

PARTICIPATION IN THE LAW-MAKING PROCESS: THE LEXIPATION APPROACH

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Abstract – Among the various solutions and tools for participatory law-making, an interesting one is being set forth by the LexiPation project. Basically the idea is to integrate the Living Labs methodology with an existing technology platform allowing to conduct moderated online discourses, to define a workflow of citizens’ involvement at the different stages of the legislative process. This paper describes the pilot applications of the project now taking place in the cities of Hamburg and Massa, Italy.

1. – Introduction

There is no single, standard description of a legislative process. This issue can be addressed from various standpoints and lead to a number of heterogeneous outcomes. In a comparative law perspective, for instance, one can be interested in exploring the differences in the process (or the similarities) that may occur across countries. At national level, there can be situations where a Constitution attributes legislative power to several elected bodies (e.g. the State and Regional Parliaments), which may lead to a proliferation of legislative processes. It is not uncommon that the Office of the Chairman in modern Parliaments may issue some guidelines for improving law production “quality”, both in terms of text clarity or elegance, and in terms of transparency or “accountability”, the latter seen as attributes of an underlying “production process”. Finally, the IT Departments of Parliaments (or similar entities) may be interested in describing the whole process for the sake of automating or simplifying certain parts of it, as an application of content/knowledge management systems or text mining solutions in the area of law making.

Recent reflections conducted at EU level **Error! Reference source not found.** on the issue of participation have highlighted in very broad terms the following four stages of a “typical” legislative process:

1. policy formation (agenda setting and prior analysis);
2. law drafting and discussion of draft legislation;
3. law implementation and monitoring of approved legislation;
4. amendments and follow-up.

At each of these stages, traditional issues (like the “competency” of law making body, or the forms of institutional control over it) can arise, together with more innovative ones, like the existing, possibly IT-supported, ways to enable and effect a free and constructive participation of citizens in the current legislation process.

Our interest in this paper, as in an underlying project entitled LexiPation (www.lexipation.eu) that is one of the six preparatory actions set forth by the European Commission in the topic of eParticipation, regards this latter issue only. More specifically, LexiPation is concerned with a novel use and integration of state-of-the-art methodologies and ICT tools to enable interaction between members of parliaments and citizens or socio-economic groups, at the regional level in four member states of Europe (Germany, Greece, Italy, and UK).

In the following sections, we will briefly describe the overall approach followed and its first results obtained in two of the four pilot applications of the project that are now taking place in the cities of Hamburg and Massa, Italy. In particular, section 2.1 will outline the technology used, section 2.2 the methodology and section 2.3 the integration between the two. Then there will be the pilot presentations of Hamburg in section 3.1, of Massa in section 3.2, and a wrap-up at the end of the chapter. Section 4 concludes the paper.

2. – The LexiPation Approach

LexiPation consists of a technological platform for participatory law making, that is modular in nature, based on the integration of state-of-the-art solutions and methodologies, and can provide flexible and secure support to legislators, members of parliament/city councils, party representatives and civil servants in their daily activities and/or collaborative interactions with “the people”.

Besides its content management functionalities, the platform allows to conduct moderated online discourses¹ on legislation proposals, involving policy makers, citizens and other socio-economic groups. The trials now being performed in the four selected testbeds of Hamburg (Germany), Thessaloniki (Greece), Massa (Italy) and Alston (UK) are focusing discussion on concrete draft legislations which have been identified and appropriately selected together with the partner communities. Apart from their territorial distribution, the pilots are representative of four different “levels” of European public administration, namely:

- the City State/Regional level (Hamburg),
- the Prefectural/Provincial level (Thessaloniki),
- the Municipality level (Massa),
- the Association of small Communities level (Alston Moor).

¹ Moderated online discourses enable interactive and asynchronous communication between large numbers of participants. The threshold to participate is quite low: users can contribute anonymously and spontaneously, they can participate actively or as observers, they can either write contributions, take part in polls, ballots and surveys or communicate with other users on peer-to-peer basis. Furthermore, people can form coalitions by getting in touch with like-minded people effortlessly and discuss certain topics or subtopics of mutual interest. Online discourses are a promising approach for different target groups and frameworks. They can be set up for a broad public debate with a high number of yet unknown, anonymous people as well as for discussions with representatives, stakeholders or delegates. Online discourses are not depending on known and already committed participants. They are able to cope with a higher level of fluctuation of participants as e.g. virtual working groups and though be able to come to specific results. The basic idea is that the people will be attracted by the ongoing discussion and their commitment to the particular community will have to develop during the course of the debate.

By integrating with existing IT infrastructure and web facilities in the public administrations, LexiPation ensures an improved access from citizens (front-end) and civil servants (back-end) to drafts of legislation and their supporting documentation (e.g. foresight, impact analysis, costs and benefits, etc.). In principle, the solution concerns all of the four stages of the law making process, as shown in the following table:

<i>Pilot Locations</i>	<i>Hamburg</i>	<i>Massa</i>	<i>Alston</i>	<i>Thessaloniki</i>
<i>Legislation process Stage</i>				
<i>-Agenda setting</i> <i>-Prior Analysis</i>	√	√	√	√
<i>-Discussion of Draft</i>	√	√	√	
<i>-Implementation of Law</i>	√		√	√
<i>-Amendments</i> <i>-Follow Up</i>	√		√	

Figure 1: LexiPation Pilots Overview

2.1 – Technology

Resulting from the FP5-IST research project DEMOS, TuTech Innovation GmbH developed a prototype of an innovative Internet-based service, facilitating democratic discussions and participative public opinion formation as well as networking and active support to the development and implementation of innovative projects. After the end of the FP5 IST project, the platform was substantially reconfigured and reimplemented. Currently it is a set of PHP-based web modules that facilitate large-scale e-participation and on-line deliberation projects, as shown in the following picture.

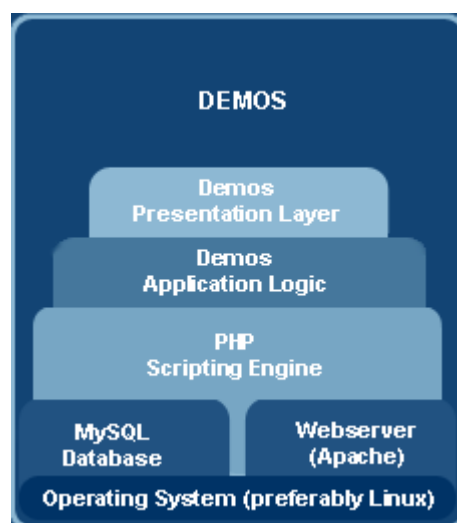


Figure 2: The current DEMOS solution

The new platform transcends the common approach of structuring user contributions (also named articles) in hierarchical and inflexible “threads”. Instead, each contribution is deemed as equal; its position depends on the meta information attributed to it, for example the number of votes, hits, or feedback articles. The moderator (as well as user) may choose and combine these pieces of meta information to generate specific “views” (i.e. filtered and sorted lists of articles). Together with innovative capabilities to structure discourses on a time-line and to integrate a huge variety of voting and rating mechanisms, the system fosters goal-oriented on-line deliberations. Most features of this flexible “discourse machine” can be easily switched on and off by the moderators in the administration backend: for example, the option to comment on any contribution may be turned off for the whole system but turned on for one specific view.

However, the main strength of the system emerges from user interaction; e.g. the users are allowed to create links between articles or assign articles to a specific position on a map, which results in visually stunning cluster effects. Furthermore, the content is effortlessly made available due to compliance with the relevant accessibility and syndication standards. The next picture outlines what has been called the “DEMOS process” which is always concerned with one main topic to be commonly discussed on a limited timeline under the guidance of online moderators:

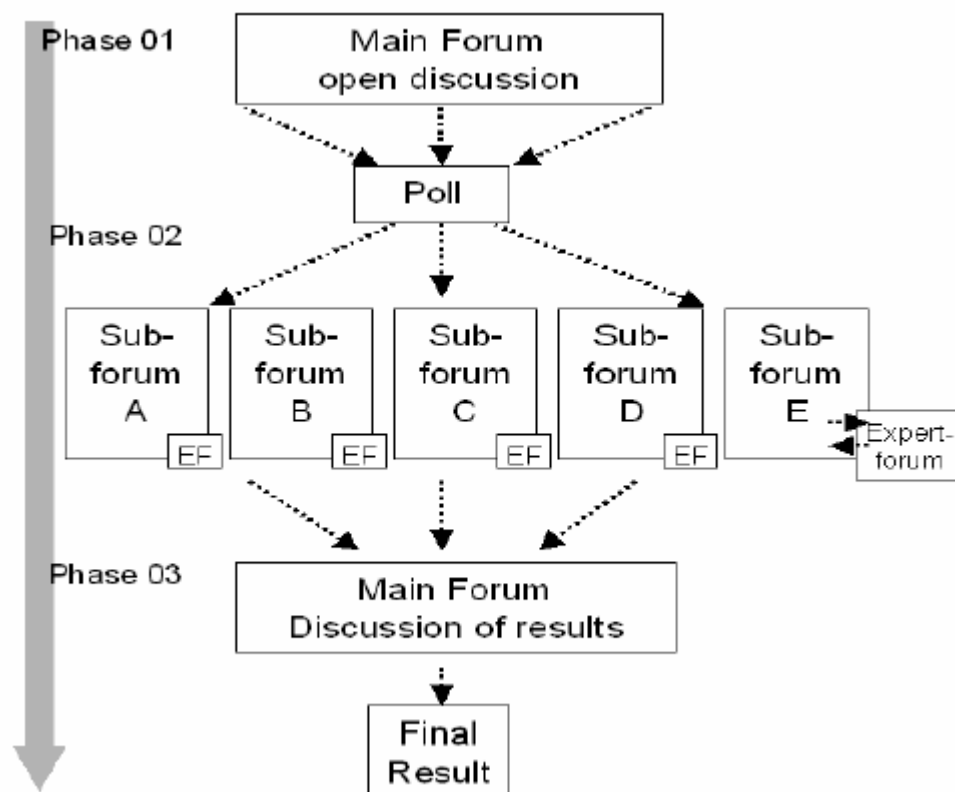


Figure 3: Outline of the DEMOS process

This flexible framework supports integration of nearly every discourse process model used by on-line moderators. Since 2003, many different e-Participation projects have been deployed

throughout Germany with up to several thousand participants, for example in the cities of Hamburg and Munich.

2.2 – Methodology

Though successfully tested in several moderated discourses, the solution has never been used in a legislative context so far. This effort basically requires an integrated, structured or non-structured, implementation of DEMOS discourse machine at specified stages of the legislative process. Borrowing from the Living Labs methodology² as presented in **Error! Reference source not found.** we have followed the 5 configuration steps described below:

1. **Contextualisation:** meaning all the preparatory actions involved in the trial, from the collection of background material to its publication on the public administration's web site;
2. **Selection of participants:** meaning the activities (if any) aimed to restrict / widen the panel of citizens and/or stakeholders representatives that will be involved in the trial;
3. **Description of the thematic focus:** an integral part of the trial, where its objectives are stated and pieces of draft legislation (if existing) are shown for evaluation;
4. **Running of the trial:** use of DEMOS discourse machine to reach an agreement with participants (if possible) or to collect and cluster the public opinion through moderated online discourses;
5. **Feedback from results:** the internal, and usually partly disclosed, activities leading to harmonisation of law-making with the trial results.

The essential feature of this methodology for participatory legislation is that it does not only make room for the expression of a “separate judgement” by interested people (with respect to their elected representatives), but it also sets the conditions for a *timely, informed and responsible* judgement, that are definitely harder to achieve.

2.3 – Integration

The LexiPation platform is a server-based Web application. The complete program logic runs on a server, while participants only need a common web browser. The project can be hosted by any common ISP.

Operations require the following basic components:

² The essential feature of a Living Lab is the consideration of users feedback and experience as an integral part of the testbed itself. Recent European research has known the operational value of Living Labs in three main areas so far:

- Bringing laboratory based technology testbeds into real-life, user focused validation environments;
- Developing mobility services for citizens in a real-world, early adopter community with existing and close-to-market technologies;
- Studying the collaborative working environments of the future from a pan-European perspective.

In all cases, the main focus has been on a user-centred, context-sensitive, multi-site and multi-stakeholder co-design or co-creation process, supported by mutual trust and implying the joint consideration of policy, market, societal and technological aspects.

- the DEMOS discourse machine, based on the open source scripting language PHP and optimized for MySQL;
- a Web server with an integrated PHP-scripting engine (preferably the Apache web server)
- MySQL-Database-System.

The number of servers and the quality of the Internet connection can be scaled according to the expected number of participants in the trial. For hosting and operation, only standard qualifications for administrators of UNIX systems are required.

Integration with the Living Labs methodology allows the project participants to focus on:

- debates on draft legislation (e.g. in Parliaments or City Councils) between political parties and that are involving their elected representatives;
- the “consultation/concertation” process of administration with citizens, businesses, NGOs and other socio-economic groups;
- everyday activities of MPs and Council members, with respect to both management of legislation proposals, amendments etc. and the social interaction with their respective constituencies;
- generally improved (e-)participation in the political and legislative process.

3. – Pilot Implementations

In this section we briefly outline the two LexiPation trials now being performed in the City of Hamburg and in the Municipality of Massa. Both of them are referring to a specific context, namely the one of “participatory urban planning”: the main difference between the two cases is that in the former, the legislator is asking people for new ideas and concepts for subsequent decision making, while in the latter, we are in the middle of a (partly mandatory) consultation process related to law drafting.

3.1 – The City of Hamburg

The discussion topic of the testbed in Hamburg is the renewal of a central public space in the inner city of Hamburg in cooperation with the citizens. This public space, called Domplatz, is located in the heart of the city and a site of cultural-historical importance. Pieces of a curtain wall of a former cathedral from the 9th century have been found in excavations recently. Before the excavation started in 2005, this place has been used as an urban reserve area and a car park for many years. After the city parliament decided to better integrate and reconstruct the Domplatz, several approaches and architectural competitions have been made but yet an appropriate concept is missing.

Hence, the department of urban development has tried to involve the public to collaboratively work out a renewal concept of wide acceptance, leading to a future land-use plan for the Domplatz. The discussion started in May 2007 and went on for three weeks (a typical duration for this trials). In different forums and sub forums the citizens of Hamburg could discuss their ideas and develop specific draft concepts in cooperation with other participants. Additionally, the LexiPation platform offered several technical functions for the participants to create individual architectural layouts by the help of the feature “my Domplatz”.

This feature included a map of the place, with zoom and notation functions, enabling the users to place and describe single objects in their own draft. While discussing the participants could have a look at all those different drafts and exchange their opinions. By the help of so called “wikis” - documents to be collaboratively worked out on the Internet – participants with similar approaches could bundle their ideas and develop comprehensive plans for a future usage of the Domplatz. In the end, all the concepts were ranked by the participants in order to find the best solution.

3.2 – The Municipality of Massa

Massa is the administrative centre of the province of Massa-Carrara. Located in the northern part of the Tuscany region, where sea and land naturally join in a wonderful and unique contrast, the municipality has a population is approximately 70,000 inhabitants, distributed in five boroughs. The Massa area has a high value for tourism and also hosts a concentration of some 800 industrial and craft activities, located within the so-called Apuan Industrial Zone, with a direct employment of more than 11,000 people. Together with the famous twin town of Carrara, Massa is worldwide known for the extraction and production of marble.

In the past 30 years, the outskirts of Massa have been facing a fast-growing urban occupation, characterized by a fragmented settlement structure, and a highly intensive use of land. As a result, the urban density of the coastline is comparable to that of a metropolis with millions of inhabitants. Since 2005, the local Government has started to develop a very innovative master plan (“structural plan”, to use the terminology of Regional Law No. 1 of 2005) under the high coordination of the famous Spanish architect Oriol Bohigas.

According to the new master plan, and the Regional Law behind it, urban planning and the underlying housing policy hold sustainable development as their guiding principle, and open consultation of all interested stakeholders (including individual citizens) are an integral part of normative production. By further integrating participation of local population in the planning process, the Massa Government aims to establish a better and wider understanding of urban and environmental problems as well as to build consensus on future policy measures. Starting from Spring 2006, several meetings have been held between the Mayor and key actors at local level, playing the role of “multipliers”, in order to collectively define the general goals.

The general objectives of the LexiPation pilot were the following:

1. to solve the conflict between city expansion and environmental protection,
2. to start the construction of new public infrastructure, and
3. to foster the creation of job opportunities within the tourism sector.

Another general aim of the project at the administrative level was to overcome the traditional sectorial approaches and to provide a best practice example of integrated planning procedure.

The participatory approach aimed to create identification with the new master plan throughout the Massa citizenry and a sense of “ownership” of the developed ideas and thereby lead to a better acceptance of urban zoning and the other complementary public decisions. One very decisive step within the participatory process was the collective definition of priorities for action, selecting those problems to be addressed most immediately.

3.3 – Next Steps

The pilots are still ongoing and their results cannot be evaluated yet. In particular, it is still not possible to assess to which extent the broad population has had access to the participatory law making process and its impact over the quality of norms production. However, this emphasis on ICT-supported participation in urban planning is quite novel and brings along far-reaching implications.

4. – Conclusions

Participatory urban planning is just one possible application for the LexiPation approach. This is now ongoing in other local contexts and under different topic areas and steps of the law-making process. However, apart from technical issues, (e-)participation has to be understood as a social and political process, which holds a general bearing on the relationship between people and institutions in society, and also has much to do with a new professional attitude of government officials.

To allow an effective participation in the legislative process, the first move is definitely to the Parliament (in the Hamburg case), or the City Council (in the Massa pilot), but how to ensure a really stable co-making of political decisions is an issue that may require some degree of reform within each constitutional setup. So far, a specific know-how has been accumulated by the LexiPation project participants on how to conduct moderated online discourses in the law-making contexts, but more reflection will be necessary on the complexity of institutionalising participation and the difficulty to introduce its outcomes into the formal legislation processes or administrative routines.

Acknowledgement

This research has been made possible in part by the European Commission funding under the eParticipation Preparatory Action (2006/1/017). However, the opinions expressed here are those of the authors and not of the European Commission.

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- [1] See “E-Democracy: Internet-based Systems for better Legislation and public Participation” - Summary Report of Stakeholders’ Consultation Workshop – Brussels, 3rd April 2006.
- [2] Jo Pierson & Bram Lievens (2005), “Configuring Living Labs for a ‘thick’ Understanding of Innovation”, Proceedings of EPIC Conference 2005, pp. 114-127.