

Electronic Support for the  
Legislative Consultation Process:  
Theoretical Concepts, Practical  
Experiences, and Technical Requirements

*Günther Schefbeck*

7th Eastern European E-Government Days

Prague, 24 April 2009

# Overview

- (Legislative) consultation
- Theories of participative democracy
- Examples: Austria, Switzerland, Estonia
- Technical requirements
- Conclusions

# (Legislative) consultation

- Consultation (as a procedural instrument) is a (more or less) formalized way of obtaining the opinions of the (organized and/or non-organized) public on a policy issue or field
- Consultation (as a participative instrument) is not based on the representative sample approach but either on a political decision on the range of the consulted or on free participation
- Within legislative processes, consultation can take place at any stage; in practice, mostly at the pre-parliamentary stage

# Definitions of „e-democracy“

- „Technically“: use of NICT for performing functions of the democratic political system
- „Politically“: range from „bringing people closer to their government“ (*Clift*) to „bringing people together to help themselves“ (*Crabtree*)

# Participative democracy

- What is participation?
- Every way of participating in public decision-making (including elections)?
- Qualified way of participating in public decision-making by public discourse?
- Qualified claim to democracy!
- Background: differentiation state/society

# Difference vs. unity (Representation vs. identity)

- Model of a functionally differentiated society: functional systems of state and economy forming the basis for „Lebenswelt“ – democracy ensures restrictions on subsystems (*Habermas*)
- Model of a holistic society: no more differentiation of the political system from society, no more public authority, active „participation“ of all citizens in the common matters (*Castoriadis*)

# Participation vs. self-organisation

- Participation implies C2G/G2C-Ansatz  
(participation in extant, albeit adaptable structures)  
– aim: „closer to government“
- Self-organisation: C2C(perhaps CC2G)-Ansatz  
(cooperative establishing of structures  
supplementing, concurring, replacing the existing  
ones or making them superfluous – „e-democracy  
beyond e-government“) – aim: „closer together“

# Material vs. procedural legitimation

- Material legitimation of public decision-making would require democratic participation, based on information and communication
- Procedural legitimation requires transparency, brought about by information and communication (public sphere)
- NICT are offering both options (openness of technology)

# Two columns of democratic legitimation

- (Fiction of) representation (*Kelsen*)
- (Fiction of) deliberative politics: „interplay of the public sphere based on civil society with the institutionalised structures of opinion-making and decision-making in the parliamentary complex“ (*Habermas*)

# E-consultation vs. e-petition

- Substantial: consultation top-down, petition bottom-up
- Procedural (top-down): consultation and petition rights legally (constitutionally) guaranteed and determined (restricted)
- Procedural (bottom-up): claims for being consulted and petitions beyond legal determination (e.g., „citizens‘ initiative“ as a political vs. legal instrument)

# Example: Austria

- Corporations have a legal claim to be consulted by the Federal Ministries drafting bills
- Insufficient procedural rules, e.g. no minimum deadline – speeding-up
- Parliament involved since 1961 (information)
- More than 100 draft bills/year undergoing consultation procedure (more than 70 % resulting in government bills, considerable impact of consultation process)

# Electronification

- Opening-up of the consultation procedure to the public through the parliamentary website since 1999 (publication in PDF, „back office“: Oracle database)
- In the beginning mostly images, meanwhile number of documents submitted electronically growing (usually e-mail attachments)
- Since 2006 „external“ structure of draft bills structured like government bills in „E-Law“
- Since 2007 „E-Law“ interface for submitting draft bills to Parliament

**Gesamtliste - Microsoft Internet Explorer**

Adresse [http://www.parlament.gv.at/portal/page?\\_pageid=908,97306&\\_dad=portal&\\_schema=PORTAL&P\\_NR=XXIII](http://www.parlament.gv.at/portal/page?_pageid=908,97306&_dad=portal&_schema=PORTAL&P_NR=XXIII)

Parlamentarisches Geschehen > [Beurachtungsverfahren u. Stellungnahmen](#) > [Ministerialentwürfe](#) > Gesamtliste

**REPUBLIC ÖSTERREICH**  
Parlament

Parlament aktiv  
Parlamentarisches Geschehen  
Aktuelles  
Termine  
Wer ist Wer  
Parlament und Bürgerbeteiligung  
Parlament und Europäische Union  
Parlament International  
**Parlamentarismus erklärt**  
Nationalrat  
Bundesrat  
Bundesversammlung  
Parlamentarismus in Österreich  
**Parlamentsservice**  
Service und Kontakt  
Besuchen Sie uns

**Ministerialentwürfe der XXIII. Gesetzgebungsperiode u. Gesamtliste**

- Schülerbeihilfengesetz 1983, Änderung [\(24/ME\)](#)
- Allgemeines Sozialversicherungsgesetz, Tierarzneimittelkontrollgesetz u. a., Änderung [\(23/ME\)](#)
- Forschungs- und Technologieförderungsgesetz, Änderung [\(22/ME\)](#)
- Budgetbegleitgesetz 2007/Teil Österreichische Forschungsförderungsgesellschaft mbH Errichtungsgesetz, Änderung [\(21/ME\)](#)
- Umweltförderungsgesetz, Änderung [\(20/ME\)](#)
- Forstgesetz 1975, Änderung [\(19/ME\)](#)
- Betriebliche Mitarbeitervorsorgegesetz, Änderung [\(18/ME\)](#)
- Leistung eines österreichischen Beitrages zur vierten Wiederauffüllung des Globalen Umweltfazilität-Treuhandfonds [\(17/ME\)](#)
- Bundes-Umwelthaftungsgesetz [\(16/ME\)](#)
- Vermarktungsnormengesetz [\(15/ME\)](#)
- Wettbewerbsgesetznovelle 2007 [\(14/ME\)](#)
- Budgetbegleitgesetz 2007/ Teil Abgabenänderungsgesetz 2007 [\(13/ME\)](#)
- Garantieggesetz 1977, Änderung [\(12/ME\)](#)
- Öffnungszeitengesetz 2003, Änderung [\(11/ME\)](#)
- Austria Wirtschaftsservice-Gesetz, Änderung [\(10/ME\)](#)
- Bauarbeiter-Urlaubs- und Abfertigungsgesetz, Bauarbeiter-Schlechtwetterentschädigungsgesetz 1957, Änderung [\(9/ME\)](#)
- EU-Verwaltungsstrafvollstreckungsgesetz [\(8/ME\)](#)
- Finanzstrafgesetznovelle 2007 [\(7/ME\)](#)
- Bundesvergabegesetz 2006, Änderung [\(6/ME\)](#)
- Art. 17 DBA-Israel, Abänderung [\(5/ME\)](#)
- Katastrophenfondsgesetz 1996, Hochwasseropferentschädigungs- und Wiederaufbau-Gesetz 2005, Änderung [\(4/ME\)](#)
- 28. KFG-Novelle [\(3/ME\)](#)
- Sonderrechnungslegungsgesetz [\(2/ME\)](#)
- Konsulargebührengesetz 1992, Änderung [\(1/ME\)](#)

[Suche](#)

erweiterte Suche [il](#)

Nationalrat - Gesetzgebungsperiode  
XXIII GP 30.10.2006

Intranet

Inhalt drucken  
Inhalt vergrößern  
Lesezeichen setzen

[Bearbeiten](#)  
[Abmelden](#)

[Top](#)

Diese Seite wurde am 15.02.2007 um 05:30 geändert [Disclaimer](#), [Webmaster](#)

Start | P... | h... | G... | K... | P... | S... | S... | Ö... | P... | h... | W... | A... | I... | Ö... | G... | M... | S... | h... | Internet

15:23

**REPUBLIK ÖSTERREICH**  
Parlament

**Parlament aktiv**  
Parlamentarisches Geschehen  
Aktuelles  
Termine  
Wer ist Wer  
Parlament und Bürgerbeteiligung  
Parlament und Europäische Union  
Parlament International

**Parlamentarismus erklärt**  
Nationalrat  
Bundesrat  
Bundesversammlung  
Parlamentarismus in Österreich





**Parlamentsservice**  
Service und Kontakt  
Besuchen Sie uns

Parlamentarisches Geschehen > Direkteinstieg > Nationalrat - XXIII. GP > Ministerialentwurf > 8/ME

### 8/ME (XXIII. GP) EU-Verwaltungsstrafvollstreckungsgesetz

Ministerialentwurf betreffend ein Bundesgesetz über die Vollstreckung der von den nicht gerichtlichen Behörden und von bestimmten auch in Strafsachen zuständigen Gerichten der Mitgliedstaaten der Europäischen Union verhängten Geldstrafen und Geldbußen (EU-Verwaltungsstrafvollstreckungsgesetz - EU-VStVG)

#### Volltext/Dokumente

- Gesetzestext  [PDF-Image](#) (48 KB)
- Normative Anlage  [PDF-Image](#) (126 KB)
- Materialien - Vorblatt und Erläuterungen  [PDF-Image](#) (43 KB)
- Begleitschreiben  [PDF-Image](#) (68 KB)

Suche

Stellungnahmen zum Ministerialentwurf  
[1/SN-8/ME: ARBÖ](#)

erweiterte Suche [IL](#)

Schlagworte  
[Verwaltungsverfahren](#)

Intranet  
Inhalt drucken  
Inhalt vergrößern  
Lesezeichen setzen

Personen/Organisationen  
Bundeskanzleramt: Einbringendes Ressort - Bundeskanzleramt

Bearbeiten  
Abmelden

Geschäftszahlen  
670.502/0002-V/A1/2007 (Geschäftszahl der übermittelnden Organisation)

Geschichte	
26.01.2007	Einlangen
26.01.2007	Ende der Begutachtungsfrist 02.03.2007
06.02.2007	Stellungnahme <a href="#">1/SN-8/ME (XXIII. GP)</a>

[Top](#) ↑

Diese Seite wurde am 15.02.2007 um 05:05 geändert [Disclaimer](#), [Webmaster](#)



# Electronic consultation procedure

- Public response and expectations of formally involved parties have significantly increased within a few years since introduction of electronic (documentation and publication) system
- System is open to every party including individuals – but yet few individual comments (though growing awareness of individuals also observable)
- Formal involvement of individuals at provincial level!

# Perspectives

- Full integration of consultation procedure in „E-Law“ workflow system
- Advantages: secure and immediate delivery to Parliament, metadata, immediate publication, production of draft bills within the system prerequisite for applying XML standard
- Enabling the users to submit structured comments will allow automated generation of the „synopsis“ of the comments provided

# Example: Switzerland

- Detailed legal provisions for consultation procedure: law of 18 March 2005, decree of 17 August 2005
- Consultation procedure to be initiated by government or parliamentary commission on important issues
- Cantons, political parties, associations of local authorities and economy to be invited, everyone entitled to participate

# Electronic consultation procedure

- Art. 7 para. 1 Law on Consultation Procedure: in writing, on paper and electronically
- Draft regulations published and delivered on PDF, opinions may be submitted electronically
- New approach (pilot July 2007): structured electronic questionnaire, simple web application, questionnaire software prepared by enterprise specialized on online polling

## Fragenkatalog des Bundesrates zur Vernehmlassungsvorlage

### 1. Finanzierungsmodell des differenzierten Zieldeckungsgrades

#### 1.1

Unterstützen Sie den Ansatz, die Rahmenbedingungen für öffentlich-rechtliche  
Vorsorgeeinrichtungen denjenigen für privatrechtliche anzugleichen?

- ja
- nein
- keine Antwort

Bemerkungen:

#### 1.2

Unterstützen Sie den Ansatz, dass nur öffentlich-rechtliche Vorsorgeeinrichtungen  
mit einem Gesamtdeckungsgrad unter 100% bei Inkrafttreten der geplanten  
Neuregelung im System der Teilkapitalisierung geführt werden können und  
öffentlich-rechtliche Vorsorgeeinrichtungen mit einem Gesamtdeckungsgrad über  
100% zwingend im System der Vollkapitalisierung weiter geführt werden müssen (vgl.  
Absatz 4 i.V.m. Art. 72a Abs. 1 BVG)?

- ja
- nein
- keine Antwort

# Evaluation

- Problem: polling approach would not enhance differentiated discussion
- Breaking down a complex issue to yes/no dichotomies, commentary fields less used; automatic synopsis of results feasible
- Even dichotomic questions highly complex: background information required, but not provided within the system
- Considerable number of individual participants, though not primary addressees

# Example: Estonia

- Application TOM („Tana Otsustan Mina“ – „Today I decide“) launched by Estonian State Chancellery in 2001
- First e-consultation initiative on national level
- Forum to discuss legislative proposals (by government as well as by citizens), and to vote upon them
- Replaced by improved OSALE portal in 2007 (TID+ open-source software)

## KONSULTATSIOONID



Avaleht

Sisenen ID-kaardiga

 Otsi

kasutajanimi parool

Logi sisse

Registreeru

Huvigrupid

E-konsultatsioonide veebilehel on ministriumidel võimalik esitada eelnõud avalikule arutelule. Siin on kodanikuühendustel ja huvirühmadel võimalik eelnõule esitada aramusavaldusi ja täienduseettepanekuid. Osalusveebi haldab Riigikantselei.

- > Osalusveeb - mis see on?
- > Loe kaasamisest lähemalt
- > Osalusveebi mõisted

## Avatud konsultatsioonid

## Innovatsioonipoliitika juhtimise korraldus

Majandus- ja Kommunikatsiooniministeerium / Kristo Reinsalu

Kestvus: 03.09 2007 kuni 01.11 2007

Vabariigi Valitsuse otsedemokraatiaportaali „Täna Otsustan Mina“ (TOM) kaudu esitati innovatsiooniministeeriumi loomise ettepanek.

## Integratsioon Eesti ühiskonnas 2008-2013

Riigikantselei / Eva-Maria Asari

Kestvus: 01.08 2007 kuni 30.09 2007

Milline peaks olema riiklik integratsioonipoliitika?

Kutsume kõiki asjast huvitatuid oma arvamust avaldama integratsioonistrateegia eesmärkide, sihtgruppide, põhimeetmete osas. Kuni 30.septembrini on Teil võimalik esitada oma ettepanekud integratsioonistrateegia eelnõu täiendamiseks.

Pärast täienduste/ettepanekute laekumist töötab "Riikliku Integratsiooniprogrammi 2008-2013" töögrupp need läbi ning esitab need strateegia ekspertkomisjonile, kes teeb eelnõus vajalikud muudatused. Koostavastuse analüüsitakse ettepanekutest avalikustame osalusveebis hiljemalt 14. oktoobril 2007.

Täiendatud integratsioonistrateegia 2008-2013 eelnõu esitatakse seejärel kinnitamiseks Vabariigi Valitsusele 2007. aasta lõpus.

## Eesti Euroopa Liidu poliitika 2007-2011

## Leia konsultatsioon:

Märksõna: Valdkond: Ministeerium: Staatus: Algusaeg: Lõpuage: 

Otsi

Konsultatsioonid:  

- » Eesti turvalisuspoliitika põhisuunad aastani 2015 (24.08.07)
- » Kodanikuühiskonna sihtkapital (09.09.07) (1)
- » Eesti Euroopa Liidu poliitika 2007-2011 (30.09.07) (1)
- » Integratsioon Eesti ühiskonnas 2008-2013 (30.09.07)
- » Innovatsioonipoliitika juhtimise korraldus (01.11.07)

## Viimased aramusavaldused:

- » Eraisik (07.08.07)

# Evaluation

- Public interest had its peak immediately after launch, and was then decreasing
- Though considerable number of registered users, small number of active users only
- 10 % of users responsible for 70 % of activity
- Low impact on legislation, in correspondence with poor mobilization

# Requirements of an electronic consultation platform: structure

- Structuring opinions (aiming at easier overview and evaluation through synopsis); general comments need to be admissible, as well
- Embedding draft regulation in a structure-oriented format (XML) allows automated structuring of template for opinions in accordance with structure of draft, supporting access to accompanying material (explanatory remarks, text concordance), and automated processing of opinions (automated synopsis)
- Structured feedback possible (political decision)

# Requirements: user interface

- As long as processing XML files would require generic XML editors, user interface to substitute structural functionalities (e.g., web application)
- Interface usability of utmost importance
- Separation of narrative comments and alternative text proposals
- Portal functions: making available technical aids and reference material

# Requirements: user services

- Actor/role concept required in particular for administering institutional users (e.g., separation between drafting and authorizing opinion)
- Admission of individual users and extent of identification requirements for them up to political decision
- Specific features for individual users (e.g., Social Web tools to enhance developing opinions in a discursive way)

# Requirements: semantic tools

- Semantic mark-up of draft regulation would promote „understanding“ of meaning (e.g., resolution of implicit references, to start with)
- Semantic tools client-side would support access to relevant (online) information resources, and thereby help improving argumentation
- Semantic tools server-side would support automatic clustering and evaluating of less- or non-structured comments (e.g., knowledge discovery, text mining)

# Goals

- Main advantage: automated synopsis and/or clustering of opinions – evaluation speeded-up, managing large number of opinions possible
- User services would allow modelling of decision-making procedures for institutional users and discursive opinion-making for individual users
- Enriching consultation process by feedback procedure would provide responsiveness
- Enforced transparency of legislative process would strengthen legitimacy impact of „deliberative politics“

# Conclusions

- Between representation-based autonomy of legislature and need for material legitimation of legislation, consultation has a double mediatory function:
  - Information function: law-makers can optimise public acceptance of legislation by exploring societal interests
  - Legitimization function: legislation is provided with additional „legitimation by procedure“ through involving civil society in law-making process
- E-tools, in particular Social and Semantic Web tools, have the potential to increase interest in being involved, to improve quality of argumentation, and to make more efficient the evaluation of the results of consultation processes

Thank you for your attention!

Further information:

*guenther.schefbeck@parlament.gv.at*