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# Participative and Deliberative Democracy Facing Technology
## A Study on Digital Democratic Innovations

The paper analyses the efficacy of digital platforms for deliberative and participatory democracy in enhancing democracy. After examining the concepts of deliberative and participatory democracy (§IA), particularly their meaning from a legal standpoint and their relation to representative and direct democracy (§IB), the study introduces the broader concept of 'digital democratic innovations' (§IC) and adopts a classification framework (§II). Then, the current legal framework of e-participation in Italy, Germany, France, and the EU is analysed (§III). This comparative analysis sets the stage for a detailed examination of five digital platforms operating at both local and national levels, which serve as case studies. Through a systematic evaluation of the key features of these platforms, the paper classifies those platforms according to the classification framework (§IVA-E). It also assesses the quality of citizen participation facilitated by each digital democratic innovation exploring two indicators: the meaningfulness of participation and the extent of digital deliberation (§IVF). In drawing conclusions, the paper also suggests potential avenues for further legal research into digitised civic participation (§V).

*Digital Democracy – e-Participation – e-Deliberation – e-Democracy – Participatory platforms*

## Democrazia partecipativa, democrazia deliberativa e piattaforme
### Contributo allo studio delle "innovazioni democratiche digitali"

Oggetto del contributo è la capacità "democratizzante" delle piattaforme digitali progettate per ospitare istituti di democrazia deliberativa e partecipativa. Tracciate le origini dei concetti di democrazia partecipativa e deliberativa nella scienza politica, si approfondisce il loro significato dal punto di vista giuridico, nonché il loro rapporto con la democrazia rappresentativa e gli istituti di c.d. democrazia diretta. Si introduce quindi il più ampio concetto di "innovazioni democratiche digitali", adottando un framework per classificarle. Il contributo prosegue quindi con un'analisi comparativa della regolazione della partecipazione digitale in Italia, Germania e Francia, e nell'ordinamento dell'Unione europea. Tale analisi prepara il terreno per l'esame di cinque piattaforme digitali operanti a livello locale e nazionale, classificate secondo il framework. Spunti ulteriori per valutare tali esperienze sono poi tratti dall'applicazione di due indicatori: la "partecipazione significativa" e la "deliberazione". Nelle conclusioni si suggeriscono infine alcune possibili direzioni per la riflessione giuridica in tema di partecipazione democratica digitale.

*Democrazia digitale – Democrazia deliberativa – e-Participation – e-Democracy – Piattaforme partecipative*

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Summary: Introduction. 1. Premises and definitions. – A. Origin and evolution of participatory and deliberative democracy. – B. Participatory-deliberative democracy as a legal concept. – C. Digital democracy and digital democratic innovations. – II. Adopting a framework to classify digital democratic innovations. – III. Participation in legal systems: a comparative analysis. – A. Italy. – B. Germany. – C. France. – D. European Union. – IV. Case studies. – A. #ROMADECIDE. – B. PartecipaMi. – C. MeinBerlin. – D. ParteciPA. – E. Participation-Citoyenne. – F. Comparison and evaluation: preliminary findings. – V. Conclusions.

## Introduction

## I. Premises and definitions

*It is a truth universally acknowledged that* democracies all over the world are not in excellent shape. Widespread abstentionism, low levels of trust in politicians and decline in membership of political parties and trade unions are three visible effects of public disillusionment and disaffection with democratic institutions[1]. Whilst these indicators characterise our contemporary "age of distrust"[2], the need to democratise democracy through greater citizen participation has been long felt[3].

## A. Origin and evolution of participatory and deliberative democracy

In the 1960s and 1970s, amidst student protests, some authors suggested introducing ways to enhance citizens' empowerment and self-government[4].

It was «the glaring disjuncture between the popular movements […] and academic demands

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1. Smith 2009, p. 7. Literature on the 'crisis of democracy' is immense. Some authors point out that democracy intrinsically entails crisis and argue we are rather experiencing a 'dis-figuration' of the 'figure' of democracy (Urbinati 2015, p. 478); similarly, other scholars refuse the term 'crisis of democracy' as a crisis of the system per se, suggesting that «the cure for democracy's ills is more and better democracy» (Newton 2012, p. 14). As causes of this phenomenon were indicated additionally or alternatively: the crisis of political parties, the fragmentation of popular classes, the affirmation of the risk society, the rise of the new public management paradigm, public rhetoric on the ineffectiveness of parliamentary institutions, corruption. Citing Yves Sintomer, see Sorice 2020, p. 1 ff., also for further bibliography.

2. Such disillusionment gave birth to movements which "organise distrust" acting through counter-democratic modalities (e.g., forms of obstruction and censorship exercised against institutional powers, which ultimately result in putting politics on trial worldwide). See Rosanvallon 2006.

3. It is barely worth mentioning that there are also critics of extending political participation. It has been argued that «the effective operation of a democratic political system usually requires some measure of apathy and non-involvement on the part of some individuals and groups» and thus «self-restraint on the part of all groups» is necessary to replace «less marginality on the part of some groups» and avoid «overloading the political system» (these are words of the report by Crozier-Huntington-Watanuki 1975, p. 128). Similar elitist views were shared by Joseph Schumpeter according to whom every elector «as soon as he enters the political field […] becomes a primitive again» (Schumpeter 1976, p. 262).

4. Carol Pateman, Peter Bachrach and Crawford Brough Macpherson are among the protagonists of this theoretical movement.

for 'realistic' democratic theory»[5] which gave rise to the idea of 'participative' or 'participatory' democracy: this theory emphasizes the importance of citizen participation in decision-making processes at all levels of government beyond and next to institutes of representative democracy (i.e., elections at all territorial levels, participation through political parties) and institutes predominantly labelled as direct democracy (e.g., referendums)[6]. However, it was in the 1990s that the term 'participative/ participatory democracy' and its translations and transliterations (*Bürgerbeteiligung*, *démocratie participative*, *democracia partecipativa*, *democrazia partecipativa*) spread among western political theorists all around the world, in the wake of Porto Alegre's experience of participatory budgeting[7].

In the meantime, the picture of doctrines and practices was further expanded by the rise of deliberative democracy. This theory «emerged as a corrective to the perceived focus on aggregative forms of democracy» and «provided a powerful theoretical critique [to such] tendency within democratic theory and practice to focus on the aggregation of preferences as the fundamental mechanism of legitimation»[8]. Then the Internet came along and the entire debate over new forms of democracy

could not but being affected by it. But let us take a short step back.

Relationship and differences between participatory and deliberative democracy have long been studied by political theorists. The differences in geographical and social origin[9] affected the relationship between theory and practice which is expressed by these two concepts. On the one hand, participatory democracy focuses on practical experiences, with emphasis on social justice and the necessity to involve all citizens, including those who live on the fringes of society[10]. Definitions of the concept are quite broad[11], leading some to argue that it encompasses rather an «heterogenous, contradictory and shapeless set of aspirations, tendencies and political orientations which try with words and sometimes with concrete experiences to open a few breaches in the democratic citadel»[12].

On the other hand, deliberative democracy has deep roots in political theory reaching very high levels of abstraction[13]. We will not delve into either the different versions of deliberative theory nor into the debate over its alleged elitist nature and scarce feasibility. However, it is crucial to point out that according to deliberative democrats «public deliberation of free and equal citizens is the core of

5. PATEMAN 2012, p. 8. In other words, according to Pateman, the participatory democracy can be seen as a reaction to the democratic elitism mentioned in footnote 3 (see also SMITH 2009, p. 14).

6. Further on the difference between participatory and direct democracy institutes, especially from a legal point of view, *infra* § B.

7. Porto Alegre was the first city to implement participatory budgeting in 1989. This is a democratic process, in which a community decides how to spend part of a public budget. Participatory budgeting has been recognised since 1996 by the UN as one of the best practices of urban governance and a vital instrument to attain sustainable human development (see DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS 2005, p. 1; for an internationally recognised definition of participatory budgeting see SINTOMER-HERZBERG-RÖCKE-ALLEGRETTI 2012, Article 9). It has spread all over the world, differentiating according to the legal and socio-economical systems. For a review of participatory budgeting experiences worldwide till 2018 see DIAS 2018. See, among others, ALLEGRETTI 2010, p. 6.

8. SMITH 2009, p. 14.

9. We mentioned that participatory democracy attracted global attention after its concretisation in the economically less developed Latin America. Deliberative democracy, on the contrary, has always had a strong western imprinting, being first theorised in North America (John Rawls) and then developed in Europe by the Frankfurt School on the wake of Jürgen Habermas' work. See ALLEGRETTI 2008, p. 178.

10. *Ibidem*.

11. According to the fortunate definition of Umberto Allegretti participatory democracy is «a relationship between society and institutions, which consists in direct expressions of the former [society] in processes of the latter [institutions]». ALLEGRETTI 2006, p. 156.

12. BOBBIO 2006, p. 1; see also BIFULCO 2009, p. 2; POLITI 2021, p. 518 ff.

13. See FLORIDIA 2017. For the relationship between Jürgen Habermas' theories and deliberative democracy see also FLORIDI 2020, p. 341 ff.

legitimate political decision making and self-government»[14]. They refuse the idea of democracy as a process of mere aggregation of preferences (for example on how to allocate a certain budget) and focus on deliberation in the original Anglo-Saxon meaning, i.e., a thoughtful weighing of options and opposing arguments before taking a decision[15]. The discussion must thus be informed (and informative) and balanced, allowing participants to change their preferences after they reach more considered opinions[16], and it must include (or represent) anyone who is affected by the decisions made. Examples of deliberative democracy practices include citizen assemblies, citizens' juries and deliberative polls.

From what previously outlined emerges that participatory and deliberative democracy are labels for a great variety of theories and practices which sometimes collide but more often overlap. Whereas the best practices of participatory democracy entail deliberation, deliberative democratic theories find their privileged – though not exclusive – realm of application in participatory democracy practices[17]. This is why the comprehensive term 'participatory-deliberative democracy' is preferred.

## B. Participatory-deliberative democracy as a legal concept

Faced with the emergence of these theories and practices, jurists have sought to clarify the meaning of deliberative and participatory democracy within the realm of law. The challenges inherent in this effort are considerable, as underlined by a legal doctrine that we might call 'dogmatic'. First of all, challenges stem from the philosophical and political theory origins of these terms. Additionally, substantial variations among different authors and a notable degree of vagueness in the subject of analysis, especially among deliberative theorists, further complicate the task. Moreover, there appears to be a certain detachment from the 'principle of reality' associated with these concepts[18].

It has been suggested that deliberative democracy should be elevated to a 'normative ideal', alongside other models of democracy such as representative and direct democracy. This ideal would not be descriptive, but rather serve as a set of principles (maximum degree of inclusivity and deliberation with the goal of achieving a common stance) that legislators, administrators, and even judges should strive towards[19].

Other scholars have defined the legal notion of participatory-deliberative democracy essentially by distinguishing it from forms of democratic participation stemming from the 'traditional' representative system (including forms of so-called 'direct democracy') and forms of participation which are not 'democratic', i.e., do not concern the *démos* as a whole[20]. In this view, participatory-deliberative democracy instruments are ways of democratic participation which differ from: (*i*) the classical institutes of representative democracy (e.g., elections and participation through political parties); (*ii*) institutions predominantly labeled as examples of direct democracy (e.g., referendums)[21]; (*iii*) participation in administrative proceedings[22]; (*iv*) consultations of particular classes of stakeholders and not the general public, implying the possibility for public authorities to choose participants based on their specific interest in the matter (e.g., restricted

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14. BOHMAN 2004, p. 23.

15. BOSETTI-MAFFETTONE 2004.

16. FISHKIN-LUSKIN 2005, p. 284.

17. See ALLEGRETTI 2010, p. 16 ff.

18. BIFULCO 2017, p. 3.

19. *Ibidem*.

20. DI FOLCO 2023, p. 300.

21. Some scholars, while underlining the importance to integrate the representative 'trunk' of democracy with 'branches' of participation, contend that institutes traditionally studied as examples of 'direct democracy', such as the referendum, are examples of participatory democracy embedded in a representative system: LUCIANI 2005, p. 32.

22. Which are not democratic because they are not directed to the *démos*, rather only to those who have a specific interest ('legitimate interest') in the proceeding: DI FOLCO 2023, p. 300.

consultations for regulatory impact assessment)[23]. Subsequently, we will adhere to this perspective. However, further clarification is necessary regarding the differences between direct democracy and participatory-deliberative democracy.

Understanding the demarcation line between these two sheds light on the specific characteristics of participatory-deliberative democracy. First of all, while institutions of so-called direct democracy permitted in contemporary systems are mostly sporadic and specific events, participatory-deliberative democracy fosters a continual relationship between citizens and institutions. Moreover, institutes of direct democracy embedded in representative systems normally involve solely individuals entitled to vote, i.e. citizens[24]. On the contrary, participatory democracy often opens up to individuals that do not possess citizenship, e.g., so-called city users[25], and sometimes to representatives of interest groups and local communities[26].

Furthermore, mechanisms of direct democracy can in many legal systems yield decisions of equivalent strength to representative institutions (consider, for instance, abrogative referendums). This is a goal that participatory democracy practices and deliberative democracy theories do not seek to enact[27], acting on a different theoretical and practical plane: in most cases, decisions remain ultimately in the hands of the promoting (administrative and/or representative) institutions, thereby attributing a 'consultative' nature to participatory-deliberative practices[28]. Nevertheless, institutions are bound to take the outcomes of the participatory process into consideration and to provide a precise rationale if they choose to contradict the decisions made within that process[29]. Additionally, there are some interesting exceptions to the 'consultative' nature of participatory-deliberative practices: for example, participatory budgeting, where citizens can decide on the allocation of a small portion of the budget, formulating proposals and voting them[30].

In conclusion, we believe that it is possible to distinguish participatory-deliberative democracy instruments from other forms of democratic participation. Essentially, these instruments serve as 'branches' to the 'representative trunk', and could help reinvigorating its roots too[31]. The concept encapsulates a variety of participatory instruments, yet it is not immune to grey areas. In particular, it can be challenging to distinguish between genuine participatory-deliberative practices and consultative practices which could degenerate in mere 'opinion polling' conducted by institutional players. Such consultative practices tend to essentially validate decisions already established by governing authorities, thus morphing into «techniques and procedures for depoliticizing decision-making processes» instead of acting as «instances of politicization»[32].

## C. Digital democracy and digital democratic innovations

Meanwhile political theory has moved forward. Nowadays many scholars refuse to embrace a specific democratic theory and prefer a comprehensive approach which broadens the scope of research to all 'democratic innovations', including but not limited to participatory and deliberative experiences. Under the term 'democratic innovations' all «institutions that have been specifically

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23. Di Folco 2023, p. 294.

24. Nevertheless, there are some significant exceptions; for instance, in Italy, EU citizens, who do not possess Italian citizenship, can participate in elections for the local council and in elections for the European Parliament.

25. See *infra* § IV A.

26. Vilain 2010, p. 299 ff.

27. See Villaschi 2022, p. 93.

28. See Allegretti 2010, p. 13. According to the author, such institutions are «therefore not at all deprived of their role, but this role takes on a different form compared to purely representative and bureaucratic procedures, as they must accept the autonomous interaction of the public».

29. Allegretti 2011, p. 12.

30. An example of participatory budgeting will be analysed in § IV A.

31. Balduzzi-Servetti 2017, p. 78 ff.

32. Citing N. Urbinati see Sorice 2020, p. 5.

designed to increase and deepen citizen participation in the political decision-making process» are to be understood[33]. This way, the category encompasses also instruments commonly labelled as examples of direct democracy (e.g., referendum)[34].

Furthermore, Graham Smith's definition itself has been criticised for being too restrictive, due to its emphasis on institutions and techniques, which some argue makes it «fundamentally top-down» in its approach[35]. This is why more inclusive definitions of democratic innovation encompassing bottom-up forms of participation seem now widely accepted by scholars. According to Kenneth Newton a Democratic Innovation is a «successful implementation of a new idea that is intended to change the structures or processes of democratic government and politics by improving them»[36].

Among democratic innovations most scholars agree that 'electronic democracy', also called 'e-democracy' or 'digital democracy', holds a special place. While some argued that digital democracy constitutes something qualitatively different which would revolutionise and substitute contemporary forms of democracy leading to an 'electronic democratic deliberative democracy'[37] most scholars agree that it rather identifies the use of digital tools to implement various forms of democracy[38].

Preliminary, it is worth noting that e-democracy differs from e-government which is defined by the United Nations as "the use of ICTs to more effectively and efficiently deliver government services to citizens and businesses". The concepts of e-democracy and e-government are often used interchangeably and, at times, intentionally misleading[39]. While acknowledging that in certain contexts the terms may overlap[40], it can be asserted that e-government, unlike e-democracy, puts emphasis on the efficiency of the State and regards cit-

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33. SMITH 2009, p. 5.

34. *Ivi*, 215 ff. For the opinion according to which the referendum is an instrument of participatory democracy in a broader sense, see footnote 21.

35. SORICE 2020, p. 2.

36. NEWTON 2012, p. 15.

37. See, among others, GROSSMAN 1996. It is the myth of ICT-enabled direct democracy that completely substitutes representative democracy. The rhetoric of some political movements like the 5 Star Movement in Italy or the Spanish *indignados* propagate a sort of 'hyper-democracy' – which could degenerate in a 'click-democracy'. Partially different some initiatives of the German Pirate Party, linked to the idea of "liquid democracy". The software used by the Pirate Party, LiquidFeedback, allows for 'liquid' delegation, i.e., delegation to another person of the power to decide on a particular topic, which could be given in turn to another person and so on. See CHIUSI 2014. Further on LiquidFeedback and its limits, in GOMETZ 2017, p. 179 ff.

38. BEACON 2021. A critical approach to ICT for democratic innovations allows to transcend the debate between digital 'optimists' and 'pessimists'. For a review of the debate over time see SORICE 2021, p. 40 ff. For a definition of e-democracy as «the use of ICT as means to carry out egalitarian procedures of self-government of the demos» see GOMETZ 2017, p. 20 ff.

39. SORICE 2021, p. 63. The author also contends that e-government is a way to legitimize neoliberalist tendencies among governments.

40. Gianmarco Gometz, for example, identifies an overlap between «genuinely democratic forms of e-government» and forms of «electronic participatory democracy». The author starts by defining e-government as «the use of ICT to adopt, implement, or evaluate decisions linked to the implementation of general and abstract norms adopted by the legislator». Then he suggests that e-government can be considered 'democratic' when it involves citizen participation in the adoption or, at the very least, the evaluation of decisions related to achieving the legislator's goals. However, to be genuinely democratic the contribution from the public must be effective and compelling for public institutions (or at least not easily derogable). Following this, Gometz draws on the distinction made by Umberto Scarpelli between 'government democracy' (*democrazia di governo*), i.e., involving democracy decisions concerning very general interests and where individuals act as components of the main political institution; and 'participatory democracy' (*democrazia partecipatoria*), i.e., involving decisions about 'less general purposes', distinguishing citizens based on their specific relationships with territorial entities or

izens more as clients/users rather than as subjects with political rights. The term 'digital democratic innovations' will be employed hereafter as it is the most comprehensive way to approach all examples of Democratic Innovations, in the broader sense described by Kenneth Newton, by which the digital compound plays a significant role. Digital democratic innovations are primarily enacted through digital platforms, which we denote as 'participatory platforms' or 'platforms for citizen participation'.

## II. Adopting a framework to classify digital democratic innovations

To approach digital democratic innovations we adopt the framework developed by Fiorella De Cindio and Andrea Trentini (Fig. 1, from now on, simply the "Framework") in their book *Cittadinanza digitale e tecnocivismo – II volume*[41]. Moving from the perspective of informatics[42] and drawing inspiration from Sherry Arnsteins's *Ladder of citizen participation*[43], the authors identified eight layers, or 'levels' of digital citizenship, each of a different colour, forming a metaphorical rainbow. The primary goal is to investigate the impact of ICT on active citizen participation. This endeavor involves classification[44] of participatory platforms, as this categorisation serves as the initial step towards evaluation, i.e., investigating whether and to what extent these tools serve the purpose to democratise democracy.

The first group of 'technological-infrastructural' levels is deeply connected to the problem of digital divide, which is a major challenge to the implementation of digital democratic innovations. The second group of layers, covering the 'participative' levels, addresses the heart of online civic participation and Digital Citizenship.
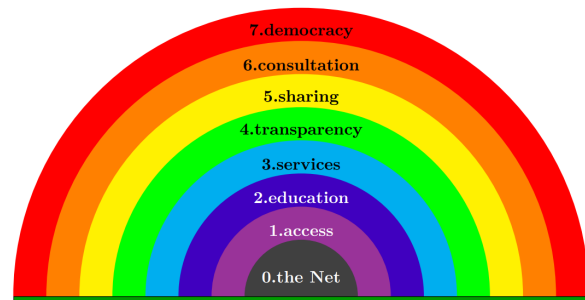


Fig. 1 — *Digital Citizenship's raibow in the digital era (De Cindio-Trentini 2024)*

– Level 0 [*the Net*]: essential infrastructure which must entail two characteristics, i.e., openness and neutrality.
– Level 1 [*access*]: access to any kind of internet connection is not enough. Today we expect fast, reliable, well-connected networks (such as fibre optic), free wi-fi and coverage over 90% of the territory.
– Level 2 [*education*]: improving citizens' digital skills is key to enable them to access the services provided by public administration.

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non-territorial institutions and intermediary bodies. Finally, the author introduces the concept of 'participatory electronic democracy', which requires «active citizen involvement in collective decisions related to the specific way of achieving the goals determined at the level of government democracy». He thus identifies an overlap between forms of participatory electronic democracy and genuinely democratic forms of e-government. See Gometz 2017, p. 35 ff.

41. The book is currently being published. The framework was first presented with some minor differences in two articles (De Cindio-Sonnante-Trentini 2012, p. 1 ff.; De Cindio-Trentini 2014, p. 403). In Trentini-Biscuolo-Rossi 2020 a slightly different framework is presented. The reasons why the Authors decided to turn back to the original version of the framework are clarified in the Introduction of the second volume.

42. Defined as an empirical discipline whose object is the impact of digital technologies on society, informatics sets itself apart from computer science, which is a formal discipline akin to mathematics. Much like other empirical sciences – such as physics, biology and sociology – informatics observes phenomena and tries to establish frameworks to classify research objects.

43. Arnstein 1969, p. 216 ff. According to Arnstein's "ladder", consultation is a form of tokenism (counterfeit power).

44. Classification means creating hierarchical classes and assigning characteristics to the objects within each class. See De Cindio-Trentini 2024, p. 6.

– Level 3 [*services*]: the provision of online public services (tax payment, authorisations, access to online forms, online appointment booking, etc.)[45].
– Level 4 [*transparency*][46]: sharing of information by institutions about their policy making processes, which enables citizens to hold them accountable for their decisions and actions. It is a one-way relationship, where citizens are mere recipients. Thus, it does not constitute actual participation, though being essential to any of the more complex forms of participation[47].
– Level 5 [*sharing*]: autonomous creation of citizens' networks to share information, ideas, and practices. Examples range from mere information gathering (e.g., of public events) and organisation for social action (website for supporters of a particular protest), to spontaneous social reporting[48], e-petitioning (e.g., change.org).
– Level 6 [*consultation*]: all forms of institutional 'listening' to the citizens questions, expectations, needs and opinions (in a word, their feedback), e.g., unsolicited and solicited feedbacks (e.g., spontaneous complaint e-mail to public administration, institutionalised social reporting and proper public consultations, where institutions define issues for consultation, set questions, provide information, and invite citizens to offer their views and opinions[49]). According to the authors the theoretical background of this type of initiatives can be traced

in 'continuous democracy'[50]. However, among these initiatives could also be found examples of participatory-deliberative democracy practices, as defined in § I A and B.
– Level 7 [*democracy*]: it includes both ICT-enabled institutions of representative democracy (e.g., e-voting), (hybrid) participatory budgeting experiences and a number of platforms for idea gathering and online deliberation.

The Framework suggests that the levels are interconnected and rely on each other for their effectiveness. In other words, each level exports services from the level below, and provides services to the level above. For instance, e-democracy could not exist without public online services, which in turn would be meaningless without a substantial level of digital literacy (and without an internet connection, for that matter). Finally, the metaphor of the rainbow suggests that many 'grey areas' are possible, where two colours merge into each other; still each colour must be vivid, and each layer must be enough thick to guarantee effective digital citizenship and participation.

As mentioned, classifying digital democratic innovation through the Framework helps us better understand the nature and level of citizen involvement in online participation experiences and distinguish between more and less 'advanced' forms of participation. However, the political and legal

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45. This is the core part of e-government as defined above.

46. Level 4 [*transparency*], Level 6 [*consultation*] and Level 7 [*democracy*] follow OECD 2001.

47. The importance of transparency in public administration (e.g., open data) has been emphasised in the rhetoric surrounding e-government. Sorice 2021, p. 88. However, true participatory communication involves more than just informing, requiring the ability to activate effective forms of participation. Therefore, although some argue that e-government includes also the practice of 'listening' to the needs of the citizens, truth is that citizens are in this case seen as customers/users of public services (e.g. when citizens' 'opinions' are collected through satisfaction surveys). Thus, these practices have little to do with the 'feedbacks' mentioned in Level 6 [*consultation*], although sometimes discerning between opinion polling and satisfactory surveys may not be easy. In brief, the concept of e-government as defined above could embrace some but not all practices of Level 4 [*transparency*] and hardly includes any practices of Level 6 [*consultation*].

48. Institutionalised forms of social reporting are rather to include in Level 6.

49. OECD 2001.

50. Theorised by Stefano Rodotà in Rodotà 1997. The idea behind continuous democracy is that the gap between elections is becoming increasingly long, given contemporary acceleration in social, environmental and digital change. By actively listening to citizens on specific topics, institutions can gain a deeper understanding of their concerns and perspectives, enabling them to potentially address their needs and opinions more effectively – only if they choose to do so. For a partly different concept of 'continuous democracy' (in French, *démocratie continue*) see Rousseau 2020.

consequences descending from the utilisation of these platforms are contingent on the specific context in which they are applied[51]. Hence, after the initial classification through the Framework, which acts as a foundational step in the evaluation process, it becomes crucial to analyse the particular democratic context in which various participatory platforms are implemented. In the paragraph 'Case Studies', we examine some practical examples of digital democratic innovations, encompassing both procedures of 'democracy' (Level 7), 'consultation' (Level 6) and bottom-up experiences, thus embracing some forms of 'sharing' (Level 5). The analysis will highlight both the main features of the platforms, the legal consequences of participation, their actual use. The purpose is to discover what kind of citizen participation effectively hides behind a very similar rhetoric that makes digital democracy processes look like a homogeneous category. Before delving into the case studies is thus necessary to outline the legal framework for participatory-deliberative democracy and digital democracy in the relevant legal systems.

## III. Participation in legal systems: a comparative analysis

Within the traditional framework of modern liberal democracy, the citizen is presented with few, if any, opportunities to directly influence the process of producing collectively binding decisions. And yet participatory processes can be found in societies as diverse as Indonesian and Indian villages, Swiss *Talshaften* or the classical Athenian city, where a direct model of citizenship was based upon communities in which face-to-face relationships were considered paramount. The crisis of democracy discussed above is clearly a crisis of representative democracies. According to Constant[52], one of the main differences between ancient and modern democracies is the level of direct participation: representative democracies are a direct consequence of the extention and complexity of modern States. The contemporary notion of democracy often overlaps with representative-elective democracy, since the essence of democratic systems is often deemed to be the presence of free and regular elections[53].

Nevertheless, in the last decades the need to promote new and more inclusive experiences of policy-making has emerged. In fact, it would be reductive to consider democracy just a political system in which periodically the citizens elect their representatives[54]. The principle of citizen sovereignty extends beyond the mere act of selecting political representatives. In Western legal frameworks, it is realised and developed through civic consultation practices and participatory processes. We have already stressed that contributions made by individuals or groups via those instruments are usually

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51. It is worth noting that there is not a perfect alignment between the underlying democratic theory and the technological tools that serve it. The informatics perspective sheds light on the potential forms of engagement and participation the platforms *could* enable when adopted by public institutions, political parties or citizen groups. However, the consequences descending from the utilisation of these platforms derive from the specific context in which they are used. The same tool can be employed in ways that correspond ideally with different democratic theories. This imperfect overlap is particularly evident at Level 7. On the one hand, online deliberation platforms can serve as tools for public deliberation within participatory and deliberative initiatives. On the other hand, they could be used for participation through political parties thus falling within the domain of representative democracy (although the political parties itselves often advocated for a radical replacement of representative democraticy with forms of 'direct democracy' or 'liquid democracy', cfr. Chiusi 2014, p. 56 and footnote 37).

52. Constant 1992, p. 12: «Thus among the ancients the individual, sovereign almost habitually in public affairs, is a slave in all his private dealings. As a citizen he decides […] by the discretionary will of the whole of which he is a part. Among moderns, on the contrary, the individual, independent in his private life, even in the freest states is only sovereign in appearance. His sovereignty is limited, almost always suspended; and if, at fixed but rare times in which he is still surrounded by precautions and obstacles, he exercises this sovereignty, he does so only to abdicate it».

53. Trettel 2020, p. 17 ff.

54. Picchi 2012.

non-binding and serve mainly consultative purposes, given that the final decision remains a prerogative of executive or administrative institutions. Participative instruments are present at all governance levels (supra-national, national, regional and local) but, usually, the most successful can be found at regional-local level. This is, probably, due to the close proximity between civic interests and authorities in charge of the decisions[55].

It is interesting to notice how the notion of democracy has been nourished by the notion of participation since ancient Greece, evolving into contemporary democracies through a further fundamental, strengthening insertion: constitutionalism[56]. The very birth of constitutionalism, as a phenomenon that led the transition from the absolute State to the form of a liberal State can be reconstructed starting from the role of participation, as the salient facts in determining this historical evolution[57] are directly related to the progressive expansion of the legal recognition of political rights of participation of subjects, in opposition to the narrowing of the sphere of influence and power of the Crown[58]. Participation is fundamentally linked to the spirit and effectiveness of democratic Constitutions[59]: the exercise of popular sovereignty and the control of power, which call for additional instruments than those of political representation; the full development of the person and substantial equality; the increasingly pressing demand for quality and effectiveness of public policies, with regard to which the complexity of social demand calls for closer dialogue between the decision-makers and the beneficiaries of the rules. The importance of citizen participation was sanctioned, at international level, in the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters of 1998. Adopted by the United Nations Economic Commission for Europe (UNECE), and titled after its own pillars, it is considered not only an environmental agreement, but also a shared agreement about governments accountability, transparency and responsiveness to their citizens. In 2003, the Aarhus Convention was transposed into European Law by Directive 2003/35/EC on public participation and access to justice. A more in-depth analysis of EU framework on participation will be delivered at paragraph III D, however it is important to mention how the European legal system recognises instruments of participatory democracy that, completing the representative dynamics, are aimed at promoting the direct involvement of European citizens by increasing the legitimacy of decision-making processes in the Union and bridging the so-called EU democratic gap[60].

In Latin America, participation is not limited to the demonstration of an oppositional interest, nor limited to the vote on the adoption of a final measure. But, on the contrary, it involves any interested party to make their own deductions in the "rulemaking" proceedings in terms of collaboration with the public service. Although, in principle, general and administrative legislative acts represent the area in which the public is most involved in legislative production, the Latin American context is rather articulated on the subject. Thus in some systems, such as Venezuela and Colombia, public participation assumes the dimension of subjective law, exercisable, albeit with different intensity, in every type of rulemaking procedure. A dimension that finds, instead, a strong contraction in those experiences where there is a non inclusive approach on the subject. This is the case of Peru, which reserves the right to intervene in the definition of first-degree norms only to indigenous

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55. For further analysis on this point see: Pepe 2020. Particularly interesting the author's statement about how representative democracies aggregate citizens 'by communities of neighbourhood' while participatory democracy sorts them in 'communities of interest', p. 10.

56. D'Atena 1998; Morelli 2015.

57. In England after the 'Glorious Revolution' of 1688-1689, France in the Restoration Age, Belgium with the Revolution of 1830, Italy with the Statute of 1848, Germany in the Bismarckian Age, Russia after the Revolution of 1905.

58. Referring to modern constitutionalism see Pettinari 2019.

59. Valastro 2010.

60. Martines 2023, p. 308.

peoples, while in Ecuador and Bolivia, again in relation to aboriginal communities, this restriction also concerns secondary sources and general normative acts. Participation in Chile and Argentina is rather subdued, not being formally guaranteed on the general level, but finding express discipline and stronger guarantees only in environmental matters[61]. Unlike in Brazil, that was the homeland of the first participatory budgeting experience in Porto Alegre[62], the intervention of the public assumes an atypical value and leans to deliberative democracy.

As already observed in § I, the notions of participatory and deliberative democracy have been heavily discussed by political theorists.

If it is true that participatory democracy has structural limitations that keep – and will always keep – it from replacing representative democracy[63], it is also true that citizen participation can ultimately play a useful role in democratising representation, integrating in a pluralistic and inclusive way tools, procedures and institutions rooted in representative democracy[64]. However it is worth underlining that the evolution of the Marxist-leninist ideology brought to the institutionalisation of participation both in China[65] and, especially, in Cuba. During the drafting of the Cuban constitution of 2019 the population has been involved well beyond the final referendum, through participatory consultations *Consultas Populares*[66] that

involved both Cuban residents and those living abroad. Cuban citizens had the opportunity to present their personal views on the constitutional project at meetings held in the workplace, schools, hospitals and neighbourhoods[67]. On the other hand, in EU it is uncommon for Constitutions to explicitly address the concept of participation, only two constitutional charters do, i.e., the Italian and the Portuguese. In particular, article 2 of the latter, affirms that: «The Portuguese Republic is a democratic constitutional State […] that aims to achieve the realisation of economic democracy, social and cultural and the strengthening of participatory democracy». A rather non-specific and broad assertion that is nevertheless useful to underline the effort in the search for democratisation after the end of the Caetano dictatorship.

In the following paragraphs we shall outline if, where and how participation is addressed in the legal systems of the Countries of the platforms investigated in § IV.

## A. Italy

Citizen participation is deeply rooted in the Italian Constitution[68]. The Constituent Assembly implied it at Article 3, when, after affirming the general principle of formal equality in the first paragraph[69] goes on to set out in the second paragraph the principle of substantial equality: «It shall be the duty of the Republic to remove those obstacles of

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61. See Zinzi 2021, p. 1197.

62. See footnote 7.

63. Cardone 2021, p. 13.

64. Siclari 2009, p. 3; Tushet 2016, p. 167 ff.

65. Since the revolution the concept of people sorveignity in China was compenetrated by the idea of people participation in all public matters. See: Horsley 2009.

66. Present in both Cuban Constitutions, this mechanism serves to exercise the constitutional right to vote on issues of national importance so that their will, binding under the law, may influence the debate and decisions of the representative organs of the State.

67. At the request of the National Assembly, the project was submitted – from 13 August to 15 November 2018 – to popular consultation. There were 1,706,872 interventions and 783,174 proposals were made, 666,995 requests for modification, of which 32,149 requests for addition of new dispositions, 45,548 requests for elimination, 38,482 of doubts. There were also 2,125 proposals from Cuban citizens living abroad. In four months, 133,681 meetings were held, involving 8,945,521 (77.89% of the Cuban population) in all 15 provinces of the Country. For a deeper analysis of the Cuban constitutional drafting see: Sciannella 2020, p. 557 ff.

68. Balduzzi-Servetti 2017, p. 8.

69. «All citizens shall have equal social dignity and shall be equal before the law, without distinction of gender, race, language, religion, political opinion, personal and social conditions».

an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organisation of the country».This was meant to mark a distinction between the former Italian monarchy, as well as the fascist regime, and the post-war egalitarian republic. At the same time, the constituents chose to link the concept of participation to the larger principle of substantial equality in order to avoid an excessive indefiniteness. The breadth of the concept of participation concerned the constituents, and in fact only in more recent times scholars further refined the concept of participatory democracy, delineating its boundaries[70] and excluding participation to the administrative proceeding[71], institutions mostly referred to as direct democracy such as abrogative referendum[72] and legal instruments for the consultations of stakeholders[73].

After the reform of Title V of the Italian Constitution, citizen participation is expressly addressed at paragraph 4 of Article 118 that now recites: «The State, regions, metropolitan cities, provinces and municipalities shall promote the autonomous initiatives of citizens, both as individuals and as members of associations, relating to activities of general interest, on the basis of the principle of subsidiarity»[74]. This addition is rich in implications, especially in terms of constitutional foundation of the direct management of public affairs (carrying out activities of general interest) by subjects traditionally not included in it[75]. The principle is not detached from other content of the constitutional text, and its explicit inclusion in the Constitution represents the point of arrival of a path that – started with national and communitarian regulations – has marked a phase of juridical positivisation that collects a wide variety of historical-cultural and institutional heritage.

A further development has occurred with the *Codice dell'Amministrazione Digitale* (CAD, Code of Digital Administration)[76], where a 'digital administration' – as both a legal and organisational concept – evolves from a mere structure of employees, procedures etc. into a complex, connected, ICTs equipped management system, allowing documentation to be processed and processes to be managed computer-based, ultimately benefitting citizens and businesses with both faster and new services. In addition to the most practical aspects and the general spirit of technical modernisation of the Public Administration (PA) CAD Article 9 translated the principle of participation in the digital age stating that: «The State encourages all forms of use of new technologies to promote greater participation of citizens, including those living abroad, in the democratic process and to facilitate the exercise of individual and collective political and civil rights». It is clear, however, that for the implementation of these processes, there has to be formal recognition or institutionalisation through

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70. Trenta 2022, p. 95 ff.

71. According to Law no. 271/1990 this kind of participation rooted in a subjective position, legitimate interest, which is articulated in specific powers of intervention during the procedure.

72. Which is expression of the right to vote based on article 48 of the Italian Constitution and lacks a moment of exchange and confrontation on the arguments.

73. Such as the Houses' of Parliament consultation procedures in the legislative process or restricted consultations in the regulatory impact analysis. See: Bifulco 2009, p. 66 ff.

74. Hereby intended as *horizontal subsidiarity* based on the assumption that the taking care of collective needs and general interest activities is provided directly by private citizens (both as individuals and as associates) and that public authorities act as 'subsidiaries,' planning, coordinating and, where appropriate, managing these initiatives.

75. According to some scholars, subsidiarity does not entail participation to a process that culminates with a decision of the representative or administrative authorities, but only in the implementation activities of general interest by individual and associated citizens.

76. Established by Legislative Decree of 7 March 2005, No. 82, was subsequently amended and supplemented first with Legislative Decree No. 179 of 22 August 2016 and then with Legislative Decree No. 217 of 13 December 2017 to promote and make effective digital citizenship rights.

consolidated procedures and *ad hoc* rules yet to be declined. Surely, a desirable institutionalisation must pass through the creation of new instruments of participation, both in the administrations themselves and at the political decision-making level[77].

## B. Germany

In Germany, the Fundamental Law sets several principles that serve as legal foundation and boundaries to participation, but it does not contain an express reference to participatory democracy. On its own the democratic principle would not suffice to be a legal basis to public participation; Article 20 I establishes that «All state power emanates from the people. It is exercised by the people through elections and votes and through special bodies vested with legislative, executive and judicial powers», but otherwise there are very no references to participatory democracy instruments, due to the traumatic experiences of the Nazi regime[78]. However, the Federal Constitutional Court has endeavoured to broaden some of the Fundamental Law principles in order to keep it up with the pace and the spirit of the time[79].

The multiplication of participatory procedures to the administrative decision process, involving an increasing consideration of the subjective rights of the citizens, is a sign of the increased importance of the relationship between the administration and its users, since these means «allow to take part in the powers of the State itself, as well as asserting and exercising one's rights»[80]. Right to participation as stated in Article 20 not so much resulted in guarantees of participation in the legislative process, but rather in the administrative process and thus in the relationship between the public and the administration, from which the relevance of the sub-state level – and in particular the municipal level – derives, given the nature of administrative/enforcement federalism of the German system. In

this framework, then, forms of participation of experts or subjects directly affected by the decision are juxtaposed with forms of participation of an inclusive nature that provide for a genuine consultation of the community to which the decision refers. Also, the federalist nature of Germany facilitated the affirmation of participatory democracy, allowing to increase the opportunities to foster participation at a regional and local level.

The German Federal Emission Control Act was passed in 1974 and was one of the first laws containing a formal procedure that enabled the public to raise objections during the planning phase. In 1976, a similar clause on early public involvement was introduced in the German Federal Building Code. Subsequently, several pieces of German legislation have further expanded of this issue. The German Environmental Appeals Act of 2006 enables approved environmental NGOs to appeal in court administrative decisions. Finally, with the 2013 Germany Administrative Procedure Act[81] a new Section 25 (3) on early public participation was passed. It provides for a set of mandatory early public consultations in several matters. Some other examples of typical participatory instruments in Germany are the *Bürgerversammlung, Bürger-befragung, Anhörung, Bürgerforum, Planungszelle, Bürgergutachten, Zukunftswerkstätte*[82]. Each of these procedures may be formal in nature – i.e., expressly regulated in legislative acts – or informal – having been developed and established through practice.

## C. France

Conversely, for most of other EU Countries, the process has gone in reverse order starting from normative sources of primary rank in absence of explicit constitutional formalisation. For example, France has been one of the most attentive countries in the past decades when it comes to preven-

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77. Carloni 2019.

78. Understandably, in a Country where citizens organisations had gained such power as to subvert the existing institutions. Vilain 2010, p. 305.

79. BVerfGe 21, 378 (388).

80. For example, the constitutional court added material elements such as the "idea of justice," the realisation of which requires in particular the adaptation of the procedural law. See: Guerard 2007.

81. Verwaltungsverfahrensgesetz, VwVfG.

82. Citizens' assembly, citizens' survey, hearing, citizens' forum, planning cell/citizens' report, future workshop.

tive consultation with stakeholders through two instruments: *enquête public* and *débat public* (the latter implemented through consultations and concertations)[83]. Both of them are meant to enrich public policymakers awareness of the social interests involved in their decisions. Traditionally, French law limited public input to the public inquest[84] where the prefect of each department is in charge of organizing the procedures. Since its reform in 1983, the inquest includes a form of public consultation open to all, but does not include a public debate. The task is to inform the population of regional projects, both public and private, and to assist the prefect himself in making the final decision on the approval of the project. It is compulsory for projects that include the taking of private property and in 2011 was expanded to include projects that have an impact on the environment. The process is, essentially, a way for the national government to exert some control over spending priorities and economic development at local and regional levels[85].

Only in the 1960s participation became a major aspect of public administration reform, as a mean to regenerate bureaucracy and also to foster social and political links. The principle of participation was formally introduced for the first time in 1995 with the *Loi Barnier* on the reinforcement of environmental protection. It assesses that a public debate on the objectives and main characteristics of the projects could be organised, during the development phase of major public development operations of national interest, by the State, local and regional authorities, public institutions and mixed economy companies with a strong socio-economic stake or with a significant impact on the environment.

In addition to that, a great innovation was the institution in 1997 of the *Commission nationale du débat public* (CNDP - National commission on public debate), in charge of overseeing organisation modalities and the regular execution of the public debates that would be launched[86]. The CNDP seeks to apply principles of inclusion, argument and openness. The aim is a process that allows a broad range of public concerns to be vetted and discussed before the government settles on a particular plan.

The fundamental value of the principle of participation was then recognised in Article 7 *Charte de l'environnement*[87], that gained constitutional value following a series of decisions of the Constitutional Council[88]. Finally, the novation of the legal framework, under the effect of the constitutionalisation of environmental rights – with its inclusion in the preamble to the Constitution – and duties in 2005 and the creation of the procedure of the priority question of constitutionality in 2008, was a powerful factor in promoting the principle of participation[89]. Also, the Conseil d'Etat 2011 Report on participation advocates a process where the government frames the issues in general terms, followed by an open ended concertation, an impact assessment inside the government and a more formal consultation at the end. This is the scheme adopted when designing the French platform for public debate that will be analysed in § IV.

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83. Consultations refers to consultations with stakeholders bodies, with close membership and strong impact of their views on public policy, representing various interests. Concertation refers to an open-ended consultation in which there is a real discussion with concerned citizens and organised groups.

84. The first law on public inquests dates from 8 March 1910 and simply allowed landowners to comment on proposed projects that involved the taking of their land.

85. ROSE-ACKERMAN-PERROUD 2013, p. 307.

86. The CNDP is composed by 25 members drawn from a range of interest groups and political bodies, e.g., prefects, State counsels, politicians, environmental and consumers groups. See MANSILLON 2006.

87. «Everyone shall have the right, under the conditions and within the limits laid down by law, to access environmental information held by public authorities and to participate in the formulation of public decisions having an impact on the environment».

88. See Cons. const. n° 2008-564 DC of 19 June 2008, *Loi sur les OGM*; Conseil d'État, 3 October 2008, *Cne d'Annecy*; repealing legislative provisions which ignored the prescription of the Charte and obliging the legislator to comply its conditions and limits. See also: CHEVALLIER 2011; CHEVALLIER 2006.

89. VAN LANG 2014.

## D. European Union

Before moving on to the analysis of the platforms which serve as case studies, let us briefly outline the role of participation in the European Union.

To start, the principle of participation did not start affecting European Union Law until the late 1990s. After being a non-issue for several decades, the role citizens should play within the Union became central to EU political discourse back at the end of last century at the first European Social Policy Forum, when the Commission Directorate for Employment, Social Affairs & Inclusion launched a 'civil dialogue' with the declared dual aim of linking the views of EU citizens to EU institutions, and to explain political discourse to the public. In the same year, the 1997 Treaty of Amsterdam had for the first time established an obligation of European Institutions to adhere to the principles of democracy. It is in the 2000 Commission White Paper on European Governance that citizen participation was recognised as one of the pillars of good governance well beyond the social policies. Citizen participation throughout the entire policy cycle was highlighted as key to ensure the quality, relevance, and effectiveness of EU policymaking. Finally, with the Treaty on the European Union (TEU) Article 11[90], participation in decision making – beyond political representation – shall be considered one of the foundations of democracy in the EU[91].

In this paper, we have opted not to delve into the impact on democratic participation of social networks and other platforms that were not intended specifically for that purpose. Rather, our analysis focuses on e-participation platforms specifically created for such activities.

However, in the conclusion of this paragraph we are going to acknowledge the impact of social networks on democracy, the awareness of which has brought a consequential evolution on EU regulations. Starting with the adoption of the GDPR regulation, EU institutions adopted a human-centered approach to the 'shaping of EU digital future', very different from those adopted by China or the US, where the main focus has been the market implications, rather than the protection of individual rights and freedoms[92]. Whilst other EU regulations (GDPR, Data Act, Digital Markets Act, AI act)[93] address various aspects of the concerns raised by technological developments in the life of citizens and in the European digital market, the full-scale usage of internet services compelled the EU legislator to address this reality in a comprehensive manner from the main point of view of consumers' protection with the Digital Service Act (DSA)[94]. As citizens' participation is widely expected to take place in accordance with the newest trends, regulation over digital platforms and online service providers (*in primis* social networks) will inevitably, and deeply, impact the integrity and the unfolding

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90. «The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action. 2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. 3. The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent. 4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties».

91. Mendes 2011.

92. Raffiotta 2023, p. 248, argues that the enthusiasm of the EU lawmakers has slipped into a challenging over-regulation.

93. The strategy is set out to do this through three fundamental pillars 'technology at the service of people'; a 'fair and competitive digital economy'; and an 'open, democratic and sustainable society' all aimed at making the Union 'a global standard for the digital economy' making them also support 'developing economies in digitization' setting digital standards and promoting them internationally. See the official website of the European Commission.

94. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act).

of the public discourse. The very fact that the preamble of the DSA[95] explicitly lists the "democratic process" as one of the target of those risks that providers are directed to assess and mitigate, indicates that in the eyes of decision-makers the boundaries between the "consumer" and the "citizen" are rapidly fading, towards and endpoint at which differences among the two not necessarily could be told apart[96], at least from a practical standpoint. There are at least two factors why this is happening:

– Use of the internet

Presently, a substantial portion of human activities is facilitated or made feasible through internet-based platforms, engendering a transformation in user perceptions. Users now perceive these platforms not only as conduits for everyday transactions but also as integral avenues for exercising civic rights and accessing essential information, job prospects, and social engagements. Consequently, the expanding influence of these corporate entities has transcended conventional consumer-provider dynamics, resulting in a nuanced blending of citizenship and consumerism, thereby obscuring traditional distinctions between these roles.

– "Politicisation" of the main corporations

Over the last decade, virtually all main digital actors, spanning from Facebook, to X (formerly know as "Twitter") and Amazon, have frequently found themselves in confrontations with political authorities on a multitude of fronts, including privacy protection, collaboration with law enforcement agencies, surveillance of harmful content, management of hate speech, and antitrust issues. Digital firms, in response to concerns voiced by governments and citizens alike, have adopted positions on various regulatory matters pertinent to their primary operations. Consequently, the regulation of these corporations effectively entails the regulation of individuals' behavior.

The presence of notions such as 'illegal content'[97] and 'disinformation' in the DSA clearly acknowledges this new 'cross-sectional' approach refusing an excessive and obsolete partition between the 'civic' and 'economic' status of the users, thereby establishing a principle of transparency and accountability within digital platforms that facilitate public participation.

In light of the legal frameworks just outlined it can be argued that, even if political and legal theories have attempted numerous definitions, the actual realisation of participation remains free within the compliance with national regulations. Both the legal and political context, according to the country of reference, change the way participation is considered and also its grounds, and thus changes also the role of the several participatory institutes. Institutes which may, depending on the context, be classified as institutions of participatory or deliberative democracy. This stems not only from political and sociological differences between Countries, but also from the fact that participatory institutions, originating from practical experiences, have only found partial institutionalisation and are regulated in detail only in some instances, often found in local statutes.

## IV. Case studies

In this section of the paper we proceed with a comprehensive analysis of five different e-participation

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95. Recital 81: «A third category of risks concerns the actual or foreseeable negative effects on democratic processes, civic discourse and electoral processes, as well as public security». Furthermore, Recital 104: «(…) Another area for consideration is the possible negative impacts of systemic risks on society and democracy, such as disinformation or manipulative and abusive activities».

96. In this sense, Recital 95: «Very large online platforms or very large online search engines should ensure public access to repositories of advertisements presented on their online interfaces to facilitate supervision and research into emerging risks brought about by the distribution of advertising online, for example in relation to illegal advertisements or manipulative techniques and disinformation with a real and foreseeable negative impact on public health, public security, civil discourse, political participation and equality».

97. Broadly defined as: «… any information that, in itself or in relation to an activity, including the sale of products or the provision of services, is not in compliance with Union law or the law of any Member State which is in compliance with Union law, irrespective of the precise subject matter or nature of that law»: Article 3, letter *h*), DSA.

platforms, encompassing both local and national levels. Our examination delves into the features, effective utilisation and political and legal consequences of each initiative, aiming to shed light on their effectiveness in fostering democratic participation.

## A. #ROMADECIDE

In 2019 participatory budgeting[98] was implemented by the city of Rome, i.e., *Roma Capitale*[99]. The project was known by the hashtag #ROMADECIDE ('Rome chooses') and built on a previous experimental participatory budgeting project concerning one of Rome's sub-local administrative units (from now on, 'municipalities')[100]. The Statute of Roma Capitale (Article 8-bis) formally introduced it as a top-down participatory process, as per the Resolution of the Capitoline Assembly No. 5 dated 30 January 2018. The aim was to ensure «the widest popular participation and the highest level of direct democracy and transparency» also with the help of technolog-

ical means[101], in line with Roma Capitale Digital Agenda 2017-2020. A special Regulation of the *Bilancio Partecipativo* was then approved on 4 April 2019[102], which defines it as both an «instrument of public participation and consultation aimed at increasing citizens' trust in institutions» and a way to improve «efficiency and effectiveness of the strategic-operational and economic-financial planning» of public administration (Article 1, paragraph 2).

The Regulation envisages the creation of a special platform for taking part to #ROMADECIDE (Article 2). The participatory platform was simply a dedicated section on the Roma Capitale institutional website[103]. According to Article 6 of the Statute of Roma Capitale, not only citizens of Rome[104] can take part to the participatory budgeting, but all city users[105]. This category encompasses non-resident citizens[106] and foreigners[107], provided they work or study in Rome[108]. Access to the service is provided through the Digital Identity System (SPID) (*Sistema Pubblico di Identità Digitale*, Public Digital Identity Management Service)[109] or using an Electronic Identity Card (CIE), thus ensuring

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98. See footnote 7.

99. Roma Capitale is a special administrative body which administrates the Comune (commune) of Rome, capital of Italy. It was established in 2010 in accordance with Article 114, paragraph 3, of the Italian Constitution.

100. We refer to the participatory process of the 8th Municipality established by the Resolution of the Giunta Capitolina (governing body of Roma Capitale) No. 87 of May 2018 and aimed at deciding how to allocate 17 million euros in projects concerning environment, landscape, sustainable mobility and accessibility, urban regeneration and infrastructure.

101. See the original document.

102. See the original document.

103. Little is known of the provider of the platform. Apparently none of the big digital platforms.

104. Registered in the electoral rolls of Roma Capitale.

105. See the Document of Participation, paragraph 2.1.

106. Enjoying active electoral rights.

107. Legitimately residing in the territory.

108. According to the Document of Participation, p. 10, to verify if users were truly entitled to participate, an automatic comparison with the electoral rolls (for residents) and the request of a self-declaration, with provision for spot check (for city users), were carried out. In addition to citizens and city users, Municipalities themselves are invited to participate in the *Bilancio Partecipativo*. The act adopted by the governing body of Roma Capitale to regulate scope and procedures of the *Bilancio Partecipativo* of 2019 reserves to proposals promoted by Municipalities 20% of the budget allocated to their territory (Deliberation of Giunta Capitolina No. 103 of 31 May 2019). This provision was meant to allow co-planning and cooperation at sub-local level and to give voice to parts of population who are not digitally trained.

109. The Italian public identity system provides a unique verified account to citizens, allowing access to any on-line service of the PA as established by Article 64 CAD. A SPID account can be issued by so called Identity Providers, i.e., private and public entities accredited by the Italian Digital Innovation Agency.

identification of the participants, and preventing multiple voting[110].

From 10 June to 21 July 2019 participants could submit their proposals on how to allocate the available resources (20 million euros). Their proposals had to be in line with the project's scope, i.e., urban enhancement, and include a title, a brief and a detailed description of the action proposed, type, scope, cost, beneficiaries, and geolocation of the intervention. To protect the creators' privacy, proposals were published using aliases assigned to each creator. Each participant could publish up to 5 own proposals and support those of the other users simply by liking them, as if it were a post on a social network.

Proposals which gained at least 5% likes in each municipality were admitted to the next phase[111]. This consisted in a technical-administrative-financial evaluation by a board of administrators. The board considered valid 938 out of 1.481 proposals (plus 40 proposals presented by municipalities) and admitted 233 proposals to the evaluation (based on the rankings). By the end of its task, the board had selected 73 proposals submitted by citizens and 38 proposals submitted by municipalities to advance to the final voting stage.

The final consultation took place on the same participatory platform, accessible by previous identification. From 12 to 21 October citizens could express up to three preferences. Around 17,000 citizens took part to the final stage, 0.77% of the population of age of Rome (around 2.2 million people)[112]. At the end, 65 proposals were chosen and a Deliberation of the *Giunta Capitolina*[113] acknowledged the results and declared the end of the project. Subsequent reporting on the state of the art of the implementation of the winning proposals is provided on the Roma Capitale portal.

As a participatory budgeting experience, it falls under Level 7, Democracy, according to the Framework presented in § 1.

## B. PartecipaMi

PartecipaMi is a participatory platform which aims at providing citizens of Milan[114] and their representatives «with spaces and tools for participating in the life and management of the city»[115]. It is first worth highlighting the bottom-up origin and nature of the project, in contrast with the majority of contemporary e-participatory experiences both in Italy and abroad[116]. The platform was indeed

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110. On the other side, complex authentication procedures could discourage participation. It must be therefore carefully pondered whether to foresee "strong" (SPID) or "weak" (e-mail, password, normally assisted by double-check in electoral registers for residents or self declaration and possible random checks for city users). Cfr. De Cindio-Trentini 2024, p. 24.

111. With the issuance of Deliberation No. 150 of 31 July 2019 additional proposals were admitted to address vote splitting in municipalities with high levels of participation.

112. Advertisement was of course essential to foster participation: posters were displayed in particular in train and underground stations, radio ads were broadcasted, posts were made on institutional Facebook and X profiles and on the website, and in-person assistance was provided at public relation offices.

113. No. 284 of 10 December 2019.

114. It is worth noting that #ROMADECIDE addressed people living in the Comune of Rome, which spans a much wider geographical area than the Comune of Milan. To be precise, #ROMADECIDE covers an area of 1.285.31 km², which is significantly larger than Milan's 181.8 km², and has a population of approximately 2.8 million people, which is double the population of Milan's 1.4 million inhabitants. However, the platform PartecipaMi appears to serve both the Comune of Milan and its sub-local administrative bodies (municipalities), as well as the broader metropolitan area of Milan, which encompasses a population of approximately 3.25 million people, spanning across 133 communes and covering an area of 1,575.65 km².

115. See PartecipaMi website.

116. From June 2021 the Comune of Milan has also its own institutional participatory platform, Milano Partecipa, which is based on the open source software Decidim (see, *infra*, § III D). The launch of the platform went together with the modification of the Regulation for the implementation of popular participation rights by resolution of the Municipal Council No. 73 of 23 July 2021 (available in Italian). Alongside pre-existing

created by Fondazione RCM[117], a non-profit organisation established in 1998 to promote citizen participation using IT tools. It built on a platform which was tested experimentally during the run-up to local elections in 2006. As part of a project funded by the Ministry for Innovation and Technology, and with the support from the Lombardy region, the Fondazione RCM, in collaboration with the Civic Informatics Laboratory at the University of Milan, developed openDCN, a new open-source software platform. It was tested in a range of projects[118] linked to partecipaMi and further refined in preparation for the local elections in Milan in 2011. After the elections partecipaMi could be moved to the openDCN software.

Since 2014, the platform has been solely supported by citizens and has not received any public funding, which has helped to maintain its formal independence. Equal participation and dialogue between citizens and decision-makers (members of the City council and sub-local councils) is a key characteristic of the whole project. Registration with name and surname is required since participants are bound by the *Galateo* to participate without aliases. However, no digital identification is required (e.g. SPID, CIE). While the platform is primarily intended for the residents of Milan and their representatives, the lack of certified authentication or subsequent checks by the organizers effectively means that there are very few limitations on who can participate.

Each participant can start a discussion over whatever object of interest, by simply posting it. Other participants can comment or react to comments (rating from one to five stars). The platform is divided in many areas ('forums') dedicated to the individual municipalities of the Comune of Milan and to the individual communes of the metropolitan area of Milan. There are also dedicated forums for special themes (e.g., environment and waste, educational system, smart city) or special categories (e.g., young people engaging individually or through school projects) or projects (e.g. mapping handicapped parking space or reporting trees affected by *Takahashia japonica*).

According to the rules set in the *Galateo*, every message is previously checked by a moderator (whose name and surname are made public) who assesses whether it is compliant with the *Galateo*. In case it is unrespectful of other participants, insulting, discriminatory, off-topic or exceeds daily limits (4 comments and 2 starts of discussion per forum), the moderator does not publish it and provides the participant with a written explanation.

It is worth noting that such a previous checking is possible due to the relatively small numbers of participants and comments (at the moment 7386[119] people are registered on PartecipaMi, which means 0,62% of the population of the Comune of Milan and only 0,27% if we consider the whole metropolitan area). However, it strikes the visitor to notice that there is still somewhat activity on the platform, after 16 years since it was first created. Its bottom-up nature, partnerships with other associations and foundations[120], the capacity of organizers to foster relationships with some administrators and encourage them to take part to the debate, the gradualness of topics discussed in forums, from sub-local to broader issues, are some of the factors which have determined the platform's longevity.

However, though providing citizens with a useful tool to share their ideas and engage in constructive debates, it does not have any formal partner-

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participatory institutions (popular initiative, referendum, inquiries, petitions, citizen consultations and public hearings), new ones were added: public inquiry, public debate on urban works, environment and services, participatory institutions for urban and building planning, forms of participation in individual demand public services, citizens' agreements, participatory budgeting, questions with immediate answers.

117. The Rete Civica di Milano (Milan Civic Network, RCM) was initially launched in 1994 as a university project by the Civic Informatics Laboratory at the University of Milan. Its primary objective was to provide citizens with a platform for effective and easy-to-use communication and promote active citizenship.

118. Sicurezza Stradale, in collaboration with Ciclobby, Manifesto per Milano, in collaboration with Corriere della Sera, and Cives, which was funded by the Cariplo Foundation. See more on PartecipaMi website.

119. As of 30 April 2023.

120. E.g., those which promote active citizenship in school.

ship with official institutions, thus lacking means to force them to listen to the citizens' claims and opinions – much less enforce implementation of proposals. After an issue has been raised and discussed, the organizers report it to local administrators (through e-mails at institutional addresses or informal contacts). However, these administrators are not obligated to put the proposals into practice or even to provide a response.

In sum, PartecipaMi is a useful participation tool to foster Milan's civic network through debate, citizen reporting and information gathering. Eventual listening of its proposals by institutions, through the reporting via the platforms' organizers[121], does not change its nature which remains "horizontal" in the first place. That is why it can be classified as a practice of Sharing (Level 5) according to the Framework[122].

## C. MeinBerlin

As third case study of this paper we will now analyse the participatory platform of the city of Berlin, i.e. meinBerlin. Participation processes of all administrative units at State (*Land*) and local (*Bezirk*)[123] level can be realised on the platform, which serves as «one-stop participation portal»[124]. Created in 2015, this top-down platform aims at informing the citizens of Berlin of the ongoing projects of the city's administration, providing a space for sharing ideas and suggestions. The platform was built using Adhocracy, an open-source software developed by Liquid Democracy e.V., a non-profit German organisation. Publisher of the platform is the administrative staff of the Governing Mayor of Berlin (*Senatskanzlei*, Senate Chancellery) which is also responsible for placing projects on the platform[125].

The development of meinBerlin began in 2013 when the Senate Department for Urban Development and Environment (*Senatsverwaltung für Stadtentwicklung und Umwelt*) decided to digitalize legally required citizen participation processes in urban land use planning[126]. Meanwhile, the district of Treptow-Köpenick was planning an online platform for informal citizen participation processes. Under the supervision of the Senate Chancellery these two activities were merged in 2015. Thus, both legally prescribed processes and informal processes are carried out on the platform. In 2015 Berlin also adopted an eGovernment Act, which contains a declaration of intent to promote e-participation in political and administrative action, but no binding measures of actual implementation[127].

Registration is required to participate, serving the purpose of reducing the incidence of bots and trolls, which can disrupt the participation process. However, low-threshold registration requirements

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121. It must be noted that the reporting of participants' ideas and claims via e-mail by PartecipaMi's organizers could be seen as a practice of 'unsolicited feedback', which is included among forms of 'listening' (Level 6) of institutions to the citizens' needs.

122. For more information on PartecipaMi as a practice of sharing, see De Cindio-Trentini 2024, § 5.

123. Berlin enjoys a particular status, being both the capital of Germany and one of its sixteen *Länder* (federated States). It divides into 12 districts (*Bezirke*). Although it is legally a State, we chose to treat it as a local experience, due to the similarities in dimension and population with the cities of Rome and Milan.

124. Pruin 2022. Currently, 44 authorities and subordinate organisations can conduct consultations on meinBerlin, including the Berlin Senate Chancellery (*Senatskanzlei*), the State Departments (ministries), the district administrations, the subordinate authorities of the districts and state-owned companies. Centralisation of all participation projects is intended to foster the integration of online citizen participation into the planning processes of those administrative units that have not yet conducted any or have conducted only a few participation processes. *Ibidem*, 213.

125. However, while the technical implementation and strategic development of the platform are centralised, it is the competent administrative units either at the state or district level that carry on the actual organisation, moderation and evaluation of the individual participation processes. See Pruin 2022, p. 214.

126. The Federal Building Code (*Baugesetzbuch*) entails a number of provisions on public participation in urban development. See Sinning 2018.

127. See Pruin 2022, p. 214.

are foreseen (email address, username, and password). On one hand, this guarantees easy access for a wide range of individuals. On the other hand, it eliminates the possibility of identity or status control, such as citizenship or residency. As of 2020, meinBerlin had slightly more than 9,000 registered users, comprising approximately only 0.31% of Berlin's population over the age of majority.

The types of participation meinBerlin allows theoretically range from participatory budgeting to public surveys, open debates, idea gathering and participation in urban land use planning. However, apparently no participatory budgeting experiences have been carried with the help of the platform yet[128] and what can be found on the meinBerlin is often solely information on participation processes, which are carried out offline, thus not representing a form of ICT-enabled joint decision making, but rather simple providing citizens with information[129]. Most of the processes carried on

the platform seem to be consultations (Level 6 in the Framework): the platform offers the possibility to submit ideas or proposals, comment and evaluate those by other users, map their ideas on a map, participate in cooperative text editing, but citizens' are only able to provide feedback to the institutions on pre-established themes and projects, i.e., during formal building plan procedures[130].

### D. ParteciPa

In 2011, ParteciPA (wordplay that signifies both "participate" and "take part in the public administration") was created by FormezPA[131] with the aim of improving the quality and transparency of public decisions through the on-line involvement of stakeholders (citizens, businesses and trade associations)[132]. Conceived as an open source participatory platform – inspired by social networks' operating mods – it was structured as a top-down participatory instrument available for any Italian

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128. It is to note that one of the districts of Berlin (Lichtenberg) has a thirteen-years-long tradition of participatory budgeting and its own website for this purpose. Anyone can submit a proposal either directly on the website, via e-mail or in person. On the platform people can also view all proposals on a map and provide feedback (by commenting or supporting through a sort of 'like'-button) on other proposals. However, this digital feedback has no bearing on the proposal evaluation and approval process. Proposals are drafted with administrative assistance to ensure they meet specific criteria and then voted on by a citizen jury. There is no digital voting procedure, intermediate or final, that is open to all residents and city users, which differs from the blended model used for #ROMADECIDE. Thus, the Lichtenberg website appears to be entirely informational about a mostly offline participatory process.

129. Pruin 2022, p. 214. This type of content should fall under Level 4 [*information*].

130. It is to praise the effort to attain a high level of accountability and transparency about the outcome of the consultations. The FAQ section of meinBerlin clarifies that the project managers will evaluate all contributions, and detailed information about the outcome of the submitted content, including when and where the results will be published, can be found under the "Results" section. The Guidelines for citizens' participation in projects and processes of urban development (which were adopted following a two-years process between 2017 and 2019, with participation of 12 randomly selected citizens in the relevant committee, see this link) emphasize the need for accountability of administrations that coordinate citizen participation. To address this need administrations are bound to provide written public feedback regarding the results of participation, making it clear how citizens' recommendations were incorporated into the final decision, and, if not, why. Since the majority of the projects regard urban development and requalification, these guidelines are of some importance.

131. FormezPA is a recognised association with legal personality that provides service, assistance, studies and training for the modernisation of PAs. It is in-house to the Presidency of the Council (Department of Public Service) and its associated administrations. Established in 1963, it originally exercised its functions within the system of extraordinary interventions for Southern Italy. Over the years, FormezPA has undergone profound changes that have allowed it to acquire a central role in promoting innovation and strengthening administrative capacity, as foreseen by EU development policies.

132. As per the provisions of Article 9 of the CAD, see *supra* § II.

Public Administration (PA) aiming to try new ways to increase citizens and other stakeholders' engagement on specific issues.

The structure of participatory processes was outlined essentially in three phases: ideation, commentary and experiences.

– Ideation: initial thread to collect, comment, vote and aggregate user ideas on a specific topic also through surveys or questionnaires.
– Commentary: second thread to discuss rules, legislative proposals, documents, on which users can comment on individual paragraphs.
– Experiences: final space where users can create threads to share, evaluate and comment on projects carried out in the public and private sector, involving PAs in various ways.

Since 2019 ParteciPA has been modernised; still an open source and top-down participatory platform, it now utilizes the Decidim software and is currently managed by the Department of the Civil Service and the Department for Institutional Reform, both of which are overviewed by the Presidency of the Council of Ministers.

The *Decidim* open source software was initially developed by the citizens of Barcelona and allows to manage the participatory processes of a community (administration, association, party) in a single platform, in a homogeneous mode that makes participation easier. For example, one could use the platform to propose actions, comment, monitor and plan meetings in presence.

Due to its top-down nature where threads are launched exclusively by the administrations, in ParteciPA not all these features are allowed to citizens.

In order to access the platform, citizens have to log in through their profile within the public identification service, the SPID[133].

Once the citizen intervenes with a comment or a response to a survey or questionnaire, it cannot be modified or removed autonomously, but it can be erased by the admins if it doesn't comply with the community standards.

As of March 2023 there have been a total of twenty-five participatory processes on ParteciPA, but, despite the user-friendly interface, the users that actually took part in each discussion went as high as a little over one hundred.

The 2022 Digital Economy and Society Index (DESI)[134] offers some explanation: Italy is above the European average in technological integration and connectivity, but it slides third to last in EU when it comes to human capital[135]. In Italy only 46% of individuals possessed at least basic digital skills in 2021, although the percentage of people having advanced digital skills matches the EU average, and the 9.8% of ICT specialists in EU as a whole works in Italy. This numbers however are only partially a justification, since independent surveys claim that Facebook users in Italy are over 38 million.

In our opinion, the reasons for such a sporadic use of the advanced tools made available for participation cannot be examined without taking into account the political phenomenon of rising abstentionism. Even if the constant raise of abstentionism since 1979 – in Italy as well as in EU – can be considered partially physiological, compulsory voting having been abolished[136], it shows a widespread disinterest in the involvement into the democratic process[137]. Even more so when it comes to

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133. See footnote 74.

134. Italy ranked 18th out of 27 EU Member States in 2022 edition of the DESI. DESI reports have been redacted by the EU Commission since 2014 in order to monitor Members' States digital progress. Each year, DESI includes country profiles which support Member States in identifying areas requiring priority action as well as thematic chapters offering a European-level analysis across key digital areas, essential for underpinning policy decisions. The DESI 2022 reports are based mainly on 2021 data and tracks the progress made in EU Member States in digital. During the COVID-19 pandemic, Member States have been increasing their digitalisation efforts. See: https://digital-strategy.ec.europa.eu/en/policies/desi

135. See DESI thematic chapter.

136. Bertoncini 2014.

137. Piermarini-Paolinelli 2022.

local elections, which in the latest turnouts have seen a decrease of affluence as well[138].

Nevertheless, digital illiteracy impacts public participation: participation platforms made available are generally less challenging in comparison to entertainment products, such as social media or streaming platforms, this user friendliness did not apparently reflect on citizens' engagement and responsiveness to public and political issues, thereby posing the higher question on whether technology should, in fact, provide a broader comprehension over complex topics, and not merely supply endless accessibility and interaction sources.

ParteciPA can be considered at level 6 of the Framework, since it allows to institutionally solicit feedback from citizens on various subjects.

### E. Participation-Citoyenne

Similarly, in France the *Direction interministérielle de la transformation publique* (DITP)[139] in 2017 released the website Participation-Citoyenne.gouv.fr, with the goal of informing citizens about the open consultations – ongoing or past – launched by ministries and reporting about their implementation and more in general coordinate different participation methods. In fact, there is more integration with platforms and resources at a local level in France than what we see in ParteciPA. Every consultation is directly managed by the administration that launched it, through a specific site or platform.

Participation-Citoyenne works as a one-stop portal for participatory procedures activated by French administrations. One can search a participatory initiative on the site, find out its promoters, as well as its guarantors[140]. Once the participatory process is finished, the details on its unfolding, results and implementation are shared on Participation-Citoyenne.

Moreover, unlike within the Italian platform, not all citizens have automatic access to any concertation or consultation, after having registered on the website[141]; individuals have to apply and the administration that launched the consultation will evaluate their admittance. Contrary to what happens in ParteciPa, most of the processes are not open for anyone to join in, and evaluation is based on two criteria: the impact that the policy discussed will have on the individual[142] and the quality of contribution the citizen can give to the discussion[143].

Considering the Reports on the passed consultations, especially the ones carried out in a hybrid online-in person modality, Participation-Citoyenne apparently draws more participants than ParteciPA. Also, the exact number of participants is not explicitly divulged for every consultation, for example the latest consultation about energetic future had more than 36,000 entries online plus a wide participation in person during a regional tour of consultation. One of the latest processes that fully divulged its numbers was the national consultation on Justice in 2021, it had more than 18,000 active participants[144].

Participation-Citoyenne can be considered both on level 4 and 6 of the Framework. It is surely level 4, because it allows citizens to get informed on participatory processes, but its purpose does not end with transparency, it also solicits their feedback, tries to get them actively involved, so in this sense can be considered at level 6.

### F. Comparison and evaluation: preliminary findings

In Tab. 1 we compare the 5 participatory platforms analysed, highlighting some of the most relevant characteristics, including the territorial level they express, if they are top-down or bottom-up expe-

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138. A worldwide phenomenon that cannot be really tied to any political party or point of view. Chou 2017.

139. Established by décret n° 2015-1165 du 21 septembre 2015.

140. Prominent French political personalities, legal professionals and experts in the specific field on which the consultation takes place.

141. Log-in does not entail identification through a publicly sanctioned provider.

142. For example if he is a resident in one of the localities interested by the concertation, or, as in the case of the youth forum 2022, if he is under 30 years old.

143. This criteria is evaluated through the application: motivation statement, professional or academic qualification.

144. More than 21,000 active and passive participants.

riences, what kind (strong/weak) of authentication is required to access, which software is used, the level of participation in terms of number of users of the platform compared to the total population that should serve, a brief description of each participatory experience.

Following the analysis conducted in the previous paragraphs, the last column on the right side of the table shows the level these platforms express according to the Framework presented in § II. As anticipated, this classification helps to capture the profound differences of each digital democratic innovation in terms of real participa-

ParteciPA, Participation-Citoyenne); proper forms of Level 7 (Democracy, #ROMADECIDE) are a rarity (and, as we will see in the following, often miss important goals).

If it is true that classifying is the first step towards evaluation, it may not be enough to assess the quality of citizen participation in these ICT-enhanced initiatives, i.e., their actual ability to democratise democracy. The comparative table also offers valuable insights into participation through participation rates, which appear to be consistently low (we will delve deeper into the problem in our Conclusions, § V). However, we do

| PLATFORM | LOCAL / NATIONAL | T.D./B.U. | AUTHENTICATION | SOFTWARE | USERS/ POPULATION | DESCRIPTION | LEVEL |
|---|---|---|---|---|---|---|---|
| *Roma Decide* | local | Top down | strong | Proprietary | 0,77% | Participatory budgeting | 7 |
| PartecipaMi | local | Bottom up | weak | openDCN | 0,27% | Civic network | 5 |
| *Mein Berlin* | local | Top down | weak | Adhocracy | 0,31% | One-stop participation platform | 6 |
| *ParteciPA* | national | Top down | strong | Decidim | 0,00% | Consultations promoted by different PAs | 6 |
| *Participation Citoyenne* | national | Top down | weak | Proprietary | 0,00039% | Collector of consultation processes by different PAs (links and results) | 4/6 |

Tab. 1 — *Comparative table of our five use-case participatory platforms*

tion. Behind similar claims of enhancing participation and democratising democracy may hide examples of Level 4 (Transparency, i.e. partially Participation-Citoyenne), Level 5 (Sharing, i.e. PartecipaMi), Level 6 (Consultation, i.e. meinBerlin,

not content ourselves with these indicators and we try to address the challenge of evaluating the quality of these use-case digital democratic innovations building on two further indicators: 'meaningful participation' and 'digital deliberation'[145].

145. These indicators are inspired by one of the most comprehensive frameworks for evaluating democratic innovations: Brigitte Geissel and Marko Joas's framework to evaluate Participatory Innovations, defined as «new procedures consciously and purposefully introduced with the aim of mending current democratic malaises and improving the quality of democracy» (cfr. Geissel 2013, *Introduction*, p. 9). The authors propose six indicators, starting by a) meaningful participation and b) deliberation. The other four indicators proposed are, as admitted by the authors themselves, particularly difficult to evaluate in a concrete scenario, especially with the data available. The third indicator c) 'inclusiveness of participation' (participation of all stakeholders, including minorities) poses problems of data protection (the organizers themselves often do not even ask for information about gender or income). However, when it was possible to gather information at an aggregate level, data have shown that participants are by no means a representative sample of the interested population, living mostly in inner-city districts and having a better-than-average education (see, concerning meinBerlin, Pruin

Meaningful participation indicates to what extent the participants' preferences were transformed into policies. Digital deliberation indicates the level of digitalisation of the process of thoughtful weighing of opposing arguments before taking a decision. On the background of these indicators applied to digital democratic innovations we can find, respectively, the core values of participatory democracy, on the one hand, and of deliberative theories, on the other.

Firstly, applying the criterion of 'meaningful participation' to #ROMADECIDE, there is no doubt that in a process of participatory budgeting citizens' preferences are effectively translated into policies. As mentioned, it is possible to track the state of art of the implementation of the proposals on a dedicated page on the website of Roma Capitale. The effort to be transparent and accountable is praiseworthy: 27 of the 65 projects were finalised, 11 are underway, 9 at the stage of tender, 17 still need to be designed, 1 was apparently not considered[146]. However, it must be noted that #ROMADECIDE remains insofar a one-time experience, although the special Regulation of the *Bi-lancio Partecipativo* mentioned in § I suggests participatory budgeting should take place "normally yearly"[147]. For many scholars if the process is not repeated over years it is not even a real example of participatory budgeting[148]. Without reaching such drastic conclusions for #ROMADECIDE, we can point out that long-term positive effects (i.e., investments in healthcare assistance and services, increased number of organisations active in the community, and decreased the infant mortality rate[149]) were registered when participatory budgeting has constant application over time. Trying to evaluate how 'deliberative' the digital process was, it must be noted that what took place on the platform was the mere posting of proposals and voting them (it was an 'hybrid' form of participatory budgeting). Of course, each municipality had to organize meetings designed to enable the discussion of proposals that they were required to present (and for which 20% of the municipality's budget was reserved). However, apart from these meetings no other online or offline spaces were institutionally foreseen for citizens to engage in dialogue and deliberation. The platform itself apparently did not

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2022, p. 217). The other three indicators are: d) 'perceived legitimacy' derived by citizens' support to political institutions; e) 'effectiveness', which refers to whether the democratic innovation solved collective problems better then via decisions of political representatives (the distinction between meaningful participation and effectiveness lies in the fact that while meaningful participation promises that the *output* policies will take into account the contribute of citizens in the decision-making process, it does not necessarily guarantee that the *outcome* will be the resolution of the problem: for instance, while participatory budgeting may result in the implementation of actual public policies that reflect citizens' preferences, the desired outcome, such as improving the quality of life in a city through sustainable urban planning, may not be achieved); f) the 'enlightenment of citizens' and their 'democratic education' fostered through improvement of knowledge, tolerance, and public spiritedness.

146. As of 6 May 2023. While it is important to acknowledge the potential impact of the COVID-19 pandemic on project implementation timelines, it is also disheartening to witness the number of initiatives that continue to be held up by bureaucratic hurdles.

147. 'Normally yearly' the governing body of Roma Capitale (*Giunta Capitolina*) should indeed determine the essential characteristics of the participatory budget, including budget, destination, characteristics and limits of the proposals, timing and so on. Despite this and other programmatic provisions in the reformed Statute of Roma Capitale, the decision whether to implement participatory budgeting is therefore ultimately in the hands of the governing body.

148. Sintomer-Herzberg-Röcke-Allegretti 2012, p. 3.

149. These parameters were put in relation to long-term participatory budgeting experiences in Brasil (Cfr. Chiusi 2014, p. 159). However, it could be pointed out that those parameters relate to the outcome (and, thus, the 'effectiveness') rather than the mere output ('meaningful participation') of this participatory budgeting experience (see footnote 128). #ROMADECIDE would thus score high in 'meaningful participation', though it was a one-time experience, but shows a low level of 'effectiveness'.

have a dedicated feature for advertising self-organised meetings for discussing proposals. From this point of view, this e-participation tool did not show a high level of digitisation of the debate, and debate, where present, took place offline.

Moving on to partecipaMi, we must note that as a practice of sharing there is no direct involvement of institutions in the participatory processes, thus lowering the 'meaningfulness of participation' parameter. Voluntary engagement by politicians and city councillors on the platform could potentially improve this aspect, but it has historically been difficult to encourage such engagement. Additionally, while the organizers state they report continuously via e-mail to the relevant administrations what happens on the platform, PAs may decide not to respond.

Conversely, despite not being a cutting-edge deliberation platform[150] and frequently failing to reach a shared decision, partecipaMi's online discussions on particular topics serve as a compelling example of informed exchange of opinions and high-quality online debate. Additionally, since the online debates are public and permanently available, they constitute a common informational asset that can be accessed at any time if a particular issue becomes relevant again in the future, making them a valuable resource for future reference. [151]

Regarding MeinBerlin, having outlined that most participatory processes carried out on the platform are consultations, thus being up to the relevant PAs whether to take citizens' preferences in consideration, participation 'meaningfulness' appears rather low. However, as already mentioned at the end of § IV C, there seem to be a great effort in transparency and accountability: PAs must provide feedback to the citizens' opinions and proposals, especially when they decided not to incorporate citizens' recommendations in the final decision.

Furthermore, meinBerlin appears to be lacking in terms of digital deliberation. Even leaving actual decision-making out of focus and considering deliberation in a broader sense as the exchange of thoughtful opinions, it seems that this mostly happens offline during institutional meetings. Additionally, citizens' online comments on urban planning proposals are evaluated as individual contributions by public authorities rather than being collectively discussed among participants.

Considering now ParteciPA and Participation-Citoyenne, in both cases the Administrations that launched the consultations are obliged to divulgate the numbers (active and passive participants, comments, discussions etc.), content and impact of consultations. However, although results are to be taken into account by the relevant PAs (or the parliament, in some cases) the meaningfulness of participation remains ultimately in the hands of the promoting institutions.

Concerning deliberation, the agglomerative nature of both platforms, allowing PAs to organize the consultations as they see fit, prevents them from being evaluated as a whole. Depending on the specific participatory process, there could be more or less deliberation. For example, the latest climate consultation in France had moments of deliberation both in-person and online.

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150. A field of research on platforms for online deliberation is experimenting ways to scaling up online deliberation for complex problems. Simply moving conversations into the digital world leads to a simple exchange of text and speech online, producing large disorganised and often low-quality comment piles. Such conversational tools also create perverse incentives to polarisation and extremisation, on the one hand, and self-censoring, on the other. The approach based on deliberation mapping seeks to transcend those limitations, allowing quick and efficient problem-solving: all contributions appear as points in that part of the map where they logically belong, e.g. all answers to a particular question under that question (an example of that is the e-deliberation platform Deliberatorium, cfr. Klein 2022; see also Klein-Convertino 2014, p. 40 ff.; another example of digital deliberation platform is COLLAGREE, cfr. Yang-Gu-Ito-Yang 2021, pp. 4762 ff.). Many streams of research are also focusing on the possibility to use Natural Language Processing for (semi-)automatic moderation of online deliberation, providing real-time visualisation of argument maps, detection of fallacies in reasoning, hate speech detection, motivating more argumentation highlighting parts of an argument that are a good target for attack, fact checking and source identification and so on: see Vecchi-Falk-Jundi-Lapesa 2021.

151. One may ask if the quality of the debate depends on the particular engagement and level of education of participants, other than on the relatively small number of participants in a conversation. Would then problems arise if we scale up participation and make it more inclusive?

## V. Conclusions

As argued in the previous paragraph, it is indeed challenging to achieve a qualitative evaluation of e-participation through platforms. Nevertheless, from an observation of the numbers at Tab. 1 it can be said that specific platforms for e-participation still draw small attention from their main target: citizens. Even in relatively successful instances like PartecipaMi or Participation-Citoyenne, with many entries and contributions from users, the overall percentage of participants is still quite low. In the past decade many authors have argued that the best antidocte to the democratic crises – abstentionism, populism and so on – could only be an increased involvement of citizens throught participatory instruments and an overall better informed electorate. Often, the same authors would also suggest that these two elements would be easier to achieve thanks to technological development[152]. One of the observations we would like to underline, in our conclusion, is that although the technological development can open new opportunities, the mere presence of useful tools is not enough to overcome democratic crises, if the *démos* stays idly by. It is true that the proliferation of institutional platforms for consultation and participation denotes that a new understanding of the importance of participation from institutional players has been undoubtly achieved, but there is still a long way ahead.

Regarding Italy, we already saw in § IV D speaking of DESI 2022 that the lack in digital participation may be attributed, at least partially, to the lack of digital knowledge. Among the four indicators of the DESI (human capital, connectivity, integration of digital technology and digital public services) the greatest struggle for Italy is represented by the human capital: still more than half of Italian population does not have at least basic digital skills. Still, there is a great gap between a maximum of 150 users on ParteciPA and 38 million Italian users on

Facebook. Blaming the digital divide does not appear appropriate. In Germany only around 50% of internet users possesses at least basic digital skills[153]. But the numbers are still low when we consider France, where almost the entire population has access to internet and almost 80% of internet users has at least basic digital skills. Furthermore, these percentages cannot be attributed to the mere ignorance of the e-participation platforms' existence or to the citizens' lack of commitment.

Our shared impression is that citizens either are not interested in themes on which they are called upon, or they do not know that they can participate in discussions on themes that they are interested in. It has been proposed to try to use directly the most popular social networks to catalyze citizen participation. It could be an opportunity to draw citizens attention to the existence of platforms and specific consultations. After all, Public Administrations have once already used Social Networks to redirect users on official channels, campaigning against fake news on Covid-19 pandemic or to draw people's attention on the importance of vaccines.

Beyond the participation rates, which could benefit from a larger-scale publicity of these initiatives, the low percentages of engaged citizens can also be attributed to the time-consuming nature of participation. In the early sections of the paper we questioned to what extent digital democratic innovations could serve as an antidote to abstentionism. The case studies show that people are unlikely to dedicate substantial time to participation platforms unless a specific initiative deeply interests them, mirroring – and not changing – their reluctance to invest time in getting informed and voting. Hence, with such low rates of participation, the contribution of these platforms to "input-oriented" democratic legitimacy is notably limited[154].

Nevertheless, digital democratic innovations could still be valuable in gaining "output-oriented" legitimacy.[155] In other words, although we do not exclude that digital democratic innovations can ulti-

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152. Zarkadakis 2020, p. 79 ff.

153. Source: DESI thematic chapter.

154. Where political choices are assessed against the extent to which the individuals subject to these decisions were involved in their formulation directly.

155. When political choices are assessed against the extent to which they effectively promote the common welfare of a community, the well-being of the people, see: Strebel-Kübler-Marcinkowski 2019, p. 491.

mately enhance the 'perception'[156] of democratic legitimacy, the main contribution of the platforms for participation may not lie in their ability to fulfill the desire to participate or be heard, but in the production of more satisfactory policies for the community.

In conclusion, it seems that the mere proliferation of technological tools and participation platforms does not necessarily imply an improvement in commitment, a better understanding of political themes or, for that matter, a higher quality of the public discourse. The exceptionally rapid growth of civil society's technical proclivity in using devices and digital tools did not, by far, fulfill the utopian dreams of the inherent value of 'connection,' per se, fostered by social networks' founders. It is known that the world wide web and especially social networks are daily enslaved by illiberal regimes' liberticidal practices, such as censorship and surveillance of citizens. However, within the abovementioned EU regulatory context, social networks and platforms serve as invaluable sources for real-time feedback and diverse perspectives, enabling enhanced citizen engagement and data-driven policy formulation.[157] Nonetheless, addressing challenges such as data privacy and misinformation is imperative to uphold principles of inclusivity and accountability in governance. The original idea that connection among individuals, as such, would have benefitted society in spreading positive thoughts and marginalizing conspiracy theories, racism etc., simply did not materialise.

Finally, the institutionalized use of social platforms to catalize attention and providing access to public forums indirectly invested with small amount of decision-making has the potential to draw proper attention to common problems and help institutions meeting the citizens' needs. Time, public investments and further research on the positive externalities of digital democratic innovations are certainly required to fully realise their potential and enhance their impact.

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156. 'Perceived legitimacy' is indeed one of the indicators chosen by Geissel and Joas's framework to evaluate Participatory Innovations, see footnote 134.
157. See Cardone 2021, p. 15.

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