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Orginal Article



# Problems of introducing the betterment levy

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**Abstract:** Every individual expects their state to ensure internal security and promote both economic and social development, providing better living standards and access to material goods while striving to reach the social standard of living of other countries. The state treasury and local government units are responsible for the development and modernisation of municipalities. Municipalities deliver various social and economic goods to their residents by performing numerous tasks and activities that require monetary outlay, all while improving quality of life. In light of this, decisions are made to adopt resolutions aimed at obtaining public funds for further development. One way for municipalities to secure additional public funds for public purposes is by introducing a resolution for a betterment levy, which addresses the increase in real estate value following subdivision. Allowing municipalities to benefit from the increase in real estate value caused by its division can create a significant financial base for them. This paper attempts to present the functioning of the betterment levy institution regarding real estate division, along with statistical data on its occurrence. To this end, information obtained during research in six districts of the Świętokrzyskie Voivodeship, encompassing a total of fifty communes, was compiled. The research primarily involved determining the number of municipalities that adopted a resolution on the betterment levy, identifying the percentage rate of the levy they adopted, and examining the number of issued decisions regarding the imposition of the betterment levy over a five-year period (2015-2019) in the Świętokrzyskie Voivodeship.

**Keywords:** betterment levy, property division, property subdivision, local spatial development plan

## 1. Introduction

Since 1909, when they were granted legal status as municipalities, they have managed their own financial affairs and made decisions regarding their spatial development. The municipalities undertake investments in the development of technical infrastructure, such as sewage and water supply, heating, electricity, gas, and telecommunications networks, all of which significantly impact spatial development and the value of individual properties. Despite external co-financing from the State Treasury, EU funds, and other sources, there remains a need for funds that can be obtained internally within the municipality, referred to as own funds. One potential source of these own funds is the betterment levy. However, the question arises as to whether the administrative bodies are effectively utilising the potential of this fee [1-3].

The betterment levy is a public benefit for the municipality and constitutes its own income. Sulczewska highlights the importance of the betterment levy, noting that it enables "the raising of the general standard of living and the organisation and securing of the realisation of the basic rights of the entire community" [4]. However, the primary difficulty in understanding the essence of the betterment levy arises from the fact that it is calculated based on three different criteria, with the provisions regulating it found in various sections of the Act on Real Estate Management [5]. The betterment levy is coercive in nature, functioning as a form of public tribute rather than a tax.

According to the Real Estate Management Act, a betterment levy is defined as a fee determined in connection with an increase in the value of real estate caused by [6]:

- the construction of technical infrastructure facilities with the participation of funds from the State Treasury, local government units, the budget of the European Union, or non-refundable foreign sources;
- a fee established in connection with the merger and division of real estate;
- a fee established in connection with the division of real estate [6].

The possible reasons for determining the betterment levy and its types are presented in Fig. 1. The essence of the betterment levy for the construction of technical infrastructure facilities is based on the premise that the monetary outlay related to the construction or modernisation of technical infrastructure results in the allocation of costs, in addition to those borne by the investor and the legislator, to the entities that, as a result of investment activities, experience an increase in property value. Therefore, property owners whose values have risen due to activities enhancing the area's infrastructure are obliged to pay the fee [7]. The increase in property value may not solely be linked to the construction of technical infrastructure facilities; it can also arise from surveying and legal actions such as property divisions or mergers. To develop land in a more favourable and attractive manner, it is sometimes necessary to merge and divide a larger number of registered plots. Among other goals, this aims to change the shape of the plots to facilitate their construction, development, or cultivation. Owners who acquire new properties of higher value as a result of these actions may be required to pay a betterment levy to the municipality.

A much more common surveying activity than real estate consolidation and division is the subdivision of real estate, which does not require the cooperation of the owners of multiple registered plots. The division of real estate is carried out at the request of the owner and is one of the forms of disposing of property rights. A subdivision of real estate results in the creation of a greater number of registered plots, the total value of which is usually greater than the value of the original plot. Given that subdivisions of real estate are the most common geodetic-legal activity, the subsequent part of this publication primarily addresses the issue of the betterment levy resulting from real estate division.

The purpose of this article is to examine the phenomenon of the betterment levy, including determining the percentage of municipalities that have adopted resolutions to establish the rates of the betterment levy, identifying these rates, and assessing whether the resolutions are actually applied in the context of issued administrative decisions.

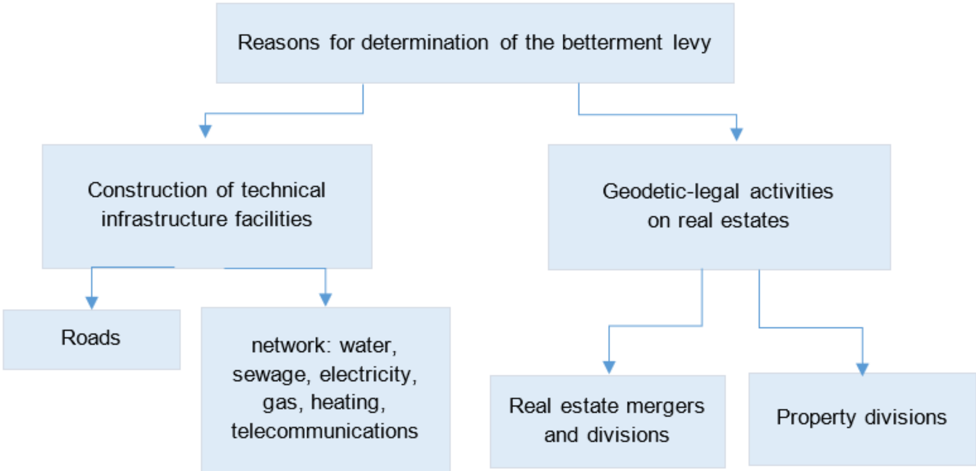


Fig. 1. The procedure for determining the betterment levy for property subdivision

### 1.1. The course of the introduction of legislation regulating the admixture charge

The betterment levy was first introduced into Polish legislation in the Act of 10 December 1920 on the construction and maintenance of public roads in the Republic of Poland. According to Article 23, "*Those who receive special benefits from the construction or maintenance of roads, or those who use the roads excessively, such as mines, factories, and other enterprises, may be obliged to contribute to the costs of construction and maintenance of roads by the Ministry of Public Works for the benefit of state roads, and by relevant self-government associations for the benefit of voivodeship, district, and commune roads, unless a voluntary agreement in this respect is reached beforehand. The decisions of the local government associations in this respect are to be approved by the Ministry of Public Works or its second instance authority, in consultation with the ministers or their second instance authorities concerned*" [8].

Another provision regarding this fee appeared in the Act of 14 July 1961 on the management of land in towns and settlements. However, this fee concerned only the increase in the value of properties located within the administrative boundaries of a city. The law required property owners to cover part of the costs associated with the initial development of squares and communication streets due to the increase in the value of their land [9].

On 29 April 1985, the Law on Land Management and Expropriation of Real Property was enacted, which specified in detail that owners and perpetual usufructuaries were obliged to bear part of the costs of constructing technical infrastructure located in the vicinity of their property, in line with the increase in its value. It was at this time that the fee was first defined as a betterment levy [10]. The term comes from the Latin words "adiectum, adieci, adicere," which literally mean "to attach, add to" [11]. The amendment to the Act of 29 September 1990 introduced an extension of the concept of the betterment levy, by imposing a levy on account of the increase in the value of real estate as a result of the consolidation and division of land intended for concentrated single-family housing development [10].

Further significant changes regarding the betterment levy occurred when the Real Estate Management Act of 21 August 1997 came into force. The amendment of 21 August 2007 to the Act on Real Estate Management addressed all legal inconsistencies and introduced modifications to the provisions specifying the implementation and determination of betterment levies [12]. The amendment of 1 September 2017 also came into effect, which introduced the absence of a limitation period in determining the amount of the betterment levy and changes related to the assessment of the value of real estate.

### 1.2. Procedure for determining the betterment levy for the division of real estate

The procedure for determining the betterment levy consists of several stages, significantly spread out over time. To better illustrate this complex process, Fig. 2 presents a schematic diagram of the procedure for determining the betterment levy for property division.

The procedure for determining the betterment levy for the division of real estate consists of the following stages [6]:

1. The issuance of a decision on the imposition of the betterment levy must be preceded by the adoption of a resolution on determining interest rates by the municipal council. This resolution serves as the basis for calculating the appropriate amount of the betterment levy; however, the percentage rate established in the resolution may not exceed 30%.
2. An application for a registered division of the real property should be submitted to the mayor of the commune. The person entitled to submit such an application is the owner of the real property in question or its perpetual usufructuary, subject to the payment of annual fees for the entire period of use of that right.
3. Before the final approval decision, a registered division of the property should be made. In the field, the boundary points should be determined and fixed on the ground, and the real estate division report should then be submitted to the State Geodetic and Cartographic Resources.
4. The authority must notify the entity of the commencement of proceedings within 3 years from the date on which the decision approving the division of real property became final or the decision on the division became final.
5. The imposition of the fee is made through a separate administrative decision issued by the head of the village, mayor, or town mayor after the decision on the approval of the cadastral division of real property becomes final. The betterment levy may also be imposed on the owner of the real estate if the evidentiary division of the real estate was effected by a final civil court decision.
6. The determination of the betterment levy may occur indefinitely from the moment the authority notifies the subject of the initiation of proceedings.
7. The next step is to determine the value of the real estate by an appraiser, as a result of which the authority establishes the amount of the betterment levy based on the previously adopted percentage rate in the resolution. This amount is the difference in the value of the real estate before and after the approval of the division. The percentage rate applied when establishing the amount of the fee should be the same as on the date when the decision on the approval of the division became final or when the court decision on the division became final.
8. The betterment levy should be paid within 14 days from the date on which the decision on the determination of the fee became final. The fee payable to municipal funds may also be spread into instalments over up to 10 years, which should be included in the decision on the determination of the betterment levy [6].

The administrative procedure related to the betterment levy is a multi-stage and staggered process. It requires significant time, as well as organisational and financial resources on the part of the authorities seeking to obtain such a levy.

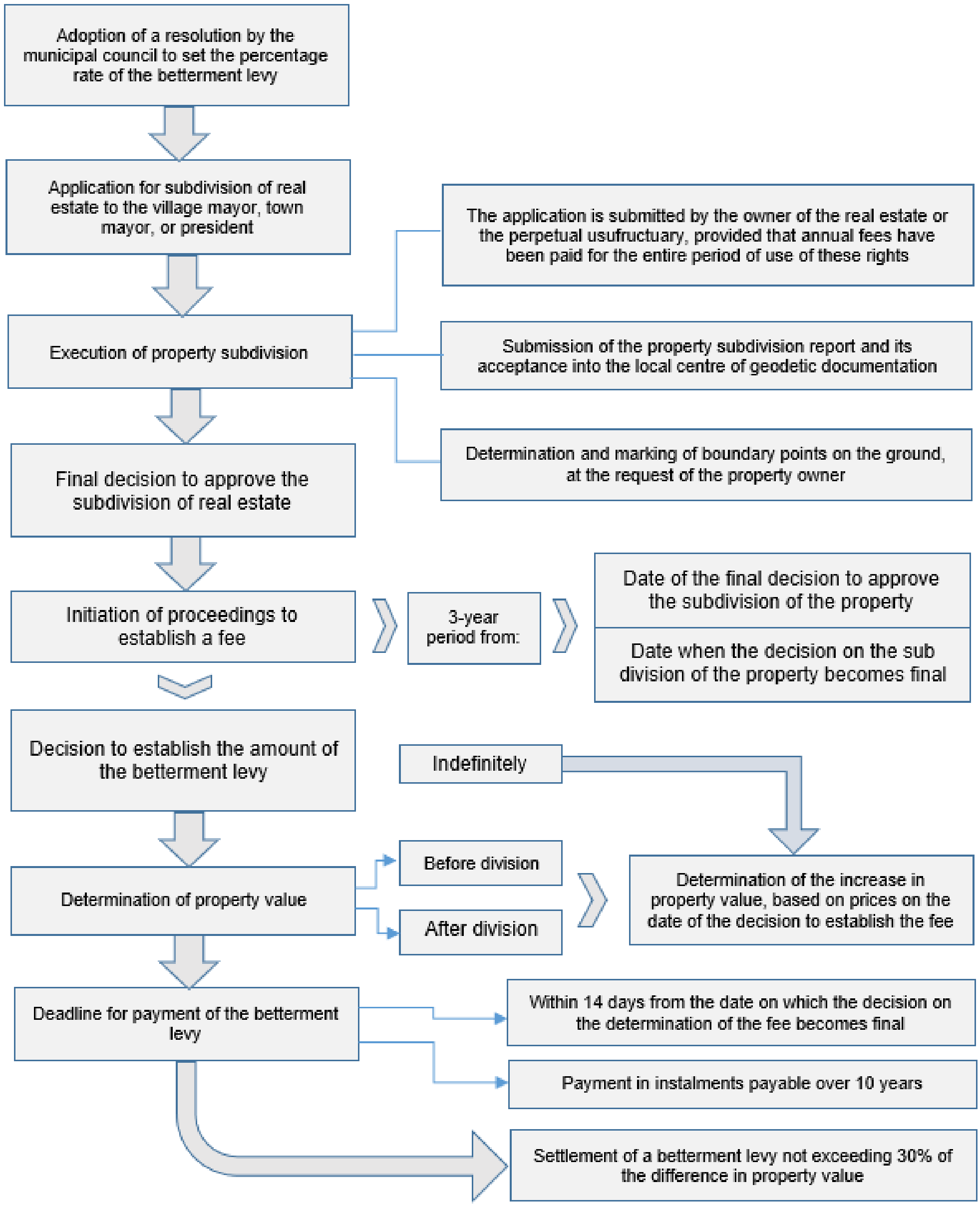


Fig. 2. Procedure for determining the betterment levy for property subdivision

### 1.3. Subdivision betterment levy

Despite the long history of the betterment levy, it remains unfamiliar to many residents of municipalities. Due to a lack of awareness about the existence of the betterment levy, receiving a decision from the municipality imposing this fee on a particular entity often comes as a significant surprise.

An important condition for allowing the collection of the betterment levy is a necessary increase in the value of the real property caused explicitly by the division of the property. This fee may also be established when the division of real estate results from a final civil court decision [13]. It is not permissible to impose a betterment levy simply due to the division of property; for the decision to establish this fee to be issued correctly, an appraisal report documenting and confirming the actual increase in the property's value must be carefully prepared. This is supported by the decision of the Supreme Administrative Court of 11 January 2010, which firmly states that the essence of the betterment levy due to the division of real property is only the fact that the division causes an increase in its value. No other circumstances, such as price increase or real estate turnover, have any impact [14]. The betterment levy is established only when the application for partition has been submitted by the real estate owner. It is not possible to impose and collect the fee in the event of a division of the real property by an agency or another authorised organisational unit, even if the division resulted in an increase in the property's value. The inadmissibility of charging this fee also applies to Article 95 of the Real Estate Management Act. For the betterment levy to be established, the decision approving the division of the real estate must become final, or the decision on the division of the real estate must become legally binding. The entities responsible for paying the imposed betterment levy are, primarily, real estate owners and perpetual usufructuaries. The view of imposing obligations on the owner concerning the established fee is also presented in the WSA's judgment of 12 January 2012. In this ruling, the WSA unconditionally confirms that, as a result of gaining benefits from a registered division of the real property, the person responsible for incurring the costs of the betterment levy is the property owner on the date of the ruling approving the division [15]. In cases where there is fractional co-ownership of the real estate, the costs are charged to all co-owners according to their shares in the property. In contrast, in the case of joint co-ownership, the liability is equal, i.e., joint and several, which follows directly from the nature of co-ownership [13]. The situation is entirely different in the event of the death of the obligor. In this case, the heir inherits the property as well as the rights and obligations associated with it. As a result, they become the beneficiary of the benefits arising from the division of the property and are thus obliged to assume the obligation to pay the fee in question. A new administrative decision must also be issued to impose the fee on the heir [16]. The betterment levy may be charged against any type of real estate, regardless of its location. Exceptions are situations where a registered division of real estate is made in an area designated in the local spatial development plan for agricultural or forestry purposes or, in the absence of a plan, is used for agricultural or forestry purposes [17].

The betterment levy due to the division of real estate is entirely different from the betterment levy related to the construction of technical infrastructure facilities. In the case of the fee associated with the increase in real estate value due to division, it involves participating in the benefits obtained by entities in the form of a portion of the increase in property value resulting from its division. Therefore, it can be reasonably concluded that it is a derivation of benefits directly from the activities performed by the entity, despite the fact that the municipality does not contribute its own resources to these activities. In contrast, with the betterment levy for the construction of technical infrastructure facilities, the municipality directly contributes to increasing the property's value by connecting technical facilities and networks. As a result, the entity is required to bear part of the costs of this undertaking, which also provides a benefit for the entity.

### 1.4. Valuation of real estate for determining the betterment levy and its settlement

Pursuant to the Act on Real Estate Management, an appraiser is appointed to assess the value of the real estate prior to the approval of the division, taking into account the condition of the real estate as of the date of the decision approving the division. Conversely, the value of such real estate after the division is determined according to its state on the date when the decision approving the division of the real estate became final or when the ruling on the division became final. The value of the real estate before and after the division is determined based on the prices prevailing on the date when the decision confirming the division became final or the decision on the division became final, without considering the constituent parts of the real estate. This means that if, during the subdivision, plots of land intended for the construction or widening of a public road are also subdivided, they are not included in its valuation. The value of the real estate is assumed as the sum of the values of the plots of land capable of being independently developed that are part of the real estate subject to division [6]. The amount of the betterment levy paid to the municipal funds is influenced primarily by two main factors: the percentage rate adopted in a resolution by the municipal council and the increase in the value of the divided plot of land, determined based on the price of the property before and after its division. By combining this amount with the percentage rate, the due amount of the betterment levy is obtained.

In 2004, the Regulation of the Council of Ministers defining the valuation of real estate and the preparation of appraisal reports came into force, detailing the methods of property valuation. When applying the comparative approach, it is necessary to know the transaction prices of properties similar to the one being valued. This approach uses the pair-wise comparison method, which is most often applied for the betterment levy, along with the average price correction method or the statistical market analysis method [18].

According to the judgment of the WSA of 25 August 2009, an analysis of the value of a property by a property valuer must not give rise to any doubts about the similarity of the objects. The completed appraisal report should include comparisons to a dozen or so other properties that have been traded locally, for which the characteristics, transaction prices, and transaction conditions are known [19]. Durzyńska also highlighted that in proceedings determining the amount of the betterment levy, it cannot be assumed in advance that the mere fact of dividing the real estate automatically caused an increase in its value; such a fact must be proven. The division of the real estate may cause an increase in its value, but this increase does not result solely from the division itself and must be substantiated [7].

Prior to the entry into force of the amendments to the Act on 1 September 2017, there were numerous inaccuracies and disputes regarding the method of property valuation. In a ruling, the Supreme Administrative Court pointed out that the applicable legal acts regulating the betterment levy did not permit the expert property appraiser to freely choose the method of valuation for the betterment levy [20]. Particular attention was paid to the term found in Article 98a of the Real Estate Management Act – 'real estate'. It was understood that in such a valuation, the subject was not the plot or plots before and after the cadastral division but the real estate as a whole. The main conclusion drawn from the ruling is that the concept of 'real estate' should not have been equated with the concept of 'land plot'. After the amendment of 1 September 2017 came into effect, all doubts regarding the methodology of property valuation for the subdivision betterment levy were clarified. Since that date, determining the value of the property involves calculating the sum of the values of all plots of land capable of independent development, with these plots being part of the property that was subject to division.

The appraisal report prepared by the appointed valuer serves as the basis for the valuation of the property. The responsibility for verifying the correctness of the valuation carried out rests with the commissioning authority. As Wołowiec and Reśko point out, the authority cannot assess the substantive validity of the property appraiser's opinion, as it does not possess the specialist knowledge required to do so, and should therefore evaluate the appraiser's opinion in terms of formalities [21]. If the entity has doubts regarding the report prepared for the valuation of the real estate for the purpose of the betterment levy, it has the right to challenge it. According to the verdict of the Supreme Administrative Court, the entity contesting irregularities in the valuation report is entitled to apply to the professional organisation of property valuers for an assessment of its correctness [1].

From the moment the decision on the determination of the fee becomes final, the obliged entity must pay the imposed ad valorem fee within 14 days. The entity is entitled to spread the fee into instalments. The cost of the betterment levy may be divided into relevant parts payable over a period of up to 10 years. This information should be included in the decision on determining the betterment levy; therefore, a relevant application for payment division must be submitted before the decision is issued. The amount due to the municipality must be subject to security, in this case, a mortgage security. The divided payments are subject to interest at a rate equal to the rediscount rate on bills of exchange applied by the National Bank of Poland. In the event of a delay in payment of subsequent instalments, the provisions of the Civil Code are applied. The settlement of the betterment levy may also involve the transfer of rights to the plot of land separated as a result of division to the municipality, provided both parties consent to this arrangement. Any differences in the amount between the value of the plot of land and the amount due as a result of the betterment levy or the debt incurred are covered by an appropriate cash surcharge. Upon conclusion of such an agreement, the mayor is obliged to issue a decision on the invalidity of the liability for the betterment levy [7].

### 1.5. Resolution on setting the percentage rate of the betterment levy

The adopted resolution of the municipal council on determining the percentage rates applicable in the given municipality should specify the percentage rate on which decisions regarding the imposition of the betterment levy will later be based and should be approved by the chairman of the municipal council. For the betterment levy to be fully effective in the municipality, the execution of the resolution is then entrusted to the competent authority, i.e., the head of the municipality, mayor, or town mayor. The prepared resolution comes into force 14 days after its announcement in the Voivodeship Official Journal. It should be noted that the percentage rate of the betterment levy must not exceed 30%, which is the upper limit of its amount. In the case of amalgamation and division, and in the case of the construction of technical infrastructure, the betterment levy should amount to up to 50% of the increase in the value of the real property in relation to the value of the real property previously owned.

## 2. Methods

To investigate the functioning of the betterment levy, research was conducted on the existence of resolutions determining the percentage rate of the betterment levy. To supplement and extend the information, a survey was carried out among the employees of the Municipal Offices using the diagnostic survey method. The survey included questions about the existence of a resolution on the levy, the fee rates applied, and the number of decisions issued determining the amount of the levy.


Fig. 3. Map of Świętokrzyskie voivodeship showing analysed districts (marked in green)

The research was conducted in six districts of the Świętokrzyskie Voivodeship, analysing a total of 50 municipalities. Świętokrzyskie Voivodeship is located in the southern part of central Poland, covering an area of 11,710.50 km² and inhabited by 1.24 million people. The voivodeship is characterised by medium population density and medium socio-economic development. Figure 3 presents a map of Świętokrzyskie Voivodeship, showing the counties covered by the study and their location in relation to other counties.

## 3. Results

The results of the research conducted in 50 municipalities in the Świętokrzyskie Voivodeship are summarised in Tab. 1, presenting the resolutions on determining the percentage rate of the betterment levy in force as of 1 February 2023. When analysing the resolutions of the municipal councils, it was often found that there were resolutions to determine the percentage rate of the betterment levy, followed by resolutions to repeal these provisions. This may result from the legislative difficulties of introducing resolutions on betterment levies and their low popularity.

As a result of the research conducted, it was found that resolutions on the betterment levy were adopted in sixteen out of fifty municipalities in the Świętokrzyskie Province. This means that in one-third of the municipalities, activities were undertaken to raise funds through the betterment levy. In the context of the increase in property value caused by the division of the property, 9 out of 16 resolutions contained provisions addressing this issue. This indicates that in 18% of the surveyed municipalities, property owners dividing their real estate could be charged a fee for the increase in property value.

Among the municipalities where resolutions were passed, there were those located in the direct vicinity of the city of Kielce, the capital of the voivodeship. This may suggest the attractiveness and increased activity in these areas, which favours the operation of such resolutions. Based on the analyses conducted, it can be concluded that municipalities make limited use of the potential offered by adopting resolutions on the betterment levy. However, it can be assumed that the increasing value of real estate, combined with high inflation, will encourage municipalities to seek additional funds, including more frequent use of the betterment levy

Table 1. Summary table of the number of resolutions on determining the percentage rate of the betterment levy

| No. | District | Municipality | The amount of the percentage rate of the ad valorem fee for: Subdivision of property [%] | construction of technical infrastructure facilities: roads [%] | site development [%] |
|---|---|---|---|---|---|
| 1 | m. Kielce | m. Kielce | - | 30 | 30 |
| 2 | kielecki | Bieliny | - | - | - |
| 3 | | Bodzentyn | - | - | - |
| 4 | | Chęciny | - | - | - |
| 5 | | Chmielnik | 20 | 30 | 30 |
| 6 | | Daleszyce | - | - | 30 |
| 7 | | Górno | - | - | - |
| 8 | | Łagów | - | - | - |
| 9 | | Łopuszno | - | - | - |
| 10 | | Masłów | | 10 | 10 |
| 11 | | Miedziana Góra | 30 | 30 | 30 |
| 12 | | Mniów | - | - | - |
| 13 | | Morawica | - | - | - |
| 14 | | Nowa Słupia | 1% | 1% | 1% |
| 15 | | Piekoszów | - | - | - |
| 16 | | Pierzchnica | | 50 | |
| 17 | | Raków | - | - | - |
| 18 | | Sitkówka-Nowiny | - | - | - |
| 19 | | Strawczyn | - | - | - |
| 20 | | Zagnańsk | - | - | - |
| 21 | jędrzejowski | Imielno | - | - | - |
| 22 | | Jędrzejów | 30 | 30/40 | 30 |
| 23 | | Małogoszcz | - | - | - |
| 24 | | Nagłowice | - | - | - |
| 25 | | Oksa | - | - | - |
| 26 | | Sędziszów | - | - | - |
| 27 | | Słupia | - | - | - |
| 28 | | Sobków | - | - | - |
| 29 | | Wodzisław | - | - | - |
| 30 | ostrowiecki | Bałtów | - | - | - |
| 31 | | Bodzechów | 30 | - | - |
| 32 | | Ćmielów | - | - | - |
| 33 | | Kunów | - | - | - |
| 34 | | Ostrowiec Świętokrzyski | 30 | 50 | 50 |
| 35 | | Waśniów | - | - | - |

| No. | District | Municipality | The amount of the percentage rate of the ad valorem fee for: Subdivision of property [%] | construction of technical infrastructure facilities: roads [%] | construction of technical infrastructure facilities: site development [%] |
|---|---|---|---|---|---|
| 36 | sandomierski | Dwikozy | - | - | - |
| 37 | | Klimontów | - | - | - |
| 38 | | Koprzywnica | - | - | - |
| 39 | | Łoniów | - | - | - |
| 40 | | Obrazów | - | - | - |
| 41 | | Samborzec | - | - | - |
| 42 | | Sandomierz | - | 25 | 25 |
| 43 | | Wilczyce | - | - | - |
| 44 | | Zawichost | - | - | - |
| 45 | włoszowski | Kluczewsko | 10 | 30 | |
| 46 | | Krasocin | 10 | | |
| 47 | | Moskorzew | - | - | - |
| 48 | | Radków | | 10 | 10 |
| 49 | | Secemin | | | 50/0 |
| 50 | | Włoszczowa | 30 | 30 | 30 |

### 3.1. Percentage rates of the subdivision betterment levy

Figure 4 presents the applicable percentage rate of the betterment levy for subdivisions in the municipalities of the Kielce district. According to the relevant regulation, the rate of the betterment levy for property subdivision should not exceed 30%.

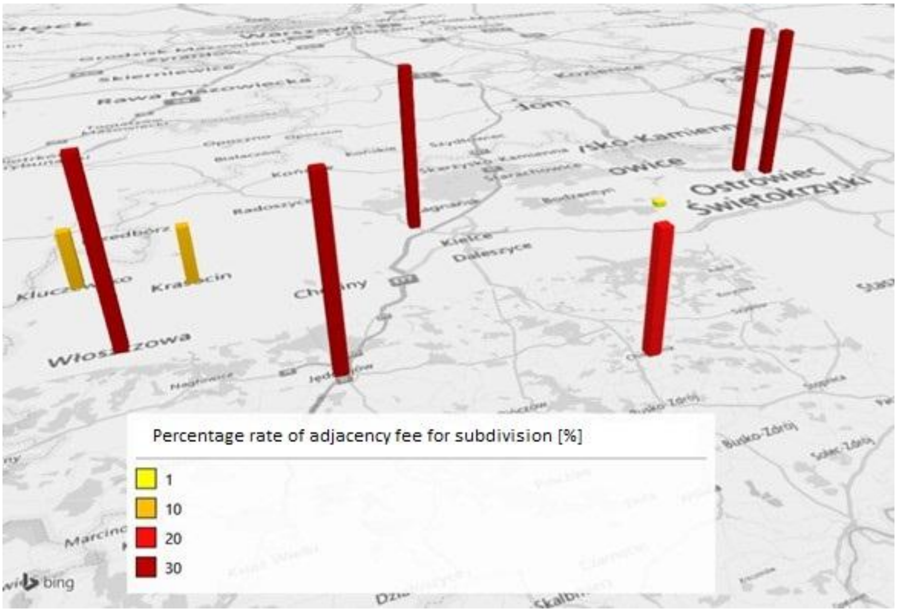


Fig. 4. Percentage rates of the betterment levy in selected communes of Świętokrzyskie voivodeship

In the study area, five municipalities – Miedziana Góra, Jędrzejów, Bodechów, Ostrowiec Świętokrzyski, and Włoszczowa – adopted a percentage rate of 30%. The municipalities of Chmielnik, Kluczewski, and Krasocin, on the other hand, chose to ease the financial burden on their residents by adopting lower rates of 10% and 20%, respectively.

The percentage rate of the subdivision betterment levy in the municipality of Nowa Słupia may be considered controversial. The adopted rate is only 1%. Such a low percentage rate likely indicates that issuing a decision to impose the betterment levy is unprofitable for the commune office, suggesting that the betterment levy institution does not effectively function in the Nowa Słupia commune. All the percentage rates mentioned above are in line with the provisions of the Real Estate Management Act.

### 3.2. Functioning of the betterment levy

The functioning of the subdivision betterment levy in the Kielce district was also analysed. In addition to examining the occurrence of resolutions regarding the development-related fee in various communes, the number of issued administrative decisions on the imposition of this fee was also assessed. Out of the nineteen municipalities in the Kielce district, seven consider the resolution of the municipal council on the betterment levy; however, among these seven municipalities, only two are taking consistent steps to implement it.

According to the results obtained, activity related to the betterment levy proceedings was observed only in the Municipality of Chmielnik and the Municipality of Pierzchnica over a five-year period from 2015 to 2019. These two municipalities are located in the southern part of the Kielce district and border each other. The Municipality of Chmielnik is an urban-rural municipality with an area of 142 km² and a population of almost 12,000 according to 2010 statistics. In Chmielnik, the applicable percentage rate is 20%, under which 17 administrative decisions imposing an ad valorem fee due to the evidential division of real estate have been issued over the past five years. The Municipality of Pierzchnica, neighbouring Chmielnik, also holds municipal rights. Its area is nearly 105 km², with a population of almost 5,000 according to 2017 statistics. The percentage rate of the betterment levy in this municipality is 30%, which is the maximum rate permitted by law. In Pierzchnica, four administrative decisions imposing the obligation to pay the subdivision betterment levy on the indicated entities have been issued in the last five years. A summary of the number of issued administrative decisions on determining the betterment levy is presented in Fig. 5.

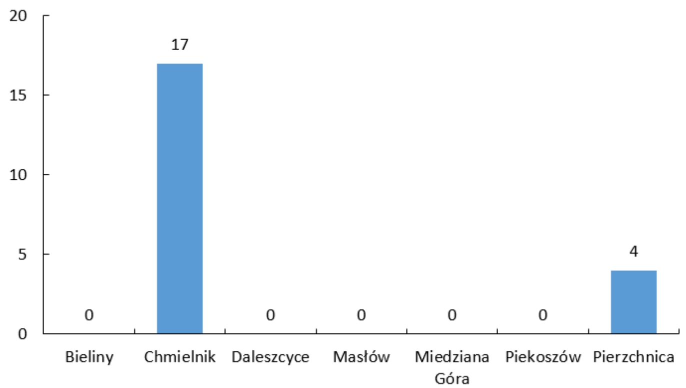


Fig. 5. Number of issued administrative decisions on determining the betterment levy in the municipalities of Kielce district

In summary, it can be stated that in the two municipalities mentioned above, the institution of the betterment levy is functioning; however, it is difficult to assert that it is frequently used or generates significant profits for the municipal budget. According to the results obtained, there was no application of the adopted resolution in the remaining five communes over the last five years.

## 4. Discussion and conclusions

Among the fifty municipalities surveyed regarding the adoption of resolutions on the betterment levy for the division of real estate in the Świętokrzyskie Voivodeship – specifically in the districts of Jędrzejów, Kielce, the city of Kielce, Ostrowiec, Sandomierz, and Włoszczowa – only sixteen municipalities decided to adopt this resolution. This indicates that out of all the municipalities examined, only 32% chose to implement a resolution on the division betterment levy. Most of the municipalities that adopted these resolutions are urban-rural municipalities, which have the largest population and area in their districts.

The adopted percentage rates of the subdivision betterment levy are typically 30%, which is the maximum allowed by the provisions set by the legislator in the Real Estate Management Act. In many cases, a percentage rate of only 10% or 20% is also adopted, which is in accordance with the law. During the conducted research, a resolution on determining the percentage rate of the betterment subdivision levy in the municipality of Nowa Słupia in the Kielce district appeared counter-intuitive. The percentage rate in this commune is 1%. Such a low percentage of the adopted rate may indicate the unprofitability of issuing a decision on imposing a betterment levy. In this municipality, no decision on determining the betterment levy has been issued.

During the study of the functioning of the betterment levy in the Kielce district, which comprises nineteen communes, only two out of seven municipalities that consider the resolution of the municipal council on the betterment levy engage in sustainable activities for its implementation. According to the documentation obtained, between 2015 and 2019, administrative decisions imposing the betterment levy were issued in only two municipalities within the Kielce district. The municipality of Chmielnik issued 17 decisions, as mentioned above, while the municipality of Pierzchnica issued 4 such decisions. Conversely, in the remaining five communes, no application of the adopted resolution was recorded in recent years, which indicates that the municipal offices do not fulfil the requirements outlined in the resolutions they adopt.

Such a small percentage of municipalities adopting resolutions and issuing administrative decisions on imposing the betterment levy may indicate a lack of awareness regarding the fundamentals of this institution. The minimal use of the betterment levy as a source of revenue for municipalities is highlighted in most existing publications [1,2], particularly affecting areas located outside large cities. Municipal offices often refrained from undertaking activities related to this fee due to many years of ambiguities in Polish legislation. This is evidenced by the timing of the adoption of resolutions in individual municipalities, many of which only came into force after 2010. In recent years, the provisions regarding the subdivision betterment levy have undergone changes. With all the amendments to the Act defining the betterment levy and numerous judgments from state courts, many ambiguities surrounding this fee have been clarified. However, various doubts still arise, which are continually addressed in the courts' rulings.

The low number of issued decisions on determining the betterment levy may also be linked to the high cost of preparing the necessary documentation for this procedure, including the work of the property valuer. At the commencement of the proceedings, it is also uncertain what the profits will be for the municipality and whether the potential income will cover the associated costs. It can be assumed that the increasing value of real estate, coupled with high inflation, will encourage municipalities to seek additional funds, including more frequent use of betterment levies.

Another reason for the low rate of adoption of resolutions and issuance of administrative decisions by municipal offices is the need to encourage residents and investors to make investments in the areas of their municipalities that contribute to economic development. The introduction of resolutions on the subdivision betterment levy and the resulting obligation to incur costs could deter potential investors.

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