggle for democracy in Serbia and North Macedonia, *Southeast European and Black Sea Studies*, No. 1, 2020, pp. 199–219.

System adopted in 2018 sets public participation as one of its principles and sets the procedure for mandatory consultation and public debate in the course of adoption of planning documents. Recent amendments of the Law on Local Self-government envisage mandatory public debates for adoption of main local regulatory acts (e.g. statute, budget etc). However, implementation of these principles in practice shows shortcomings, mostly in view of the decision-makers obligation to consider the input received through consultation, as well as absence of real and effective influence of input received on final proposals and decisions.

## **IV Conclusions**

Comparison of situation in the two countries shows that traditional means of citizen participation are very rarely used and that solutions are sought in more innovative, targeted ways of involving citizens in decision-making. The Croatian case of participative budgeting could be a successful example and since a similar practice has been initiated in Serbia, there is room for exchange of experience. Still, in both countries this practice has not been generally accepted and in the case of Serbia there is concern if it will be implemented one's local governments stop receiving significant external technical support.

Independent local lists are gaining importance in Croatia which could be explained with the factor of size of territorial units. Croatian local units are almost seven times smaller than the Serbian units and it seems easier, from technical point of view (number of signatures, campaigning, funding, etc.), to mobilise citizens to actively engage in local political life and through independent local lists win seats in the local representative bodies. On the other hand, relatively small size of local units in Croatia didn't resulted in the higher election turnout, which is still on average for 10 percent lower than in Serbia.

In both countries under comparison domination of executive over representative bodies at local level are present. In Croatia this is supported by direct election of mayors, which produces sometimes very conflicting relations between executive and representative bodies, especially in situation of different political orientation of political actors (cohabitation at local level).

On-line tools of participation (digital participation) is informally used in both countries, but without systematic legal regulation of such participation tools. Thus, it is very hard to assess the intensity of their use due to the fact that these instrument are not formally registered at national level.

Reasons for poor use of referenda and citizen initiatives mostly coincide in Serbia and

Croatia and are located in the overall position of local government, understanding of the significance of participation, as well as communication between citizens and decision-makers. In Serbia, however, additional reasons are found in the functioning of the political system and the deeply rooted domination of political parties on all levels of government and spheres of public life. Such conditions make futile the recent legislative efforts towards strengthening local public participation. The Serbian political system, firmly dominated by the one ruling party, threatens to diminish local democracy even further, since the governing partocratic model threatens to lead to further disinterest of the citizens – both as voters and as direct participants in local decision-making. Faced with the wall around public institutions, built by political parties, citizens seek other, informal means of organising and voicing their concerns. Therefore, initiatives for legislative amendments should aim at creating an enabling environment for wider and more genuine public participation, which would facilitate citizens' participation instead of being an obstacle in these processes.

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