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Year: 2013

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DOI: [https://doi.org/10.1007/978-3-642-30068-4\\_9](https://doi.org/10.1007/978-3-642-30068-4_9)

Posted at the Zurich Open Repository and Archive, University of Zurich  
ZORA URL: <https://doi.org/10.5167/uzh-111568>  
Book Section

Originally published at:

Mendez, Fernando (2013). EU democracy and e-democracy: can the two be reconciled? In: Demetriou, Kyriakos N. Democracy in Transition : Political Participation in the European Union. Berlin Heidelberg: Springer-Verlag Berlin Heidelberg, 161-178.

DOI: [https://doi.org/10.1007/978-3-642-30068-4\\_9](https://doi.org/10.1007/978-3-642-30068-4_9)

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# EU Democracy and E-Democracy: Can the Two Be Reconciled?

Fernando Mendez

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## 1 Introduction

Neither E-democracy nor EU-democracy exists. Both are projects that have been imagined and advocated by theorists and practitioners, but have not been realised –yet. Philippe Schmitter (2005).

With these opening words to a book chapter Philippe Schmitter pondered the nexus between new technologies and EU democracy. As a leading scholar of democratisation and a long-time student of European integration, Schmitter is well placed to comment on the EU's democratisation potential. His use of the word -yet- implies that there is potential for further democratisation of the EU and that, perhaps, such democratisation will have an ICT component. This, at least, was the general thrust of his argument. In this chapter we shall take Schmitter's statement as a point of departure for interrogating the e-democratisation potential of the EU. However, before doing so it will be necessary to offer some further clarification on the use and understanding of the two concepts at the core of our inquiry.

The first clarification relates to the EU. On some accounts, as the Schmitter quote above suggests, EU democracy does not yet exist in a meaningful sense. This may appear puzzling. Is the EU not equipped with a parliamentary chamber housing euro deputies that are directly elected by EU citizens? Does the EU not possess a “competitive” party system in which political parties at the EU level compete on the basis of ideological preferences to influence the scope and direction of EU legislative outputs? The short answer to these questions is: “yes, but. . .” Over the years this “but” element has generated a vigorous debate on the EU's so-called democratic deficit (e.g. Moracsic 2008, Follesdal and Hix 2006). The debate centres on

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whether a democratic deficit exists in the EU or not. It is a debate that is in great part coloured by one's position on the ontological status of the EU. Is the EU *sui generis*? Or is it merely a peculiar version of a well understood political species? If the latter, then does it resemble a federal form of political organisation or is it more similar to an international organisation? How one answers these ontological questions has a direct bearing on one's position on the democratic deficit. Of necessity we shall sidestep this debate. To engage with it would merely detract from this chapter's core aim. I shall therefore remain largely agnostic as to whether an EU democratic deficit exists and instead focus on the EU's democratic potential insofar as the deployment of innovative ICT tools are concerned.

The second clarification concerns the topic of e-democracy. It certainly does not exist. Furthermore, e-democracy as some kind of end state is unlikely to materialise for the simple reason that for this to occur a new "e-democracy" paradigm would have to replace our current "liberal democratic" paradigm. Instead, what we are witnessing is innovative experimentation with ICT in the democratic realm at all levels of political aggregation. Whilst some of the tools and applications may transform aspects of the political process, they do not necessarily entail a transformation in the democratic paradigm – certainly not a transformation towards an e-democracy paradigm. This is not to suggest that e-democratic experimentation is unimportant or uninformed by higher level normative goals. Concerning the former I will argue that it is producing real world effects, even in the EU context. But more importantly, I shall also argue that e-democratic innovation is informed, at least implicitly, by normative aims or what philosophers call "intentionality" (Searle 1995). To the extent that important normative concerns are at stake, it may well be more revealing to critically evaluate the normative goals behind much e-democratic experimentation rather than the specificity of the technology used. It is with this narrower conception of e-democratic experimentation in mind rather than an elusive e-democratic paradigm that this chapter is principally concerned.

I shall proceed as follows. In the sections that follow I will begin by further elaborating on the intentionality behind much e-democratic experimentation and link this to contemporary normative theories of democracy. The aim is to identify mechanisms that emanate from particular conceptions of democracy and the extent to which they could be the object of ICT experimentation. In doing so I shall take a look at specific cases of innovative ICT use with a distinctive EU flavour. The cases chosen are meant to be indicative and not in any way exhaustive of the wider process of e-democratic experimentation. They are intended to serve as *vignettes* rather than detailed case studies. The concluding section then brings the four models together in matrix form and offers some speculations about the future of EU related e-democratic innovation.

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## **2 Four Models of E-Democratic Innovation Within a EU Context**

A necessary starting point for an exercise of this nature is to begin with a working definition of e-democratic innovation as it is understood in this chapter. I shall tend to employ the broader concept of ICT rather than the internet (although both terms

are used interchangeably) to refer to the vast array of information and communication technologies that have come together to produce a series of technological revolutions in the last decades. I will not dwell on the properties of ICT apart from stating that following Moore's Law (ICT's computational power is supposed to double every 18 months) we can expect ICT-enabled social interaction to continue to increase in its variety and scope for the foreseeable future. The relevant question is therefore what is the likely impact of such technological changes for our current forms of political organisation and for the EU in particular. Rather than focus on the material aspects of ICT we shall try to investigate what it is that these technologies are directed at in relation to the democratic process within the EU context. Philosophers refer to the "directed at" element as "intentionality" and it is a concept that will be used as point of departure for exploring e-democratic innovation in the EU. What, then, is understood by the term e-democratic innovation? The basic claim is that the intentionality behind ICT is directed at specific normative goals and therefore informed by particular conceptions of democracy. There are at least four ideal type conceptions of democracy that I shall consider. Their primary focus is on strengthening specific mechanisms of representation, participation, deliberation, or contestation. e-Democratic experimentation can thus be defined as employing different techniques that can aim to (1) increase the *transparency* of the political process and thereby improving mechanisms of representation; (2) enhance the direct involvement and *participation* of citizens (3) improve the quality of opinion formation by creating new spaces of information and *deliberation* and (4) open up new channels of *contestation*. The normative goals italicised in the preceding definition all occupy a large space in contemporary political theory. In the pages that follow we shall look at each in turn and in relation to EU democratisation.

## 2.1 ICT and Representation

ICT techniques are especially suited for improving the transparency of the political process. This is a rather important principle for the liberal conception of democracy. Its importance stems from the delegated nature of modern political democracy. As one of the foremost democratic theorists reminds us, democracy has had to be re-invented through the ages -the result is what we call representative democracy today (Dahl 1989). As the polity grew in scope and size it became increasingly impractical for citizens to participate in the day to day matters of governing and a division of labour emerged in which citizens would elect their political representative at regular election intervals. On the basis of that electoral mandate, political representatives would get on with the business of governing but would be held accountable through the ex-post sanctioning mechanism of regular elections. For some minimal theorists of democracy, such as Schumpeter, that is more or less what a democratic regime amounted to: simply an efficient method for citizens to choose among a cartel of elites. Once that was done, the elites could get on with the job of governing. A revamped version of this theory exists in contemporary social choice

theory – the essence of which is that a functioning democracy works well to the extent it is able to satisfy individual preferences by aggregating them at the collective level. Such a regime is responsive to the demands of its citizens. Evidently, in this type of political marketplace greater transparency is an important lubricant to the political process because it diminishes the information asymmetries between agents (the citizens) and their principals (the representatives). The result is increased competition among elites, the availability of better signalling, which ultimately may lead to more electoral choice.

It is obvious that within this representative conception, ICT offers some unprecedented opportunities for improving the transparency of the political process and the monitoring of representatives. Today, a rather basic example is a government website. These now contain greater information than ever on parliamentary sessions, or on bills that are pending, or information on delegates<sup>7</sup>, such as their salaries or their declared commercial interests, and so on. There are many countries that now have webcast feeds of live parliamentary debates, committee meetings etc.. Many such government websites are thematically coded and archived in ways that facilitate an easy retrieval of information. EU institutions have a sophisticated web presence in this sense (e.g. the Europa website). In particular the European Parliament and the European Commission have a wealth of electronically archived and coded information that is certainly more transparent than the average of its member states. This much could already be gleaned from an analysis in 2004 of the sophistication of the web sites of the EU and 25 of its current member states (Kies et al. 2004). What the aforementioned analysis revealed was that as far as legislatures were concerned, the EU (i.e. the European Parliament) was well above the member state average. Any researcher working on issues related to what the EU specialises in, namely regulatory policies, will know that the websites of both the European Commission and the European Parliament constitute a rich resource of relatively well organised thematic information on the policy making process (including submissions from interested parties, results from hearings, committee reports, press releases, etc.) that make it possible to reconstruct the policy process. Although much information of this type is readily available this does not necessarily make the EU more transparent to the average EU citizen. Thus the problem may be one that is less related to a purported lack of transparency than to the structural nature of the polity, including its size and scope. We shall return to these issues below.

The EU policy making process is a complex system of multi-level governance and it is not surprising that ICT has come to play a critical role in improving the flow and transparency of information. This applies to the EU's decentralised agencies too (from the ECB to the plethora of specialised EU agencies across the different member states), which apart from fulfilling their specific policy mandates, tend to specialise in producing reports and analysis and therefore use the web as one of their most important tools for disseminating information that is relevant to the European citizenry. None of this implies that European citizens ought to be flocking to EU websites to access such information –or that such a direct interaction with the average EU citizens is necessarily sought (see discussion in model 3 below). That

direct role, as would be the case for most nations let alone a continent sized polity, is played by infomediaries. The latter come in manifold guises (from large media conglomerates to individual bloggers) and together fulfil the critical function of drawing public attention to important issues, setting the political agenda, and generally holding public officials to account. The latter is particularly difficult in the EU context given the great distances between the average EU citizen and officials in the Commission or Euro deputies in the Parliament all of which contribute towards making direct channels of accountability much more opaque. Despite these structural limitations, the EU has sought to deploy ICT to make its multi-layered governance systems more transparent and less opaque. In a way this can be considered relatively straightforward since having an informative web presence lies within the EU's own competencies. Evidently, more could be done, such as for example making the deliberations of the Council more open (an innovation frequently called for by activists). But such a decision would lie with the member states. The EU, in short, would not fare badly in comparison to other continent-sized multi-level polities, such as say the US, in terms of using ICT to make its governance procedures and day to day activities more transparent and it is arguably more open and transparent than most of its constituent units, the member states (Moravcsik 2008).

There is only so much innovation that can be supplied top-down by political institutions no matter how sophisticated their web presence is. Thus an accompanying dimension is the bottom-up one. We have already mentioned the critical role played by websites of politically active infomediaries and civil society organisations, all of which can also become increasingly rich repositories of political information. Today the ability to collect and store masses of political information is unprecedented as is the ability to organise it and retrieve it seamlessly. However, one of the most intriguing elements that flows from the liberal conception is that it is not vital for citizens to necessarily get actively involved in the process of monitoring. This task can be left to the infomediary organisations such as the media and civil society. ICTs in this way can help the infomediaries to keep the representatives in check. Crucially, these ICT developments do not require much time or commitment from citizens since competitive elections at the national level still provide the central mechanism for dismissing representatives and effecting political change at the EU level. Such an understanding chimes with scholars of European integration (e.g. Moravcsik 2008) that argue that the EU is better judged in terms of its policy performance rather than its democratic input (the output legitimacy vs. input legitimacy debate).

There has of course been innovative experimentation with ICT based tools that involve rather more interaction with EU citizens. Here we will focus on an illuminating example of e-democratic experimentation with an explicitly EU dimension, the EU Profiler. The EU Profiler is what some in the academic community (e.g. Cedroni and Garzia 2010) increasingly refer to as "Voting Advice Application" (VAA). The tool was deployed during the 2009 European Parliament elections and is interesting to look at in greater detail in relation to ICT-enabled innovation in the EU context. A VAA type tools fulfil a rather simple function: it

provide a prospective voter using the tool with a best political match (parties or candidates, depending on the type of election and country). They are generally managed by academic teams consisting mainly of political scientists who elaborate a policy questionnaire designed to bring out some of the most salient issues in an electoral campaign. The parties are either self-coded or coded by academic experts on a range of policy questions (in the EU Profiler case it was a combination of both). Once the VAA tool is launched, with the party coded positions registered on the online system, citizens can then fill in online the same policy questionnaire. In many cases, citizens will also be able to weight particular policy items. The online tool then matches the prospective voters with all the parties and produces a rank ordering of parties according to the degree of overlap with the citizen's subjectively stated policy preferences. The overall match with the parties, typically a coefficient that ranges from 0 to 100 with 0 signifying total disagreement and 100 total agreement, is the main output of a VAA. In some cases, such as the EU Profiler, additional multi-dimensional maps are provided to the user. A very interesting feature of the EU Profiler was to locate citizens using the tool in a two dimensional political map. The scatterplot consisted of an  $x$  axis (socio-economic left vs. socio-economic right) and a  $y$  axis (pro EU integration vs. anti EU integration). Although the two axes are well known to political scientists studying the dimensionality of the European political space (Marks and Steenbergen 2004) it was rather innovative to expose EU citizens to their placement on the European political space. And it appears that many citizens did use the tool, approximately one million of them, according to some of the academics involved (Trechsel and Mair 2011).

The EU Profiler not only broke new ground in VAA development -a large scale academic effort involving over 100 researchers across 27 countries, the coding of 300 parties, and an online tool available in 24 languages- but it also represents somewhat of a milestone in EU e-democratic experimentation. It is illustrative to dwell on the "intentionality" behind the experiment. What was it that the EU Profiler was directed at? What normative goals did it try to address? The simple answer is that the normative aim of such tools is to enhance citizen competence by striving to increase voters' knowledge of the political positions of the parties. Nowhere is this potentially more pertinent than with regard to European Parliament elections which are regularly considered as second-order electoral events. This is not just because they tend to be low salience electoral contest but also, crucially, because they are seen as akin to referendums on the performance of incumbent governments. In other words, European citizens appear not to be voting on the EU issues at stake but instead use euro elections as an opportunity to punish governments. This is not necessarily the fault of the citizens themselves but rather the product of agenda setting and party competition. Indeed, Mair (one of those involved in the EU Profiler experiment) has argued that even when the EU issue is discussed it is the wrong one. Mair's (2007) claim is that member state elites have succeeded in removing the contentious EU issue that most concerns citizens (more vs. less EU integration) from national elections (where it actually matters) and competed on this issue during European Parliament elections (where it presently

does not matter since the European Parliament has no competencies on this dimension). The European Parliament helps to shape the nature and direction of the EU's legislative outputs but not the more vs. less dimension of European integration. Hence the innovation represented by the EU Profiler was to try and reframe the euro elections in terms of the EU issues at stake and to use sophisticated graphical maps to inform the users of their own subjective political preferences and the positions taken by the parties. The hope of the designers is that the users would get better informed and exercise their vote more competently, no doubt based on the outputs of the tool -though this last point is not without its problems.

## 2.2 ICT and Participation

The participatory conception of democracy is rather more demanding of the citizen than the previous model (Pateman, 1970; Barber, 2004). In its ideal form it would resurrect many of the perceived positive elements of Athenian democracy, in terms of an assembly of directly participating citizen legislators. Although the modern variant of participatory democracy has many strands to it, there is an identifiable common thread. This is the notion of self government by a community of citizens directly engaged in the process of making the decisions by which their lives are regulated (Fung 2007). Rather than the passive involvement of the representation model, participatory democracy is predicated on an active conception of citizenship. However, as noticed by Rousseau -one of participatory democracy most famous proponents- the model is only suited to small scale communities such as the city-states of Ancient Greece, Renaissance Italy, or his own birthplace in the Republic of Geneva, rather than the modern national state. It is precisely on this last point where some theorists see potential for ICT to overcome constraints such as size and scale (Barber 1998; Fung 2007). The starting point for a participatory variant would be at the local level where citizens would interact directly with one another, but could easily be extended to regional and national systems. Furthermore, since political participation is radically incomplete without an actual decision at the end, citizens would need a mechanism to make their preference count. This is where the mechanisms of direct democracy, such as the referendum and the citizens' initiative, come into play.

In the participatory model the properties of ICT could operate in a number of ways. In a first step they provide the logistic tools for distributing the flow of information within and across communities at all levels of public aggregation. This is no small achievement even in a medium-sized country let alone a continent-sized democratic polity such as the EU. In a second step, ICT can be used to facilitate the decision-making process through a variety of electronic voting technologies permitting citizens to not only express their preferences on a range of issues but to do so in a convenient and effortless way. In this regard, one could list a host ICT tools that can be used, and are being developed, in order to facilitate citizens' direct participation such as e-voting, e-consultation, e-petition, e-referendums, e-enabled citizens' initiatives, and so forth. Further distinctions such as the degree to which



the results of any ICT-enabled direct participatory mechanism are legally binding on authorities (e-consultation tends not to be whereas an e-enabled referendum might be) and whether they are initiated top down (i.e. e-voting) or from a bottom up process (citizen initiatives). Bearing in mind some of the above, what can we say about explicitly EU participatory innovations involving ICT? One issue that has preoccupied EU elites, especially at the Commission and Parliament, is the continual fall in participation rates for Euro elections. Can new technologies help to arrest this downward trend?

E-voting is a technology that has been variously touted as a possible solution to making participation more convenient. In fact, during the early years of the internet's spectacular proliferation the hopes were rather high for e-voting technologies, by which we primarily refer to remote forms of voting over the internet rather than electronic counting machines or electronic voting machines in kiosks. It seemed a rather straightforward innovation and accordingly during the early 2000s a large number of European democracies adopted e-voting programmes. More than a decade later the successful roll out of e-voting is limited at best to a handful of cases (Mendez 2010). One of these countries is Switzerland, yet it is a non-EU member state and its e-voting system is predominantly used for its system of direct democracy which involves frequent votes (approximately four referendum votes a year on multiple items) rather than parliamentary elections. The only other country to have generalised e-voting, as far as general elections are concerned is Estonia. It held the world's first e-enabled general election on 2007.

So, what can be said about e-voting and European Parliament elections? The first point to note about e-voting and European Parliament elections is that to the extent that it can take place, it is firmly in the hands of the member states, rather than the European Union (Auer and Mendez 2005). This is not unlike the process in many federal systems such as the US or Switzerland where elections are also extremely decentralised affairs. Another obvious remark is that as a so-called second-order electoral event, in contrast to first order general elections, European Parliament elections are a natural test ground for experimentation with e-voting technologies. It is hardly surprising therefore that some pioneer states rolling out e-voting would trial the technology during these electoral contests. What is interesting about such trials are the diverging outcomes produced.

In the case of The Netherlands the genesis of internet voting trials can be traced back to 2000 when a specific programme was set up to implement a plan of electoral modernisation. It was decided that experimentation could be conducted on the politically less salient European Parliamentary elections involving internet voting (as well as telephone voting).<sup>1</sup> However, it was to be only offered to Dutch voters abroad -the most viable "niche" market for experimenting with remote internet voting technologies (Pieter and van Haran, 2007). In 2004 an important European

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<sup>1</sup> See Dutch Evaluation Report on 2004 elections. Experiment with Internet and telephone voting for voters abroad. Dutch Ministry of the Interior and Kingdom. Available at: [www.minbzk.nl/aspx/download.aspx?file=/contents/pages/10764/041110evaluatierapportexpinterneteteldefversie\\_eng3.pdf](http://www.minbzk.nl/aspx/download.aspx?file=/contents/pages/10764/041110evaluatierapportexpinterneteteldefversie_eng3.pdf)

internet voting milestone was overcome when Dutch citizens abroad voted during the European Parliamentary elections, though this needs to be qualified by the limited nature of the constituency involved. Just over 5,000 votes were cast using the new remote voting facilities with 4,871 voters specifically opting for internet voting as opposed to telephone voting. Emboldened by the success of these limited e-voting trials, the experimentation was extended to the next electoral contest scheduled for 2006. However, in the run up to the general elections worries about electronic counting machines (rather than internet voting per se) became the object of a politicised anti e-voting campaign. It effectively ended e-voting trials, including further scheduled experiments on European Parliament elections which then took place in 2009. A similar story emerged in the UK, where after a successful initial trial during local elections in 2002, internet voting was shelved (including plans to deploy it during the European Parliament elections of 2009) after problems of fraud surrounding postal voting in 2003 (Mendez 2010).

In Estonia a rather different picture emerged. No doubt an important precondition for the success of its e-voting experimentation is the availability of a sophisticated and widely used e-government infrastructure which involves an electronic national identity card or smartcard. The latter solved many of the authentication and verification problems that can afflict the roll out of e-voting. Offering e-voting to an electorate that already had considerable experience in online transactions appeared a logical step forward and this was buttressed by a broader “branding” exercise to put Estonia on the e-democracy map (Drechsler and Madise 2004, p. 97). After some initial political problems, and various trials during local elections, the Estonian government held in March 2007 the first ever general election in which e-voting as mode of participation was offered to the entire electorate. The proportion of those casting an electronic vote amounted to 3.4 % of the electorate (Alvarez et al. 2009). In 2009 another milestone was reached when the Estonians were the first to allow binding forms of internet voting to the entire national electorate for the 2009 European Parliament elections. Although the rate of participation was low - which is quite typical for EU elections- the proportion of votes cast using the internet had nearly doubled from the previous 2007 election to 6.5 %.<sup>2</sup>

Whilst e-voting at the EU level is an interesting case and there will no doubt be more trials to follow in the coming years, it is hardly going to constitute the “magic bullet” to address falling participation rates (Norris 2005). This is for a host of structural reasons that cannot be fixed by technology. If it were possible to address falling participation by making the voting process more “convenient” then a compelling case could perhaps be made. The truth, however, has to do with other structural factors such as the fact that the elections are simply not salient for most voters, and do not appear to produce any noticeable differences for the voters - the so-called “rascals aren’t kicked out of office”. Technology cannot address these issues only institutional reforms can. In this respect one potentially important

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<sup>2</sup> See the Estonian Electoral Commission website: <http://vvk.ee/ep09/index.php?id=11195>

democratic innovation of the EU in recent years is the European Citizens Initiative. Many of the member states of the EU make express provision in their basic constitutional arrangement for a variety of types of citizens' initiatives (CI). The procedures vary in important respects and across territorial levels, but the essence of a CI is that a given number of citizens can initiate a process with the potential to culminate in the adoption of a new law or the repeal of a legal act. The ECI will be implemented at the EU level in 2012. Proposals for the inclusion of an EU level CI made their way into the Constitutional Treaty and, after the latter's failure, were incorporated into the Treaty of Lisbon. It is worth noting that the envisaged procedure requires the signature of not less than one million citizens from a significant number of member states to submit an initiative to the European Commission within the framework of its powers. Interestingly, the fact that the EU level CI had not yet been formally implemented did not stop organized movements from undertaking online political campaigns using this bottom-up mechanism of direct democracy. In the space of 4 months, between May 2006 and September 2006, over one million signatures were collected online and a petition submitted, the one-seat initiative, for having a single seat for the European Parliament. Evidently, the initiative had no legal effect but the internet mobilisation around it provided a glimpse of how the procedure might work.

It is worth taking a brief comparative perspective on the innovation entailed by the ECI. Although the CI is commonplace in many states, some of the most celebrated cases include California and Italy, it does not exist in any large federation (the closest form of political organisation to the EU). The US, for instance, does not provide for a citizen initiative at the federal level despite its existence in roughly half of its constituent units, e.g. California. The only federal system possessing a citizens' initiative at the federal level is Switzerland. In other words, CI's are quite common in countries, especially at the lower levels of political aggregation, but very rare to find in multi-level polities at the federal level, especially in any large-scale federation. It is in this respect that the ECI represents something of a milestone, although this has to be tempered by the fact that the ECI is really an agenda setting tool given that it does not trigger a mandatory referendum (as it does say in Switzerland or, at the subnational level, in California).

So, how does ICT fit into the ECI equation? Though many aspects of the ECI are not yet clear since at the time of writing the ECI has not yet come into effect, one thing remains rather certain: ICTs are likely to play a fundamental role in various ways, not least the signature gathering process (as we saw above in the context of procedurally invalid "one Europe seat" initiative). To begin with, the registration and management of initiatives (e.g. translation into all the official languages) will be operated via a Commission online system. But the Commission expects much more to be conducted online than mere registration and/or management of administrative procedures related to the ECI. In fact, the most critical element to an ECI - the signature gathering process - will have an online component. To this end, the Commission has made available an open source online collection system that can be deployed by the initiators of an ECI. However, as with other Euro elections which are managed by the member states, certification will be required by the

relevant member state authority. The evolution of the ECI will be keenly watched by EU observers to see what kind of institutional impact it has, if any, and whether it could breed further democratic innovation.

### 2.3 Deliberation

Of the four models to be discussed in this chapter the deliberative model is the most demanding on citizens. The standard set for the citizen deliberator, who is expected to interact discursively with her fellow citizen interlocutors on the basis of rational debate, is a high one indeed (Fishkin 1991; Fung 2007). The primary intellectual influence for many deliberative democrats is the revival of political philosophy brought about by John Rawls (1971) and the seminal work of Jurgen Habermas (1989) on the public sphere. Reasoned argument lies at the core of the Habermasian tradition that has influenced many deliberative thinkers. Arguing or deliberating acquires some very special procedural characteristics in this conception of democracy. Citizen deliberators need to be capable of imagining themselves stripped of their possible communal associations, ethnic, class, and professional ties, etc. Under such conditions, i.e. an impartial speech setting, political argumentation can take on a more enlightened format and is constrained by the need to argue in terms of a universal common good rather than the particularistic interests of a specific group or constituency. Here the “force of the better argument” is likely to prevail, as is its corollary, a more legitimate public policy. How does the deliberative conception relate to ICT? The simple answer is that ICT can help to create favourable conditions for deliberative interactions by opening up new, online spaces of opinion formation (Delli Carpini et al. 2004). Much hope is placed, therefore, on electronically mediated forums or virtual communities that could be configured to maximise deliberative ideals. Deliberative spaces, say for the formulation of a public policy, could be deliberately engineered by enlightened political authorities and moderated by experts. Furthermore, sponsored e-forums could be designed to maximise the plurality of viewpoints. In the European cases it may even be possible to overcome linguistic barriers or other functional barriers to creating an ideal speech setting.

What can we say about EU related deliberative activity? A simple answer, provided by Mundo ([forthcoming](#)), is that between 2001 and 2009 the EU has sponsored no less than 23 exercises in democratic innovation involving an online deliberative component. Habermas’ ideas appear to have a welcome reception among EU elites. The first, and possibly the most well-known of these exercises in creating an online European deliberative sphere occurred, rather unsurprisingly, in connection with the EU’s biggest constitutional project to date: the European Constitutional Treaty. As a means of accompanying the process of constitution making, the European Commission set up its vanguard *Futurum* debate website.

The most important aim of the *Futurum* deliberative e-forum was to provide a platform for the exchange of views among citizens and a European public forum for airing the voice of civil society. Crucially, this “could help bring the European Union closer to its citizens and reduce the *perception* of a democratic deficit”

(author's italics). The choice of the term "perception" is interesting and suggests that EU officialdom sides with the critics of the democratic deficit thesis (though they do so for the wrong reasons). Costing over two million Euros, the Futurum e-forum was designed as a so-called asynchronous threaded discussion forum and moderated by the Commission -a fact that makes its status as a general public sphere somewhat questionable (Wright 2007, p. 1171). In a detailed empirical analysis of the Futurum online deliberation Wright (2007, p. 1180) offers a number of interesting conclusions, such as the fact that English became the dominant language and that whilst citizens posted from many countries the participants were definitely unrepresentative, though, according to deliberativeness criteria, the online forum was interactive. In short, the Futurum online deliberative forum facilitated interactive, pan-European discourse. Unfortunately, no amount of online discourse could neutralise the threat to the European Constitutional Treaty -the end product of the European Convention process- which was unceremoniously rejected by French and Dutch voters in two of the referendums that took place in 2005.

In spite of the rejection of the European Constitutional Treaty in 2005, and its Lisbon Treaty sequel in 2008, EU institutions continued with their e-enabled deliberative exercises. The Commission's reaction to the high profile rejections of the Constitutional Treaty (by two founder member states no less) was to put forward a number of initiatives under the rubric of Plan D. Interestingly, Plan D referred to Democracy, Dialogue and Debate, and "sought to foster communication and debate on the activities of the EU by addressing the need to listen to citizens' expectations" on the Future of the European Union.<sup>3</sup> Mundo (*forthcoming*) lists no fewer than six initiatives related to the Plan D with an online deliberative component. These include: Speak Up Europe; Our Message to Europe; Radio Web Europe; Our Europe – Our Debate – Our Contribution; 2007 Tomorrow's Europe; European Citizens Consultations 2007. The last of these, European Citizens' Consultations (ECC), was re-launched in 2009. The ECC (not to be confused with the ECI discussed in the previous section) involved a large consortium of many European partner organisations (over 40), co-funded by the European Commission and organised under the patronage of the European Parliament.<sup>4</sup> The consultation took place against the background of the 2009 European Parliament elections and cost 3.8 million Euros. According to its homepage, the "European Citizens' Consultations are the first-ever pan-European debate involving citizens from all 27 Member States to debate the future of the European Union across the boundaries of geography and language." Technically, the ECC went much further than an online forum. It had all the trappings of an online deliberative forum, but also included e-voting technologies for gathering citizens opinions and proposals -of which there were 150,000 online visitors- as well as 1,635 randomly selected citizens from the 27 member states engaged in face-to-face national deliberations

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<sup>3</sup> See [http://europa.eu/legislation\\_summaries/institutional\\_affairs/decisionmaking\\_process/a30000\\_en.htm](http://europa.eu/legislation_summaries/institutional_affairs/decisionmaking_process/a30000_en.htm)

<sup>4</sup> See <http://www.european-citizens-consultations.eu/>

constituting “arguably the broadest and most complex pan-European consultation ever realized” (Kies et al. forthcoming). The fact that it took place and was generally well organised, involved multiple channels (some online others not), crossed linguistic and cultural boundaries, suggests that it is possible to conduct pan-European e-enabled debates. According to Kies et al. (forthcoming) it complied with common deliberative standards, which was no doubt due also to the introduction of national web-forums.

In short, most examples of EU level induced deliberation generate similar problems. Namely the over representation of those already interested in the topic and a limited policy impact of the “deliberations” or “recommendations” that emanate from such exercises. Nonetheless, both the Futurum deliberative debates and the ECC 2009 were certainly innovative experiments which can be considered successful as a civic engagement exercise rather than in their actual policy impact. In particular the approach of the multi-layered ECC in terms of both the vertical (territorial) and horizontal (multiple-channels) dimension is interesting. No doubt this is the only feasible option for a continent-sized multi-level polity such as the EU.

## 2.4 Contestatory Model

If participatory democracy, let alone the liberal representative conception, does not ask enough of citizens in terms of self reflection, then it appears that deliberative democracy asks too much. Normative theorists are right to warn of the problem of e-democratic innovations that involve “nothing much more than pushing buttons and casting votes” (van den Hoven 2005, p. 54). On the other hand, deliberative democrats may be parting from a misguided standpoint. Dahlberg (2007, p. 833) for instance, is critical of the assumption of a unified “Cartesian type subject that can clearly communicate their position and understand the others meaning.” Citizens may not be prepared to incur the substantial information and transaction costs that the deliberative ideal involves. This gives rise to an alternative model of democracy. A key thinker in this regard has been Philip Pettit and his idea of a contestatory dimension to democracy. Democracy, according to Pettit, has two important dimensions. The first is the familiar one of giving the people electoral control over government. But beyond the electoral dimension there is also the idea of giving people contestatory control -a power that stems from the ability to contest government decisions effectively. It is simply insufficient to wait for the next scheduled electoral contest. Channels of contestation are needed to make it possible to scrutinize policy implementation and to guard against abuses, such as when those in power allow factors that are not in the people’s interest to influence them. Whilst the electoral mandate provides for authorship of policy, Pettit (2000) argues that this must be counter-balanced by a wiki-like dimension (author’s ICT metaphor rather than Pettit’s) involving ex-post scrutiny and censorship. The contestatory mode envisaged by Pettit gives the people editorship and censorship over collective decision making. A stronger version of the contestatory idea is favoured by radical democrats and agonists (Mouffe 2000; Dahlberg 2007). Influenced by thinkers such

as Carl Schmitt or Hannah Arendt and rejecting the rationality implied by Habermasian style deliberation, they argue that conflict is at the core of the political process. Politics is primarily antagonistic and because of this rational, deliberatively induced consensus is neither desirable nor achievable. The task, according to Mouffe (2000), is to retain contestation and conflict in the political sphere while removing from the latter the elements of oppression and violence.

How does ICT fit into the contestatory or agonistic models? We noted in the definition of e-democracy the possibility of ICT to open up new channels of contestation. ICTs provide citizens with an unprecedented resource to monitor and to contest at various levels. There could be indirect forms, for instance, where ICT serves to enhance the logistics of social protest and keep various networks connected through to more direct forms of web based protest such as forms of activism. Without denying the range of opportunities offered to new social movements by the internet, we need not restrict our horizon solely to forms of social protest. Apart from e-enabled mobilisation there are manifold ways in which the power of ICT can be utilised to give voice to alternative viewpoints in the public debate and to press specific issues that are typically ignored by the mainstream media. The internet is particularly well suited for providing the informational basis for the “contesting citizen” (van den Hoven 2005).

Paradoxically, the internet itself has also become the object of contestation in the EU context. This is because much of the legislation that regulates the internet in the EU emanates directly from Brussels, even if it is later transposed into member state law. The crucial policy battles, in other words, take place first at the EU level. Various legislative packages, including the EU’s copyright directive, a number of telecoms packages, which include provisions on the retention of personal data, have been contested by EU-based activists. Mobilised against the corporate owners of creative content, such as the music labels or the film industry, which previously virtually monopolised the legislative process surrounding the regulation of intellectual property rights, this new front of consumers of creative content has acquired a new political voice. Indeed, the movement has spawned political parties across Europe, such as the Pirate Party, which has even gained representation in the last European Parliament election of 2009.

A rather more critical movement which gained prominence over the last decade is the European Social Forum (ESF). Although it belonged to the wider group of anti-globalisation social movements it took on a critical position against the EU, and in particular its market creating bias and neo-liberal policy agenda. The ESF social movement was ideologically informed by anti-capitalist values and brought together a pan-European network of NGOs and grassroots movements. The best description of the ESF is provided on its homepage as “an open space where civil society groups and movements opposed to neo-liberalism...come together to pursue their thinking, to debate ideas democratically, to formulate proposals, to share their experiences freely and to network for effective action.”<sup>5</sup> That mission

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<sup>5</sup> See welcome page of the ESF at: <http://www.fse-esf.org>

statement more or less encapsulates some of the thinking behind the contestatory model. For this type of new social movement formed by networks of activists that are often geographically dispersed ICTs were crucial (della Porta and Mosca 2005). As well as helping to reduce communications cost and the logistics of mounting Europe-wide campaigns ICT also served another function which is dear to radical democracy theorists: helping to air alternative viewpoints. This is particularly difficult for these types of social movements because the mainstream media coverage of protest events tends to focus on law and order, rather than the substance of their policy grievances. Notwithstanding the negative coverage in the mass-media, a series of surveys (see della Porta and Mosca 2005) suggest that the movement was successful in sensitising public opinion on important issues related to the process of globalisation/Europeanization. Even if the movement websites rarely got direct media coverage, the Internet plays a fundamental cognitive function in circumventing mass-media.

In many respects the European Social Forum, which was prominent between 2001 and around 2007, has faded somewhat. It has left an open space and lack of an organised movement to contest the policy response by the EU and its member states in the wake of the financial crisis. It is still too early to tell what the full implications of the measures pursued, largely by the Southern periphery of the Eurozone, will be in the medium term. New forms of social protest are likely to continue. Some spontaneous, and rather fragmented, forms of social protest have emerged. Key amongst these was the group of “Indignados” and the later “Occupy” movements. What was interesting about these later protest movements, in contrast to the “older” ESF, was the innovative use of social networking tools, and in particular Facebook and Twitter (Pianta 2012). Indeed, the Indignados’ movements mobilised initially almost exclusively via Facebook. Furthermore, Indignados in various European countries managed to acquire extensive mainstream media attention through the organisation of “Sunday virtual marches” (these events were entirely online affairs using social network technologies). In short, the financial crisis has opened up new spaces for contesting Europe and the particular responses being pursued by member states, which appears to many of the peripheral Eurozone member states as being imposed by largely unaccountable bureaucrats from Brussels. How this will affect attitudes to the EU in these countries remains to be seen.

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## Conclusions

In this brief tour of the emerging EU e-democratic landscape I have tried to provide a sketch, albeit a very selective one, of examples that could be considered instructive of broader normative visions of how to democratise the EU and the role of ICT therein. Some of the cases mentioned were well known, others less so. Many involved a distinct top-down element whilst others were the results of bottom-up initiatives. At the same time, the aim has been to show both the promises and the serious limits confronting designers of e-democratic exercises. But more importantly, the bigger aim was to show how e-democratic experimentation cannot be divorced from particular conceptions of democracy. The various elements are summarised in the matrix below.



The table is an attempt to draw attention to the intentionality behind much e-democratic innovation and specifically to hone in on some of the underlying assumptions. To which broader conception of democracy does the particular innovation contribute? How do they view the citizen and, crucially, which particular gap do they intend to fill? For most models, except for perhaps the representative one, the EU gaps are perceived as large and warranting a sustained democratic input. No proponent of any particular model is likely to seriously think that ICT could close the gaps in any meaningful way, especially in relation to the EU. But that is not, of course, the point. Those gaps exist as much in contemporary nation states as they do in the multi-layered polity that we call the EU. Thus part of the effort was to show that the EU has made some serious efforts at ICT enabled democratisation. But the innovations most likely to have an impact are also less likely to be in the hands of EU elites in the Commission or in the Parliament. The greatest pressures for democratic reform are likely to emanate from either bottom up movements in the form of greater contestation over Europe or from the member states themselves -the latter, after all, are ultimately the masters of the Treaties. What is surely also the case is that further serious efforts to reform the EU will involve an important ICT element.

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## Annex

**Table A1** Conceptions of e-democracy

	Representative	Participatory	Deliberative	Constestatory
Model of democracy	Social choice theory	Participatory	Deliberative	Agonistic
Ideal of citizen	Citizen as preference maximiser	Citizen as legislator	Citizen as rational discussant	Citizen as non-conformist; monitorial citizen
Gap filled by ICT	Improve transparency	Create new channels of participation	Enhance potential for deliberation	Open up new channels for constestation
Examples of technologies	VAAAs	Voting technologies	e-Forums	Social media (especially Facebook, Twitter)
EU-related examples	Europa website EU Profiler	E-voting ECI	Futurum forum ECC	European Social forum Indignados

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