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Open Governance and E-Rulemaking.

Online Deliberation and Policy-making in Contemporary Greek Politics

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Abstract

The Internet and its innovative communicative codes stand at the centre of a discussion regarding a new more participatory, direct and “strong” democracy. The widespread use of the Internet and its applications have profound implications on several facets of political life, such as the procedure of rulemaking. In modern, “large-scale” democracies, the complexity and plurality of political interests seem to be under-represented in official parliamentary procedures. The model of open governance enables citizens to contribute towards how decisions are taken and accordingly democratize rulemaking. At the same time, it increases their ability to exercise control over the elected political representatives.

One recent implementation of the idea of an open (e-)government is the website www.opengov.gr that was launched by the newly-elected government of the Socialist party in Greece (PASOK) in October 2009. In this website, draft laws per ministry are uploaded and citizens can upload their comments on every article, expressing their opinion or their disagreement. This online deliberative procedure provides a forum for constructive civic engagement on rulemaking and, moreover, given that the comments are incorporated into the final legal document, the chance for citizens to affect policy making to a certain degree. The website also provides the opportunity to watch videos of cabinet councils as a fulfillment of transparency in political procedures.

This paper examines how the premise of open governance is being implemented by the e-rulemaking process on the specific website, and assesses its impact on legislation and policymaking issues.

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Institutional deficits of representation in contemporary democracies

In modern multicultural societies, the complication of social structures, along with cultural, national and political pluralism, create a demanding network of interests and opinions. This matrix of differences imposes challenges on the contemporary decision-making process and literally constitutes the modern political gamble aimed at the maximum possible representation of conflicting interests.

Representative liberal democracy and parliamentary-based law making have so far been the commonly- accepted model for the political organization of societies regarding its potential for adequately representing social agents and social groups (Schmidt, 2004). However, the function of representative democracy failed to correspond to the initial expectations and this is now evident from the malfunctions detected in almost all western democracies. The inadequate connection between established institutions and the close embracement of strict rationalism and *typical legitimization* have created “regime gaps.” The realization of democracy in the terms of the “demos” (people’s) participation has been severely undermined and, inevitably, the notion of substantial *legitimization*, which relies on citizens’ trust and consensus, has been intensely questioned. Under these circumstances, the widely-discussed situation of “depoliticization” appears to be an inescapable effect emerging from the existing problematic state of politics in general.

The democratic cornerstone of constant public participation in decision making has been restricted to the voting process. By approaching citizens’ participation from this abstract and instant-centered perspective, we literally weaken public interest and involvement in decision-making, while supporting citizens’ existing belief that their participation is not of substantial value, as it actually has no impact whatsoever on the political process. Therefore, the current detachment of citizens from politics can be simply justified as a “*utilitarian*” attitude, which implies that ‘no act should be taken unless it produces noticeable effects.’ (See “*No personal gain in engagement*” in Table 1 below). It could be either justified if we take the *rationalistic stance*, as citizens treated as rational, motivated subjects would naturally not participate in a time-consuming procedure that is not trustworthy in terms of the results obtained (“*Low Trust in how government uses citizens’ input*”, see Table 1 below). Finally, the “*Low interest in policy and/or politics*” option-answer (see Table

1 below) can be interpreted both as a cause and/or as a consequence of the current state of citizens' abstention from the political sphere. The table below summarizes the aforementioned arguments:

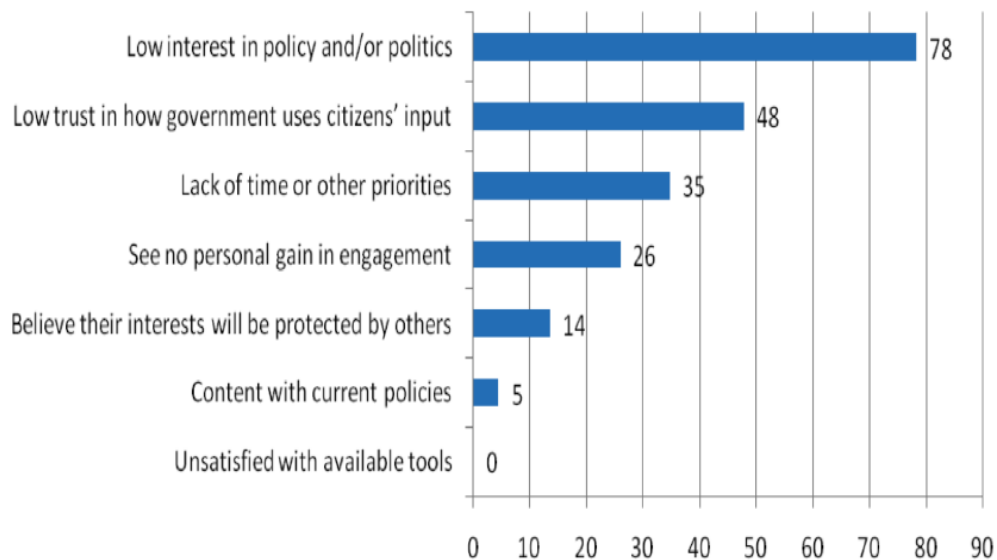


Table 1: Why don't people participate? Source: OECD, 2009
<http://www.oecd.org/dataoecd/13/8/43685911.pdf>

Similarly, in official politics, the above situation is also reflected in the articulation of political discourse. Individualism, economic determinism and instrumental reasoning are values that are well-entrenched in modern political discourse, which does not actually aspire to persuade voters but rather to gain their votes. This “vote gathering” model, which views citizens as passive voters, is strongly associated with the orthodox, liberal model of numerical preference aggregation and with the well-known “aggregative” perceptions of democracy (Schumpeter, 1947). Instead, participatory democracy proposes a new “vote-shifting” strategy that would rely on the basis of rational and well-structured argumentation, treating voters as rational and thinking citizens. (Jorgensen & Kock, 1998)

For the participatory and deliberative conception of democracy, “*politics may necessarily involve the aggregation of preferences but only insofar as those preferences are not taken to be given and fixed but are instead seen to be a product of the political process itself arising through reflection and argument.*” (Weale, 2000) In deliberative democracy, equal significance is placed both on the process that leads to a result and on the result itself. The deliberative approach towards how preferences are formed presupposes, among other things: a) public participation, b) rational

justification of arguments, and c) consultation in shaping political decisions. Closely connected with this discussion is the need for the re-conceptualization of the notions of, to use Rousseau's terms, "public" and "collective will", focusing on how the latter is finally formed. For the realization of a deliberative democratic scheme, "public" should be ascribed again with the terms "common" and "shared", escaping consumerist and marketing connotations (Yannas, 2010: 245).

Nowadays, in modern western democracies, "common will" does not constitute a collective action by the citizens. Rather, it can be characterized as a top-down hierarchical procedure, where governmental bodies and the media - acting as intermediaries between the government and the public - are the dominant key players. The power of the media in shaping the news agenda is discussed in depth in media studies, and the recent economic recession has demonstrated its catalytic role in influencing the public's reaction to issues of public concern.

Unlike with legacy media, the intermediary role of the Internet in the democratic process allows for (inter)action and deliberation between citizens by (net)working diverse ideas. Yet, the actuality of an integrated and egalitarian public sphere in the media is debatable (Butsch, 2009) and the digital public sphere remains highly fragmented for many reasons. On-line discussions and forums do not always follow the ideal standards that deliberative theorists wish to achieve. (Dahlgren, 2005: 155-157). The likelihood of a limited and isolated deliberation taking place on multiple topics and e-platforms is not always resulting in the construction of a community or in decision-making. Moreover, the extent to which participation in Internet discussion forums remains dependent on socio-economic variables must not be underestimated. The fear of a 'digital divide' still haunts the Internet's social profile, and it is also very likely to haunt the E-Rulemaking initiative, as motivational, cognitive and educational barriers are intertwined with the level and quality of the participants (Coglianese, 2006: 964-965).

The emphasis placed on the idea of more active public involvement by citizens does not lead to an alternative model of political organization within modern societies. Rather, participatory democracy through deliberation exists to strengthen

and to empower already existing democratic institutions. The Deliberation Theory - and especially e-deliberation - is an attempt to propose solutions and provide answers, on both a theoretical and a practical level, in order to improve institutions within massive representative democracies.

Under the auspices of an open-governance plan, the role of the State can again be reinstated as the authentic conveyor of common will rather than as a top-down authoritarian structure pursuing preferential goals. The proposal of open-governance and deliberation are based on respect for and preservation of the common interest, on the openness of procedures, on the constructive participation of citizens in making decisions and, ultimately, on the bi-fertilization of regulatory rulemaking, enhancing a mutual benefit for the parties involved and for society in general.

Deliberation and E-Rulemaking

E-Rulemaking stands at the crossroads of political and media theory. For this reason, several remarks deriving from the common grounds or contradictions in the co-existence of these fields should first be critically elaborated. In this discussion, legal scholars, especially experts in administrative law, also have a strong say in e-rulemaking procedures.

The Internet is widely praised for its alternative communication technology, which enables the active involvement of citizens and a two-way flow of information. Not only is the Internet an “information-provider” medium, but it is also an “information-collector” medium that has the potential to very easily - and legally - obtain information from its users. E-Rulemaking bridges these two potentials of Internet-based communication, introducing new developments and new tools into the field of social policy (Shulman, Schlosberg, Zavestoski & Courard-Hauri, 2003:162-163). The application of information infrastructures in the rulemaking process has already been acknowledged for the various innovations it offers in the reformation of legislative procedure (Coglianese, 2004, 14-16).

The model of deliberative democracy, which can be approached from many different theoretical angles involving contradictions and varying proposals (See p.e

Habermas, 1996; Dryzek, 1990, 2000; Fishkin, 2004; Benhabib, 1996; Bohman, 2000), attempts to moderate the rigid structures of representation that have alienated people from democracy. Deliberation relies on the principles of good and sustainable argument and on the opportunity for open and equal public discussion in all possible fields.

In the following section, some comments are made and some conclusions drawn by connecting the process of deliberative democracy with E-Rulemaking and by elaborating on some key issues and characteristics that should be taken into account from the outset.

First, deliberative democracy - especially from its Habermasian stance - has been accused of having a rigid procedural nature and idealistic expectations. What is important, though, notwithstanding this procedural allegation, is that deliberative democracy encompasses elements of both institutionally-formed popular sovereignty (parliament) and the non-institutional (public deliberation) (Schmidt, 2004: 288-289). The E-Rulemaking process clearly illustrates this duality and combination of institutional and non-institutional mechanisms of power. Under this veil, citizens' participation in this procedure should be evaluated as an additional and substantial precondition for an efficient legislative procedure which does not contrast with but rather enriches official parliamentary procedures.

Secondly, public deliberation can be either institutional (formal) deliberation or informal. Institutional deliberation, being managed by the State, is conducted within a specific, structured framework and is usually expected to provide specific outcomes. The informal deliberation usually takes place between citizens in non-official fora. It can also take place in an informal way between politicians and citizens but, whichever way, it is not structured and usually not easily observed. Due to the difficulty in recognizing and evaluating informal deliberation, the main body of academic research has long been focused on institutional deliberation. Nevertheless, studies on the informal deliberation in citizens' discussions groups, bring to the surface enlightening remarks on how the deliberators' socio-economic status (SES) and political orientation affect the way they pose their arguments and how easily they

may change their opinion (e.g. Jackman & Sniderman, 2006). The E-Rulemaking project examined in this paper falls into the category of institutional and structured deliberation.

Thirdly, a few remarks regarding the expected outcomes of an institutional deliberation. In his interesting study, D.Ryfe - after analyzing institutional deliberation conducted within functioning US organizations of public deliberation (a total of 16) - identified five main goals-reasons why such deliberation takes place: 1) the education of the participants regarding specific issues of public interest, 2) conflict resolution, 3) co-operation, 4) possible undertaking of an action, and/or 5) enforcement of specific policies (Ryfe, 2002: 362-364). If we project this typology onto the E-Rulemaking process, we can claim that all the above goals may also be served and anticipated in this specific procedure. As already supported, E-Rulemaking *“may be the only form of online deliberation that regularly ends in some form of actual implementation by the state.”* (Schlosberg, Zavestoski & Schulman, 2007:39) Furthermore, if we view conflict resolution from an institutional perspective, then one more target has been added to the aforementioned: the potential of e-conflict resolution to minimize judicial opposition, as a large number of trials usually originate from unfair or socially-imbalanced legislation.

Fourthly, a distinction needs to be made within the realm of institutional deliberation between that which takes place at an inter-personal level and that which happens in a digital environment (as E-Rulemaking does), focusing on the following elements:

a) The main difference is that discussion at an inter-personal level requires the physical presence of all participants, thus allowing interaction, direct contradiction and other features of inter-personal activity to interfere in the process. Distant E-deliberation is practically an isolated process between deliberators who are not affected by the presence of other participants, although they can read each others' comments. From this point of view, perhaps e-deliberation does have many more credentials of “objectivity” if compared to the well-known feature of small group deliberation to form like-minded communities while excluding other participants (Mutz & Martin, 2001). In E-Rulemaking, this ideological homogeneity of

deliberators is not at all expected; rather, it should be avoided. Finally, juxtaposing Sunstein's (2001:8-9) fears of the danger of Internet users being exposed only to like-minded viewpoints within the electronic sphere, E-Rulemaking can actually enhance meaningful interaction between the public and the official State, exposing interlocutors to a broad range of viewpoints and, ultimately, creating space for the mutual definition and exploration of problems (Carlitz & Gunn, 2002:5 -html paging). The enduring danger in the "e-option" of the deliberative procedure and the fact that deliberators are not pre-selected as a representative sample of different demographic characteristics and opinions is the possible under-representation of all different voices and social parties. However, representation in the deliberative procedure should not be considered strictly in numerical terms or as referring only to established representative bodies (such as political parties, workers' coalitions, professional associations, class divisions, etc.) Rather, if we endorse the notion of discursive representation that Dryzek & Niemeyer (2008) propose, we could concentrate our efforts for "all the voices to be heard" instead of "everybody to be heard," which also seems more feasible in large-scale democracies.

b) The E-Deliberation and E-Rulemaking processes, as anticipated, do reflect the communicative codes of the medium involved in the process - the Internet. If we exclude the obstacle of anonymity, which could be easily overcome by registering the deliberators, another crucial matter is that of the well-known, negatively-perceived "freedom" of the deliberators. In this undesirable situation, deliberators may cross the boundaries of a civilized deliberation, post insulting comments or participate not for the purposes of facilitating rulemaking but for the purpose of making fun of the procedure or of negating its political objectives. Such behaviours can appear on-line and cannot easily be avoided. In the first place, we should assume that public deliberation is open and not exclusive, meaning that everybody can be involved in it without being questioned on any of their ideological preferences or personal identity issues. Difference, contradiction and disagreement are ingredients and requirements of the functioning of democracy (Sunstein, 2001:14) and should, similarly, be preserved in the electronic realm. Hence, when an unsavoury and not "politically correct" point of view is expressed, perhaps it should be left posted on the website (provided it does not upset or offend anybody), thus letting the public itself criticize it. Equally, this practice could encourage on-line responsibility, which is always a legal

issue in on-line activities, with only the identified and responsible interlocutors, as those who accept full responsibility for their comments, participating in the procedure. In any case, in the public sphere, visibility, responsibility and openness should be maintained.

c) Finally, we should not have great expectations from the medium itself to maximize incredibly public participation. Studies are not really convincing for the increase of citizens' political engagement because of the Internet (see eg: Bimber, 2001). E-Rulemaking initiatives are not always persuasive in generating public involvement either (De Figueiredo, 2006). Moreover empirical studies demonstrate that it is more likely for Internet to facilitate active citizens' engagement in politics rather to motivate passive citizens (Weber, Loumakis & Bergman, 2003; Deligiaouri & Symeonidis, 2010). Willingness to participate is not either to be taken for granted (Putnam, 2000) although it can be more easily achieved due to the easy participation modes that Internet offers. The “myths” for a real open -governance that accompany Internet are not always fulfilled (Collins, 2009) and now we know that Internet “won’t probably change everything” (Shulman, 2004). Internet is not a political medium per se but it can be used politically if we take technology under democratic control (Shulman et al., 2003:165).

There can be no doubt that e-deliberation and e-rulemaking is a step forward towards to a “communicative democracy” (Young, 1996). By supporting a communicative process in democracy, it does not mean that we focus our interest only on communicating ideas and do not consider the possible outcomes and effects of this procedure. Neither does it mean that we shift our interest from the arena of “real politics” to e-politics, prioritizing endless deliberation over real decisions. On the contrary, it means that we aim to provide societies and their citizens with tools to achieve better communication, to obtain reasonable argumentation and to take more beneficial decisions. Certainly, counter arguments claiming that “*the outcomes seldom leave all parties content, but a legitimate decision-making process with meaningful opportunities for all relevant stakeholders to participate at least offers the potential for a wider variety of outcomes[.]*” (Zavestoski, Shulman, Schlosberg, 2006:389-390), and that public hearing can turn into distorted communication are present, warning us about possible disorientations in public deliberation.

Law scholars address the matter with serious scepticism and maintain a modest optimism when evaluating the benefits of e-rulemaking in a broader institutional and legal context (Benjamin, 2006). Definitely, engaging in an E-Rulemaking process does not mean that the problems of regulatory rulemaking and adequate representation suddenly vanish. For example, off-line rulemaking is usually - despite the differences in legislative procedures in different states - a time-consuming procedure requiring multi-institutional action. Including e-consultation in this process with no specific plan could further delay this procedure. Other considerations regarding e-rulemaking include the possibility of strong “veto” arguments being imposed during the public negotiation of key issues that are likely to provoke opposition and, if not confronted rationally by both sides, could lead to a deadlock. Certainly, democracy has no deadlocks, yet on occasion reaching consensus as an end, as Habermasian deliberative scholars wish, is unachievable.

Last, e-Rulemaking is not a new e-application. It has been used quite extensively, especially in the USA (see Carlitz & Gunn, 2002; Fountain, 2003; Coglianesi, 2006; Zvestovski et al., 2006; Farina, 2009) in reforming (federal) legislative procedure and policy-making. Empirical data and reports from US initiatives indicate that: *"The History of the E-Rulemaking Initiative demonstrates that governance, management and funding, technical architecture, agency practice and public response all interact synergistically."* (Farina, 2009). Likewise, it remains a disputable issue whether the e-rulemaking process can meet reformers' expectations and make a significant change in the regular-traditional law-making process. (Coglianese, 2006: 944-945).

Stages and pre-conditions for effective E-Rulemaking

The previous analysis brings to light serious warnings and considerations for an “effective” rulemaking process that would not simply become a symbolic civic participation which just provides legitimacy to pre-given decisions. Factors that affect civic participation on the Net also apply to e-rulemaking, with, in some instances, them being even more demanding and intensive because of the special nature of the process. For example, E-Rulemaking pre-supposes, beyond basic Internet literacy, a basic legal literacy as well, to the extent that the interlocutor who is willing to

participate needs to have substantial knowledge both of internet technologies and of the rulemaking process itself.

Reflecting on the thoughts and instances emphasized previously, and by categorizing E-Rulemaking as structured institutional discourse, we propose the division of the E-Rulemaking procedure into three main stages that stand, additionally, as essential pre-conditions for the efficacy of such a process:

1) **Preparation for the Deliberation**, which includes amongst others: a) A user-friendly web platform, which is concise and not complicated, b) Timely uploading of the proposed legislative documents by the officials involved (usually draft laws and other supporting documents), leaving adequate time for deliberation, c) Adequate information and rules to be provided to the general public for the initiation of the procedure and for the conduct of the e-deliberation, d) A definite and specific schedule for the duration of the process.

2) **Deliberation Process**, which includes: a) Quick and easy registration by the user in order to be able to deliberate, b) The ability to comment on specific points-articles from the draft law uploaded, c) Answers to questions posed by the deliberators, if required.

3) **After the Deliberation**, which includes: a) Capable and well-trained administrative staff in order to handle the comments received from the citizens, to categorize them and inform the Minister accordingly, b) Compilation and adequate analysis of citizens' statements; drawing and publishing on-line a brief summary of the main points arising from deliberation could be useful for the productivity of the process, c) Effective consideration should be given to citizens' viewpoints in sense that no discrimination is to be applied to the posts. This means that no prejudice should interfere with the comments received and all voices should be equally considered, and d) Consideration and inclusion, wherever possible, of citizens' rational confrontation or proposals in the final law text prior to it being voted on in parliament.

E-Rulemaking in Greece. The case of www.opengov.gr

a) General remarks

In mid-October 2009, the newly-elected Greek Socialist Government, PASOK² (following the General elections of 4th October 2009) launched the electronic platform www.opengov.gr as the first move in the realization of its electoral commitments for open governance in Greece. The Prime Minister's Office declares in its introductory message on the website that "*open governance is one of the fundamental government election commitments. Essential elements of this policy are to merit the transparency in the selection of Directors of administration and the public consultation*" (<http://www.opengov.gr/home/?p=28> date of access 7-5-2010). It is true that such an effort is something new in Greek politics and is something which aims to reverse the continuing mistrust shown by the Greek electorate of both the function of government and of public administration.

In general, the design and structure of the website is in an interactive format, which is not at all tiring for the user and whose content can be quickly and easily accessed by anyone with basic Internet-literacy. The only disadvantage is that it does not have a word or phrase search engine for rapid access to specific topics and data, something which would be of benefit in the future, especially if the website is enriched with far more information and services. The general website home page provides links to each of the eight Ministries currently participating in the initiative, each of whose own individual websites follow the same design format, presentation and features offered. The electronic governance and IT communications team within the Prime Minister's Office is responsible for the design, implementation and support of the website, while the Deputy Minister of Education oversees the website.

RSS feedback is provided for those interested in following the progress of a deliberation. The page also offers the Web 2.0 applications of Tweets, Facebook Community share and Google Buzz websites, thus enhancing the sharing and discussion of topics of common interest between users. Therefore, www.opengov.com appears to be a multi-layered Web 2.0 platform providing a useful combination of Web 2.0 communication technologies.

² PASOK stands for the Pan-Hellenic Socialist Movement.

It should be emphasized that this is not the first time that the Internet is employed in the service of public administration and governance in Greece. Precursors of www.opengov.com can be found in the use of Citizens Service Centres (www.kep.gov.gr), where citizens could make an application for various documents, seek essential information, file their complaints, and so on. Another example relating to taxation policy is www.taxisnet, an on-line platform from the Ministry of Finance which enables financial transactions and applications between citizens and tax-enforcing bodies (eg: VAT returns, income tax statements, tax returns, etc). Additionally, databases such as www.et.gr (the official publication site for laws - Governmental Gazette), and more specialized databases for law scholars (eg: www.dsanet.gr, www.lawnet.gr, <http://lawdb.intrasoftnet.com/>) have been widely used for over a decade as search engines for rules, laws and official documents.

b) On-site services provided

The platform provides three services that promote the open governance project: a) e-consultation and deliberation relating to the rulemaking procedure, b) a call for interest in top governmental and executive administrative vacancies (followed by the possible uploading of candidates' CVs), and c) Ministerial Cabinet assemblies that can be viewed via technology streaming video.

In brief - before we proceed to E-Rulemaking which is the main premise of this web-platform - it should be pointed out that the other two services are of equal importance in the realization of an open-governance system.

More specifically, the second service focuses on providing transparency in recruitment procedures in public administration and government. Vacancies are publicly announced and interested citizens can freely submit their application or CV for evaluation for any job vacancy. The importance of services relies on the fact that the notices for the recruitment of executive officials are now freely accessible to everyone, and anyone now has the opportunity to submit their resume and benefit from an equal review process.

To date, as stated on the Web page itself, this service has been used in the following areas:

- The call for expressions of interest in the General and Special Secretaries within the ministries.
- The call for expressions of interest in staffing and positions as Deputy Minister of Educational Associates
- The call for expressions of interest in the staffing of the Office of the Minister and Deputy Minister of Finance
- The call for expressions of interest in the appointment of teachers in the positions of Regional Directors for educational regions.

In order to comply with the principle of public accountability, the e-listing of all general and special Ministry secretaries is obligatory. As already mentioned, applicants for staff positions in the Government must send their CV for the purpose of being considered for employment in government or in public administration. The procedure involves the uploading of appointed candidates' résumés so as to promote transparency and meritocracy in public administration recruitment. The expression of interest by the general public, as might have been expected, was extremely high especially for some “key” well-paid government posts (see Table 2 below).

MINISTRY	Applications received for Ministry vacancies
Ministry of Finance, Competitiveness and Shipping	10553
Ministry of Culture and Tourism	8580
Ministry of Education, Lifelong Learning and Religious Affairs	13067
Ministry of Substructures, Transportation and Networks.	5051
Ministry of External Affairs	7023
Ministry of Internal Affairs, Decentralization and eGovernment	10633
Ministry of Agricultural Development and Foods	2118
Ministry of Environment, Energy and Climate Change	7860
Ministry of Health and Social Collaboration	3647
Ministry of National Defence	2794
Ministry of Economics	10801
Ministry of Civic Protection	2439
Ministry of Justice, Transparency and Human Rights	3588
Ministry of Labor and Social Insurance	2912

Table 2: Number of CV applications uploaded for job posting per Ministry

Source: http://www.opengov.gr/home/?page_id=320 (date of access 22/07/2010)

This initiative has been met with suspicion as a possible "crude legitimization for the traditional practice of political patronage" (Yannopoulos, D., 2010 <http://www.athensnews.gr/articles/13372/10/01/2010/24631> date of access 21/07/2010). Generally speaking, mistrust was aired in public and in the media about the objectivity of the selection process, implying that no policy of meritocracy was actually followed in employment. However, delays in the appointment of key administrative and governmental officials resulting from this process have led to several dysfunctions of the government.

Regarding the third service provided on the www.opengov.com platform, that is the uploading of Ministerial cabinets, 19 postings were found for cabinet assemblies (between 3-12-2009 and 6-7-2010), of which it was discovered only 10 were finally uploaded (last access 26/07/2010). When the user clicks on the link in order to watch the video, they are transferred to a YouTube format where, in addition to the video, he can occasionally view comments made on the assembly in question using the common YouTube commentary format. This service purports to fulfill the requirement of public accountability in inter-government deliberation, allowing citizens a personal evaluation of how decisions are made and pursued in governmental sites. Again, the counter argument and suspicion was that the videos do not correspond to the whole assembly procedure, but show only part of it, with vital points of the discussion being deliberately omitted and thus excluded from public criticism. We certainly cannot support or reject this argument, but our study of the cabinet assembly video links reveals that the duration of each video is between 40 and 55 minutes. At least, this means that, even if we assume that the cabinet discussion is somehow "tailored," a significant part of it does remain available to the public, which is a very important fact.

E-Rulemaking and Consultation on www.opengov.gr

The consultation facility is the most robust service provided by the website. Therefore, all projects and all decisions taken and drawn up by the Government are posted on the site with the aim of entering into an electronic dialogue between the interested citizens and the Government (as represented by the Deputy Minister).

During the first phase, draft laws - accompanied by the relevant material (governmental decisions, explanatory directions) - are uploaded and the interlocutors can comment and upload their comments on each article separately. The timeframe for each deliberation is clearly set from the outset. After the expiration of this date, no further comments are accepted. The commencement of the process is regularly accompanied by an introductory statement from the Deputy Minister in which a few remarks on the draft law in question are provided together with a guarantee that the citizens' consultation will be fully considered.

Each uploaded comment is followed by all the previous comments that have been posted on it. In this way, when a user clicks on a comment, they can access all the comments made so far. Another innovative tactic is the ability to "comment on previous comments," which encourages dialogue not only between citizens and the government but also between citizens themselves, thus allowing for a certain group interaction to take place.

The E-Rulemaking initiative has initially included seven Government Ministries, with this to be extended to all existing ministries in the near future. These Ministries were:

- The Ministry of Internal Affairs, Decentralization and e-Government (<http://www.opengov.gr/types>)
- The Ministry of the Economy, Competitiveness and Shipping (<http://www.opengov.gr/ypoan/>)
- The Ministry of the Environment, Energy and Climate Change (<http://www.opengov.gr/minenv/>)
- The Ministry of Finance (<http://www.opengov.gr/minfin/>)
- The Ministry of Justice, Transparency and Human Rights (<http://www.opengov.gr/ministryofjustice>)
- The Ministry of Civic Protection (<http://www.opengov.gr/yptp/>)
- The Ministry of Education, Lifelong Learning and Religious Affairs (<http://www.opengov.gr/ypepth>).

Citizens' participation ranges from them sending their comments and publicly expressing their opinion on the site of each deliberation to, in some cases, filling in a questionnaire. When the deliberator enters the draft law, they then click on the article they wish to comment on and, at the bottom of the page, there is a simple registration

form followed by a frame for their comments. Their first name, surname and e-mail address are the only personal identification details requested. When a deliberator posts a comment, the already declared name appears after that comment. However, anonymity is still possible by entering an abbreviation rather than your full name, or perhaps even providing a false name. There is no evidence that the personal details of any the participants are checked for their validity and correspondence to true identities. On the other hand, offensive comments or comments may have annoyed another user can be reported to the administrator (“flagged”) by clicking on the relevant option to the right of each comment. The rules and terms that govern deliberations are prescribed analytically on a specific link provided on the website.

Thus, we could argue that this is a quasi-identification procedure that neither falls into a full-identification procedure of the participants nor allows for total anonymity. In this way, citizens probably feel freer to express their ideas. In Internet-based participation, as previously stated, social and political parameters do interfere somewhat, and citizens’ fear of being criticized for their opinion or the case of preferential selection in the uploading of comments is always present. However, this is an ideal opportunity to test the quality and depth of our democracy, which should guarantee that no discriminatory tactics for the freedom of speech apply and that all opinions - with serious and justified argumentation - will be taken into consideration.

So far, the statistics on the website indicate that the citizens have warmly welcomed the deliberative process. Table (3) below provides useful statistical data per Ministry.

DEPUTY MINISTRY (of)	NUMBER OF COMPLETED DELIBERATIONS (from October 6 th 2009 to July 13 th 2010)	NUMBER OF CITIZENS' COMMENTS UPLOADED on www.opengov.gr
Internal Affairs, Decentralization and E-government	5	14.933
Finance	4	14.902
External Affairs	0	-
National Security	0	-
Economy, Competitiveness and Shipping	14	2639
Environment, Energy and Social Change	13	5671
Education, Lifelong Learning and Religious Affairs	7	4897
Structures, Transportation and Networks	2	212
Labour and Social Insurance	2	766
Health and Social Collaboration	0	-
Agricultural Development and Foods	5	315
Justice, Transparency and Human Rights	8	452
Civic Protection	1	239
Culture and Tourism	0	-
TOTAL	61	45561

Table 3: Completed Deliberations and Citizens' Comments

Source: www.opengov.gr (data updated 13/7/2010)

In general, according to the statistics on the website, www.opengov.gr has had a total of 3,981,221 separate visits. This number is evidence of the great interest shown by citizens in the rulemaking process, especially regarding draft-laws that are crucial in their everyday life (eg: tax reform). As the above table shows, the Ministries that are leading the deliberative procedure - in terms of both deliberations conducted and comments received - are the Ministry of Internal Affairs, Decentralization and E-government and the Ministry of Economics. More specifically, when the Tax Reform Bill was uploaded, the Ministry of Finance alone attracted almost 10.000 comments (data retrieved from the blog <http://onlinepolitics.wordpress.com/2010/02/22/opengovgr-first-120-days-e-deliberation>, Date of Access 20/07/2010). The Ministries that follow with comparatively high levels of civic participation are: The Ministry of the Economy, Competitiveness and Shipping and the Ministry of Education, Lifelong Learning and Religious Affairs.

The Ministries that have not yet attracted many deliberators are the Ministry of Substructures, Transportations and Networks and the Ministry of Agricultural Development and Foods. This is possibly because their topics focus on particular population groups, meaning that the deliberations so far conducted have presumably attracted citizens from specific social and professional groups.

Regarding the ongoing deliberative process, the data from each Ministry shows that the Ministries with the greatest number of citizens' responses remain constant (see Appendix). This is certainly due, firstly, to the close relationship between their topics of deliberation and policies and people's lives and, secondly, because the economic crisis has triggered greater interest in economic and financial issues.

The crucial point in this initiative, though, remains unexplored. The incorporation of public consultation results into the final legal text is just a promise waiting to be fulfilled by the Deputy Minister of each deliberation but with no legal commitment to do so. No specific rules apply on how the government should respond to the result of the consultation and on the methods that can be employed for the proper utilization of citizens' comments and their inclusion in the final law. The experience of the procedure has so far indicated that when a provision or a law in general is uploaded for deliberation and too many objections and disagreements are raised, citizens' reaction is then taken into account when forming the final legal text. Yet, there are no real safeguards for the validity of the final results and the implementation of a public-representative policy.

Conclusions - Taking a "step forward" into e-politics while not losing sight of real politics

In modern societies, the traditional, 'hierarchical' form of governance, within the context of the globalization of communication and interdependence, suffers from several representative shortcomings. The 'horizontal' form of governance that the Internet promises can offer solutions and revive the existing top-down governmental structures of bureaucracy by registering public demands and incorporating them into the policymaking agenda.

The innovative effort made by the Greek government reveals the fact that modern governing bodies are aware of the need for change in decision-making

processes. Governments have relatively effectively realized that lawmaking and policy making have to articulate and synthesize as many interests as possible in order to maintain a minimum level of social cohesion. Presumably, if social agents are not adequately represented by existing institutions and procedures, they are likely to find other forms of expression that may not comply with the existing structures and norms.

'Opengov.gr' is a vigorous move towards a new era of politics and public affairs administration. In the few months since its introduction, it has attracted the interest of many citizens and has provided an opportunity for democratic public dialogue that, despite certain inadequacies, is still a positive start. Whether a website can adequately capture and convey all the voices-opinions is something to be investigated. But taking the side which supports that democracy is "democratic enough" only when it is imperfect, we should not expect e-deliberation to be a panacea for overcoming all the pitfalls that representative democracy has fallen into. Moreover, we should not be so optimistic as to expect that E-Rulemaking will produce laws that will accommodate all possible interests and equally satisfy all sectors of a society. What we should expect from this and other such initiatives, though, is to have a more inclusive and open rulemaking system that will not be limited to bureaucrats' offices but instead will be receptive to social demands and acquisitions. For this purpose to be served appropriately, an agreed formality on procedure should be maintained in order to secure a democratic result from the effort.

The feature of the e-rulemaking process that we consider the most important for the real "step forward" in open governance policymaking is simply what we may call "meaningful deliberation." Naturally, the demand to be "meaningful" applies to both sides. First, for the citizens to feel they are engaged in a procedure where their say counts and is being fully considered. Second, for the government to re-establish its role as a social aggregator, by integrating the effective public hearing into law-making procedures and policies designed in the common interest.

At last, the search for outcomes in e-deliberation should not be related to a possible manipulation of the procedure in order to reach pre-imposed and pre-determined targets; instead, it should be addressed as an effort to ensure that the input from the parties involved has reached an effect. In this way, the potential for citizens' active civic engagement by eliminating their disbelief in the real value of their contribution can be maximized.

It should be underlined, though, that the action of web-based participation in e-rulemaking is intertwined with socio-economic variables that govern the level and quality of participation. Educational issues, motivational reasons and specific political conditions are likely to affect citizens “input” in the procedure. If web-based participation is to serve as a possible alternative and answer to the decline of social capital, then it should be analyzed more thoroughly beyond its electronic realm. Inviting people to participate is one side. However, the most important premise lies in how to make people’s participation more valuable by providing them with all the essential cognitive resources to enable their input to be a true contribution. There is no doubt that the radical step towards the proportional satisfaction of needs and a novel perception of how authority and power is shared within a society constitute a major political reformation. Making a strong start in this dimension means that there is the desire to continue and support this initiative.

Whatever expectations we may have regarding what e-politics can achieve, this should not distract us from other ways and domains where the power struggle emerges. Politics surface, unfold and are exposed in many different ways in a society. Open-deliberation is a core issue in contemporary democracies but there are also other forms of politically-oriented action that can equally and seriously influence the exercise of power, such as educational structures, protests, political pressure from opposing parties or lobbies and henceforth (Walzer, 1999). Political activity can never be limited to pre-determined patterns and procedures and can always escape from the foreseeable limits. Antagonism in politics is indeed irreducible (Mouffe,2000) and does not constitute a “negative” aspect of democracy; instead, complexity, unpredictability, opposition and difference remain the indisputable values for a democratic regime.

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APPENDIX

(Data retrieved from the article Yannopoulos, Dimitris (2010) “The Dawn of a new era”, Issue nr 13372, in <http://www.athensnews.gr/articles/13372/10/01/2010/24631> date of access 21/07/2010).

"The ministry of interior, decentralisation and electronic governance at www.opengov.gr/types *Ongoing consultation topics*

1. Legislative initiative on political participation of native and foreign subjects from third countries residing legally and for a long term in Greece
 - A. Acquisition of the Greek nationality by the offspring of foreigners who have been born or attended Greek school in Greece.
Articles 1; comments 2,098; pages 210
 - B. Harmonisation of the institution of citizenship registration with the requirements of the rule of law. Articles 10; comments 479; pages 54
 - C. Participation [of native and foreign subjects from third countries] in first-degree local government elections. Articles 10; comments 330; pages 39
2. Specification of a highest limit of engine size for state automobiles. Introductory remarks.
Articles 1; comments 472; pages 48
 - A. Substantial Legislation. Articles 16; comments 1,182; pages 125
3. Draft legislation for the posting on the internet of decisions and actions of government and local council agencies as well as those of agency administrations.
Articles 8; comments 457; pages 98

The ministry of economy, competitiveness and shipping at www.opengov.gr/ypoan/ *Ongoing consultation topics*

1. Proposals for the enhancement of market liquidity: Settlement of the debts of enterprises and professionals owed to credit institutions and the protection of the debtors economic data
 - A. Draft legislation on debt settlement with the banks
Articles 2; comments 191; pages 20
 - B. Draft legislation regarding the Teiresias debt monitoring mechanism and the use of cheques Article 1; comments 104; pages 11
2. Proposals for the settlement of debts of over-indebted consumers
Articles 8; comments 1,231; pages 137

The ministry of environment, energy and climate change at www.opengov.gr/minenv/ *Ongoing consultation topics*

1. Draft legislation on packaging products and the establishment of a National Organisation for the Alternative Management of Packaging Products.

Articles 10; comments 24; pages 11

The ministry of finance www.opengov.gr/minfin/

Ongoing consultation topics

1. Dialogue for a fair and effective taxation system

Articles 7; comments 8,676; pages 862

2. Draft legislation on Social Solidarity Benefit and Social Responsibility Levy

Articles 4; comments 880; pages 41

3. Draft Legislation on the establishment of a National Statistical Authority (ESTA) as an independent administrative authority

Articles 12; comments 239; pages 27

The ministry of justice, transparency and human rights

www.opengov.gr/ministryofjustice/

Ongoing consultation topics

1. Draft legislation on the decongestion of prisons and improvement of incarceration conditions.

Articles 6; comments 102; pages 12

The ministry of citizen protection www.opengov.gr/yptp/

Ongoing consultation topics

1. Consultation on the setting up of an office for the handling of instances of police abuse

Articles 5; comments 229; pages 24

The ministry of education, lifelong-learning and religions at

www.opengov.gr/ypepth

Ongoing consultation topics

1. Consultation on hiring and changes of service of teaching staff

Articles 3; comments 3,538; pages 303”