



Applying Sortition in the EU: House of Lots or Random Votes?

14 February 2019 | doi: 10.5281/zenodo.2563737 (<https://doi.org/10.5281/zenodo.2563737>)

*The 'digital constellation' offers both opportunities and risks for democracy. While the information and communication technologies allow us to instantly communicate with each other enhancing the democratic dialogue, they prove to be a fertile ground for misinformation campaigns, hate speech and foreign cyberattacks. Although we are more frequently confronted with the risks, we haven't seriously thought of taking advantage of the opportunities. If we use technology everyday to interact, trade, inform or misinform each other, why not use it to more directly participate in the democratic process? Has sortition something to offer? In the second part of the series 'Sortition – a chance for the EU in the digital constellation?', **Konstantinos Tsakiliotis** discusses two hypothetical applications of sortition within the EU: House of Lots or Random Votes?*

In a globalized world, national states are unable to effectively address challenges that reach beyond their boundaries. *Habermas* requires supra- and international mechanisms to complementary serve this cause. He coined the term of post-national constellation to describe this situation.^[1] *Pernice* suggests in continuation of *Habermas*' thinking that states in the 'post-national constellation' face the risks and opportunities of ICT.^[2] ICT take up physical and national boundaries providing immediacy making human relations denser while also cultivating a global public opinion. Alongside go cyberattacks that endanger trust in politics and economy, data

protection violations that curtail individual freedoms and “fake news” that lower the quality of public debate which is vital for a solid democratic process. The challenges in the “digital constellation” correspond with those in the post-national constellation: How can democracies take advantage of the chances by adequately addressing the risks while ensuring their legitimacy and efficiency? The EU project is a study case on democracy in the “post-national constellation”.^[3] For its continuance reforms are needed that correspond with the opportunities and risks both of the “post-national” and “digital” constellation.

The EU Commission’s online consultations

One example of the application of ICT within the EU are the Commissions’ online consultations. Public consultations and thus online were first mentioned in the Commission’s 2001 white paper on ‘European Governance’.^[4] There, it reads, “democratic institutions and the representatives of the people, at both national and European levels, can and must try to connect Europe with its citizens”. The European Commission’s First Vice-President Frans Timmermans said, “transparency and consultation are at the heart of our efforts to produce better regulation for better results”.^[5]

Online consultations are defined as “interactive ‘tell-us-what-you-think’ on-line platforms where ordinary citizens, civic actors, experts, and politicians purposively assemble to provide input, deliberate, inform, and influence policy and decision making”.^[6] On the 15th of May 2018 the EU Commission launched an online citizens’ consultations asking what direction the EU should take. It will run until the Sibiu summit in May 2019. During last summer, more than 4.6 million EU citizens participated at an online public consultation organized by the EU Commission about the EU-wide summertime arrangements. Bearing in mind that 70 % of the replies (3.1 million) came from Germany (followed by France, 8.6 %) one would hardly consider these consultations representative for the whole EU.^[7]

Whereas in the present model of the online consultations everybody is allowed to submit any contribution, the participants of analogue consultations are usually randomly drawn: In 2007 and 2009 European Citizens’ Consultations took place first as national conferences which were concluded by a European summit to discuss major challenges the EU faces.^[8] To these, sortition is a key element. But, do pre-election dialogues suffice to fill the democratic gap of the EU? And isn’t the orderly conduct of online consultations disputable amidst cybersecurity and representativeness concerns? With regard hereto, two proposals will be introduced: an EU institution composed by randomly chosen citizens and the facilitation of the Commission’s online public consultations via *random sample voting* as proposed by David Chaum.

A European ‘House of Lots’?

Buchstein/Hein diagnosed the EU with a democratic deficit in 2008 when the Lisbon Treaty was rejected by the first Irish referendum.^[9] In the wake of a bitterly politicized financial crisis accompanied by an orchestra of troika-technocrats, behind closed doors intergovernmental talks, national parliaments confirming in a rush the “deals” of the executive with limited and unsubstantial deliberation one would say that this deficit deepened or at least became more evident. *Buchstein/Hein* observe that whereas some lower the standards necessary to legitimate the EU and others call on deep reforms to render the EU into a role for supra- and transnational

democracies all policy proposals nevertheless adhere to the traditional institutional features of national states. They advocate instead for a *second territorial transformation* crucial for its future. [10] The first one refers to the adaptation of former institutional systems – which suited the scale of a *polis*- to mass democracies according to the national state model: parliaments substituted the popular assemblies, separation of powers instead of a sovereign *ecclesia* and elections instead of representatives drawn by lot. Equally, the second transformation requires developing new institutional settings and according to *Buchstein/Hein* the reintroduction of lotteries is key to that.

They *inter alia* advocate for the institution of lottery-based chamber in the EU as complementary to the elected European Parliament.^[11] The members shall be drawn by lot out of the whole EU population according to the principle of degressive proportionality. The participation shall be mandatory and compensated equally to the elected member of the EP. This chamber shall have no right to control the Commission and the Council of the EU but instead to make recommendations to the Parliament, the Commission and the Council as far as legislative issues within the jurisdiction of the Parliament are concerned. Further, it shall be authorized to initiate and veto legislation. Its construction is destined to exert a higher deliberative pressure on the European Council that shall nonetheless maintain its ‘integrative and stabilizing advantages’ of reaching unanimous consensus. Thus, it shall alleviate politics from polarization and inter-party-conflicts allowing for substantial deliberations. *Buchstein/Hein* see the main objections in the fact the randomly chosen members won’t be chosen for a second term. Reelection provides an incentive to represent the fellow citizens and maintain a good public image avoiding corruption allegations. They further address another rather temporary objection: The public is not familiar with lotteries in politics. It is highly probable that a chamber not composed by professional politicians as the one we are used to won’t be taken seriously in the beginning. *Buchstein/Hein* addressed this concern in 2009. However, sortition since then has gained momentum in form of randomly chosen citizens’ consultations.

Or Random Votes?

Without prejudging the probabilities of institutionalizing citizens’ assemblies in the near future another perhaps more pragmatic application will be further discussed, bearing in mind that such an approach may familiarize the public with sortition leading to the implementation of suggestions as the one described above. The EU Commission’s online consultations may prove a fertile field for experimentation with sortition and more precisely the random sample voting system.

The question remains: how to guarantee representativeness and therefore legitimacy of the impact exerted by the online consultations while also securing the running system adequately? Regarding the issue of representativeness, the study by the European Economic and Social Committee considers “random representative sampling as a modern, scientific method to ensure the representation of both ‘organised’ and ‘unorganised’ civil society”. *Pernice* introduced in the Public Hearing on the 25th of April 2018 at the AFCO (Committee for Constitutional Affairs) of the European Parliament the random sample voting system by *Chaum*^[12] as a reliable, cost-effective and secure means to facilitate the “digitization of political participation”.^[13] Its spectrum of

implementation reaches from surveys over to votes and referenda. *Chaum* defines random sample voting as “the polling of a random subset of voters that is at least as secure against abuse as current elections”.^[14]

Random sampled voters cast “vote codes” which correspond with their unique ballot serial number and their “vote choice” such as yes or no. These codes are printed on the paper ballots they receive via post. Vote codes that are voted are posted online that allows for verifying that votes are recorded as cast while ensuring that voters are unlinkable to their “vote choices”. The so called election authority – in our hypothetical scenario, the EU Commission – supervises the conduct of the election according to the protocol. It encrypts a random -reordering of the voters and the blockchain determines whereich positions in the re-ordered list are randomly chosen, meaning the actual voters. In the process involved are self-selected auditors who check if the encrypted data published by the election authority match with inter alia the results of public random data and posted vote codes. Another unique security characteristic is the “decoy ballot”. Decoy ballots are issued by the election authority and include votes that are not to be counted but nonetheless cannot be distinguished from the legit ones. The fact that these can be requested by anyone renders vote buying ineffective.

The Commission’s online consultations pose issues as for example with regard to the representativeness, the transparency and also the bindingness of the results. Is random sample voting the right solution? And what new issues may possibly arise via this application?

Read here the first part of the series ‘Sortition – a chance for the EU in the digital constellation?’ (<https://www.hiig.de/en/what-if-politicians-werent-elected-but-rather-drawn-by-lot/>)

^[1] *Habermas, J., 1998. Die postnationale Konstellation: Politische Essays. Frankfurt am Main: Suhrkamp; see also Pernice, I., 2015. Multilevel Constitutionalism and the Crisis of Democracy in Europe. European Constitutional Law Review, 11, 541-562.*

^[2] *Pernice, I. (2018). Risk Management in the Digital Constellation – A Constitutional Perspective (part II). Revista de Internet, Derecho y Política (IDP)(27), 79-95, Pernice, I..2018. ENHANCING DEMOCRATIC DECISION-MAKING IN THE DIGITAL CONSTELLATION, Working Paper AFCO Hearing 25.04.2018, <http://www.europarl.europa.eu/cmsdata/142820/Globalisation%20trilemma%20IP%20180502.pdf>.*

^[3] *Art.5 Section 3 of the Lisbon Treaty reads “Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level...”*

^[4] *EUROPEAN GOVERNANCE – A WHITE PAPER, COM (2001) 428 final (2001/C 287/01), 12.10.2001, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52001DC0428&from=DE>.*

[5] *European Commission – Press release: Better regulation: Commission offers new opportunities for stakeholders to participate in the law-making process, 1.7.2016, http://europa.eu/rapid/press-release_IP-16-2378_en.htm.*

[6] *Tomkova, J, 2009. E-consultations: New tools for civic engagement or facades for political correctness?. European Journal of ePractice, Vol.7 pg.45-54; see also Coleman, S. and Gøtze, J. 2001. Bowling together: Online Public Engagement in Policy Deliberation, <https://www.acteurspublics.com/files/epublic/pdf/scoleman-jgotze-bowling-together.pdf>.*

[7] *European Commission Staff Working Document- public consultation on EU summertime arrangements, 12.09.2018, SWD (2018) 406 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018SC0406>.*

[8] *https://web.archive.org/web/20070703153628/http://www.european-citizens-consultations.eu/fileadmin/user_upload/ECC_Fin_Con_Media/ECC_Fin_Con_Perspectives_FINAL_1_.pdf, https://www.zsi.at/attach/ECC2009FinalReportECS_may09.pdf*

[9] *Buchstein, H. and Hein, M., 2009. Randomizing Europe: the lottery as a decision-making procedure for policy creation in the EU. Critical policy studies, 3 (1), 29-57*

[10] *Buchstein, H. and Hein, M., 2009. Randomizing Europe: the lottery as a decision-making procedure for policy creation in the EU. Critical policy studies, 3 (1), 29-57*

[11] *Buchstein, H. and Hein, M., 2009. Randomizing Europe: the lottery as a decision-making procedure for policy creation in the EU. Critical policy studies, 3 (1), 29-57*

[12] *Chaum, D. Random-sample voting. http://rsvoting.org/whitepaper/white_paper.pdf*

[13] *Pernice, I..2018. ENHANCING DEMOCRATIC DECISION-MAKING IN THE DIGITAL CONSTELLATION, Working Paper AFCO Hearing 25.04.2018, <http://www.europarl.europa.eu/cmsdata/142820/Globalisation%20trilemma%20IP%20180502.pdf>.*

[14] *Chaum, D. Random-sample voting. http://rsvoting.org/whitepaper/white_paper.pdf*



share

(<https://www.facebook.com/sharer/sharer.php?>



tweet

(<https://twitter.com/share?url=https%3A%2F%2Fwww.hiig.de%2Fen%2Fapplvina->



share

(<https://www.linkedin.com/shareArticle?>



share

(<https://t.me/share?url=https%3A%2F%2Fwww.hiig.de%2Fen%2Fapplvina->



e-mail

(<mailto:?body=https%3A%2F%2Fwww.hiig.de%2Fen%2Fapplvina-sortition-in-the-eu->

This post represents the view of the author and does not necessarily represent the view of the institute itself. For more information about the topics of these articles and associated research projects, please contact info@hiig.de (<mailto:info@hiig.de>).



(<https://www.hiig.de/en/konstantinos-tsakiliotis/>)

Konstantinos Tsakiliotis (<https://www.hiig.de/en/konstantinos-tsakiliotis/>)

Student Assistant: The evolving digital society

RECENT DOSSIER



Governing AI: Political players between vision and regulation

(<https://www.hiig.de/en/dossier/governing-ai-political-players-between-vision-and-regulation/>)

ISSUE IN FOCUS

INTERNET POLICY REVIEW ([HTTPS://POLICYREVIEW.INFO/](https://policyreview.info/))

Personalisation algorithms and elections: breaking free of the filter bubble (<https://policyreview.info/articles/news/personalisation-algorithms-and-elections-breaking-free-filter-bubble/1385>)

ELEPHANT IN THE LAB ([HTTPS://ELEPHANTINTHELAB.ORG/](https://elephantinthelab.org/))

Towards the Open Natural History Museum (<https://elephantinthelab.org/towards-the-open-natural-history-museum/>)

Related articles

(<https://www.hiig.de/en/trading-as-a-journalist-with-a-new-media-currency/>)



Trading as a journalist with a new media currency

By Natalie Pompe

(<https://www.hiig.de/en/author/n>)
| 26 February 2019

The We-Publish Infrastructure implements the idea of a media currency ("Medienfranken") in the form of a cryptocurrency and establishes an decentralised infrastructure for the media and journalists on a blockchain....

Leave a Comment

Logged in as Konstantinos Tsakiliotis (<https://www.hiig.de/en/wp-admin/profile.php>). Log out » (<https://www.hiig.de/wp-login.php>)

action=logout&redirect_to=https%3A%2F%2Fwww.hiig.de%2Fen%2Fapplying-sortition-in-the-eu-house-of-lots-or-random-votes%2F&_wpnonce=34d46d7969)

Comment

(<https://www.hiig.de/en/innovation-competition-crazy-ideas-welcome/>)



Innovation competition: Crazy ideas welcome

By Christin Skiera

(<https://www.hiig.de/en/author/c>)
| 7 February 2019

Open innovation – the strategic opening of innovation processes for external or even lay persons – is not yet very widespread in Germany. Other countries are already much further along,...

(<https://www.hiig.de/en/terminator-wont-save-us/>)



Terminator won't save us

By Isabella Hermann

(<https://www.hiig.de/en/author/it>)
| 20 December 2018

New technologies like AI open up a lot of chances but also bear many risks. Couldn't we just learn how to deal with this from science-fiction films having already played...

SUBMIT COMMENT

← What if politicians weren't elected but rather drawn by lot? (<https://www.hiig.de/en/what-if-politicians-werent-elected-but-rather-drawn-by-lot/>)

KEEP UP TO DATE

Subscribe to our newsletters and get invited to our events

SUBSCRIBE ([HTTPS://WWW.HIIG.DE/EN/NEWSLETTER-REGISTRATION/](https://www.hiig.de/en/newsletter-registration/))

(<https://de-de.facebook.com/HIIG.Berlin/>) (https://twitter.com/hiig_berlin)

(<https://www.youtube.com/channel/UC0ABcC5DGx2J7YGkGQtgZEw>)

(<https://www.instagram.com/hiigberlin/>)

Imprint (<https://www.hiig.de/en/imprint/>) · **Data Protection** (<https://www.hiig.de/en/data-protection-policy/>) · Unless noted otherwise all content on this website is handled under Creative Commons License BY-SA 3.0 (<http://creativecommons.org/licenses/by-sa/3.0/>)