

Legal requirements for legally non-binding citizen consultation via the Internet

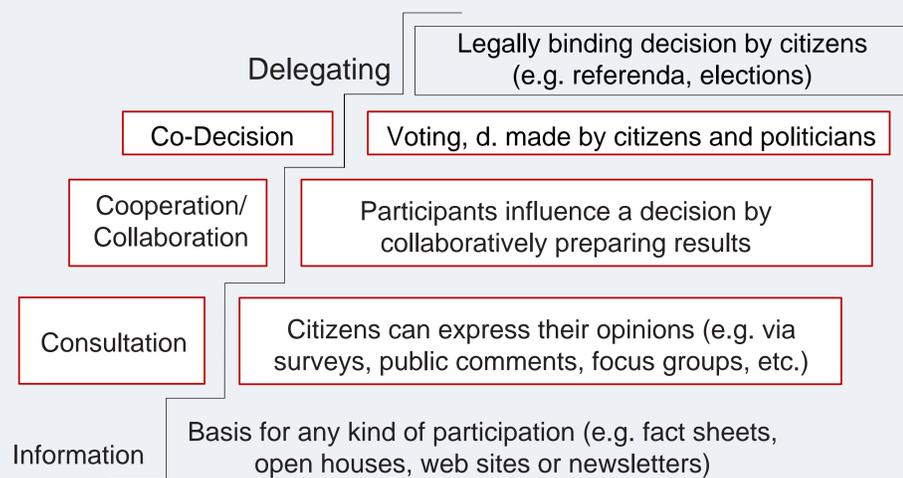
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Motivation and central research topic

- Citizen participation is back on the political agenda. This revitalization is fostered by a growing demand in society for greater political influence and the appearance of yet another new technology – the Internet.
- In regard to the possibility of binding decisions via the Internet (for example elections, referenda), there is general consensus that legal prerequisites are necessary.
- In regard to legally non-binding online participation, on the other hand, the necessity of legal regulation is not as clear.
- The research topic is narrowed to citizen participation:
 1. the results of which have no legally binding force,
 2. which are initiated voluntarily by the competent authorities (= informal participation). In contrast, the initiation of formal participation – mostly to be found in urban planning schemes [in Germany see i.a. § 3 BauGB (Building Code)] – is obligatory by law. And
 3. which have a deliberative element (hence enable participants to discuss the matter at hand).
- The first main research question therefore is: Why should there be any legal regulation on online participation processes, while their initiation is not obligatory by law and their results are not legally binding?
- Following questions are, which regulations in concreto should be applied and how exactly the appropriate legal framework should be set up. For example, what kind of information the authorities initiating the participation process must provide in order to enable citizens to participate.

Approach and current status

- Different Levels of Intensity:



- Example: online consultations on public budgeting

- Initial assumptions:

1. The higher the level of intensity (from Consultation to Co-Decision), the greater the factual binding effect of the results.
2. The greater the factual binding effect, the higher the efforts to justify making a different to the public.
3. The greater the factual influence of the results on the final decision, the more obligations for the competent authorities derive from the (constitutionally guaranteed) principle of democracy and the rule of law.

Inter- and transdisciplinarity

- Teammember of the project „DIID Monitor Online-Partizipation“, developing a database on online participation processes on the local level in the federal state of North Rhine-Westphalia
- See Peter Gladitz, Sabrina Schöttle, Malte Steinbach, Nadja Wilker, Theresa Witt (2017) DIID Monitor Online-Partizipation, KommunalPraxis Wahlen 8(1), S. 30-34 [in German]
- Cooperation with BUND – online statement commenting on the draft of § 18 eGovG NRW [Law on Electronic Gouvernment]

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