



## **Participatory Democracy: Mechanism of *Better Regulation in Europe***

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**Abstract:** This paper aims at analyzing the concept of participatory democracy in the European context. In the era of globalization, tools such as Internet filled the gap between civil society and political institutions. The new information and communication technologies contribute to the involvement of citizens in decision-making process. The democratic deficit is bridged through increasingly active participation of civil society at various levels of policy. Through e-democracy tools is realized a direct action of citizens, or even certain categories, which for various reasons do not have the possibility to be informed or have voice on political decisions. In addition, the European institutions, through mechanisms of “better regulation”, promote processes of simplification rules to find a remedy for an excessive law-making.

**Keywords:** participatory democracy; e-democracy; better regulation; new technologies; governance

### **1. Introduction**

In the recent years, we are witnessing the introduction, at Community and national level, of various types of regulatory and operational tools which aim at providing participatory deliberative processes, the most representative of all stages of decision making, that also make use of the opportunities offered by the new information and communication technologies (ICT) which allow more complex and extensive communicational exchanges, increasing the flow of information both horizontally and vertically.

These new models of governance and decision-making processes are based on the principles of democratic governance, understood as the process of government most appropriate to the features of the challenges and problems faced by the institutions nowadays: from the growing territorial interdependence between regions to the scarcity of resources, from the continuous innovation processes to

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the citizens and businesses highest expectations. Moreover, the nature of the problems faced by the society has changed: the standards are more complex, the factors to consider are different and in a constant change, there are new emerging social needs in terms of quality of life, wellness, environment and assertion of different cultural identities, and it is more difficult to reconcile the good/interest of individuals and specific groups with the good/interest of the community.

Therefore, it becomes increasingly important for all democratic institutions that aim to reconstruct and/or consolidate the foundations of their consent, to provide conditions, space and tools so that citizens get involved and included in the "public affair", they are listened to and valued for their contribution of expertise and abilities. However, this involvement should not be limited to, albeit important, information and consultation activities, but include all those processes of active participation in which citizens become promoters of their own proposals, calling for an open dialectical confrontation with the institutions.

Being a citizen in the present society not only means to access the services of a more efficient public administration, capable of overcoming the digital divide and ensure clear and timely information for all (E-government), but also to be able to participate in political institutions through traditional and innovative forms (E-democracy). It is in this perspective that the E-democracy is a recent and innovative process that takes place between Administrators and Citizens, by means of information and data transmission tools, in order to exchange information and develop choices in the social and land management field.

## **2. Definition of *e-democracy***

The term *e-democracy* means the use of the new information and communication technologies (ICT) in order to increase the participation of citizens in democratic institutions. The e-democracy, in view of a more active political participation and a new and deeper institutional legitimacy, requires transparency of administrative action, structured listening and empowerment of the citizen.

Generally, the concept of *e-democracy* is linked to that of *decision making*, understood as decision-making processes described in terms of life cycle of the policy, including different phases that extend from the emersion and definition of problems and political arena of actors, to the identification of alternative solutions, to the definition of feasible solutions, to the choice of the solution and its

implementation, management and monitoring-evaluation. In each of these stages, the dialogue between citizens and administrators can be enriched through the use of new technologies included in a reformulation of the concept of deliberation, no longer limited to the final stage of decision-making process, but extended to the entire decisions elaboration process.

The characteristic feature is the comparison methodology between the parties, based on argumentation, documentation, listening and dialogue exchange, rather than on negotiation between predetermined parties and voting through the activation of the processes of cooperative learning between institutions and citizens, recognizing the essential role of appropriate information, while the different roles and responsibilities as for decisional output remain distinct.

The technologies used in e-democracy projects, also called technology of participation, can be divided into three categories: information technology, top-down and bottom-up (theme newsletter), dialogue technologies (mailbox, mailing lists, forums, weblogs, theme chat) and consultation technologies (online and electronic voting, public opinion polls).

For an e-democracy project to be really effective, you need to consider ICT as a transversal and instrumental resource for the entire activity of public administration and not just for a single branch.

In carrying out an e-democracy project it is essential to identify the fields on which to establish a comparison between authorities and citizens, as well as to define the political arena of actors involved<sup>1</sup>. From this perspective, the Internet is conceived as an area of debate and renewed public discussion sphere (Kellner, 2005; Dahlgren, 2005). According to Dahlgren, the horizontal communication allowed by the network can develop a strong civic culture and a potential space for public discussion (and politics), which owns some of the public sphere features theorized by Habermas (Habermas, 2005). However, if you want to study the changes in the public sphere, it becomes inevitable to reflect on the new technologies and means of communication. For Habermas, the media cannot possibly be able to contribute to the democratization of society, as they are being subject to political and economic sources of manipulation (Habermas, 2005).

In fact, in democratic countries, the media serve two essential functions: to control

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<sup>1</sup> See in this regard Hilgartner and Bosk's reflections, 1988, on the origin and decline of social problems in public arenas.

the legitimate exercise of power and to inform citizens, in order to provide them with adequate argumentative skills, necessary for an effective participatory democracy. The new media, especially the Internet, have plenty of potential in this regard; they require a reformulation and an expansion of the concept of public sphere, and reflecting upon its use is a major challenge for the future and for any democratization project.

### **3. The Modern Democracies and the Problem of Low Participation**

At a time when, on the one hand, there is an increased participation of citizens in political institutions and, on the other hand, the citizens seem to be moving away from political life, participation is nowadays considered a priority target in many countries. This is true both for the countries where democracy is historically established and the problem of low participation is highlighted by the decline in voter turnout, and for the countries where democracy is a more recent acquisition, therefore it is often necessary to encourage citizens to have a more active civic and political role. On the one hand, the political demand for many citizens seems increasingly difficult to reach the institutions through the traditional mediation of the representation system; on the other hand, in the places where democracy is rather a more recent experience, it seems that the difficulties regard the process of structuring of the political representation. Regardless of the type of democracy, the traditional forms of representative democracy are more and more threatened by a growing estrangement of the citizens, experienced especially in the low turnout at elections.

However, in the cases in which there is a growing gap between citizens and consolidated democratic institutions, there is also a strong growth of alternative and spontaneous forms of participation like associations, civic groups, public opinion and social movements, etc. The crisis of the electoral participation on the one hand and the parallel growth of alternative forms of participation, on the other hand, represented by the revival of many social, global and local movements, associations of third sector, emphasize the availability of common resources of civic engagement that seem to have trouble finding space in the forms of participation provided by public institutions and by traditional structures of representation. Rather than a generic problem of participation, it seems to emerge a specific problem of reconstruction of the relationship between citizens and institutions. Among the main causes of this phenomenon, which causes a lack of

consensus and a weakening of political action of the democratic institutions in countries with consolidated democracy, there are: lack of trust in the institutions and in the actors that have traditionally spread the participation, mediating the political demand, difficulties in adjusting the structure of representation to the emerging social training, and finally, a new and growing demand from citizens for the use of their own heritage of experience and expertise. Therefore, it is an issue which touches the foundations of the relationship of representation; the emerging local and professional communities, associations and individual citizens increasingly express the desire to be heard and to play a more active role, also "between one election and the other". Moreover, a framework of increasingly strong territorial interdependence between regions, of scarce resources, acceleration of the innovation processes, higher expectations from citizens and businesses with regard to public performances, has prompted a growing expansion of cooperation between public and private actors in the policy definition and in the service delivery.

Thus, once again it appears the need for "unmediated" participation, of direct intervention of citizens, which can be achieved by using the new technologies.

#### **4. The New Forms of Regulation**

It is appropriate to tackle in this chapter, in a broader manner, to analyze the execution of the regulation functions by public authorities, within the framework of the existing democratic systems transformation.

The increased demand for social regulation in key areas for civil society (like economy, media, international relations) in this age characterized by the phenomenon of globalization, has produced a gap between the social demand and the ability of governments to respond with effective policies.

As a consequence, there appeared new governance models, characterized by the presence of a power that is no longer concentrated in the hands of one central actor, but it is spread among public and private, social and economic actors, mutually independent, and none in a position of absolute dominance.

This fact pointed out a change in relations between civil society and public institutions and therefore it became necessary to change these forms of democracy that are facing a crisis of governance, representation, participation and hence legitimacy. It is therefore essential to devise new forms of participation that also

involve civil forces, to redefine collective involvement that tends to include, at the same time, different movements and forces in society.

#### **4.1. Governance: from the Origin of the Term to the Parliament Role in the Community Asset**

The term *governance* is a keyword in the politics of these years breaking into many different institutional areas (political, economic and research), and with different meanings and implications in different contexts of use. By analyzing the etymological root of the term *governance* and the long path that led it to differ from the one originally synonymous with *government*, it is known that this term originated in the thirteenth century, from the French phrase *governance*, understood as government, with the meaning of art and ways of governing. After one century, this expression is embraced with the same meaning by the English language; subsequently it falls into disuse, only to reappear widely to the end of the eighties of last century. Undoubtedly, an important moment is the debate on the reform of structures and institutions of the metropolitan government in the United States, from which the term is used deliberately in opposition to the concept of *government*. Shortly afterwards, it can be found in the business world, where there emerges the topic of *corporate governance*. And later on, it is within the European Union that this term that is gaining importance, particularly with the publication, in August 2001, of a White Paper on European Governance<sup>1</sup>.

Currently, the concept of institutional governance refers to the identification, analysis and implementation of programs and public policies, organized and managed as effectively and efficiently as possible. (Manzella, 2003, pp. 11 ss)

Failing to refer to an even global dimension of the phenomenon, the scope of the concept in question finds a territorial dimension right within the European Union, its Member States and their autonomy. It was envisaged a system of multilevel governance structured on the principles of transparency, accountability and efficiency, thus addressing the problem of democracy in the European Community since "*the reform of European modes of governance is all about improving*

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<sup>1</sup> See the words of the European Commission President Romano Prodi at the presentation of the "White Paper on shaping the New Europe" related by "la Repubblica", 25 July 2001.

*democracy in Europe*<sup>1</sup>.

The governance of the White Paper comes from these assumptions, presenting itself as the executive and administrative transformation of the Union. It is loosely defined as "*rules, processes and practices that determine how European powers are exercised, particularly with reference to the principles of openness, participation, accountability, effectiveness and coherence*"<sup>2</sup>.

The proposed changes wish primarily to ensure the openness of European policies towards citizens, giving a broader advisory role to the social partners and guaranteeing a competent information on the Union's action plans; in order for this to be possible, it is necessary to establish standards and best practices for consultations on its policies, and encourage partnerships and collaboration with extra and para-institutional actors for the policies implementation. Citizen participation is therefore required for the policy-making process and is made possible only indirectly – by means of widespread consultations – for the policy formulation process. In this sense, the participation of citizen takes on the guise of a wide expertise rather than that of the active collaboration in the processes of formulation and execution.

A second objective of the European Governance reform process is to improve the policies and instruments of the standardization and legislation. To this end, the Commission is committed to diversifying the resources at its disposal, to simplify the community law, to make greater use of expert advice, set criteria for the establishment of new regulatory agencies and to define the legal framework within which the latter should operate.

Within the rapid evolution of decision-making processes, it must be emphasized the transformation of the role of national parliaments, which, from subjects who disciplined every sector of public life have become subjects who regulate the massive regulatory flows coming (or that should come) from other actors on the national and institutional scene (in particular - in Italy - from the Government and the Regions). Parliamentary legislation is moving towards a law of principle, planning and policy-making, also in the implementation of the binding Community regulations. From this perspective, it is introduced the significant quantitative and qualitative use of the legislative delegation and the measures of deregulation and

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<sup>1</sup> SEC (2000) White paper on European governance. "Enhancing democracy in the European Union". Work Programme, SEC (2000) 1547/7 def.

<sup>2</sup> 4 COM (2001), White paper on European governance, COM (2001) 428, 25.07.2001.

delegating the legislative power.

There are several public and private actors involved in the implementation of the above-mentioned policies and programs: just think of the various independent administrative authorities whose functions of regulation, control, direction, management, and sometimes even sanctioning are conferred by law in some sensitive areas of public life (telecommunications and publishing, competition, protection of personal data, public services and so on). But consider also the multitude of administration and public and private bodies institutionally participating in this public "management", in trade unions, in advisory bodies and so on. Giorgio Giraudi, in a study on the emergence of an antitrust policy in Italy, showed the way in which this was "*an important example of a policy change that takes place in a context of systematic transition under the influence of an external constraint.*" The changes in *European governance* set out with the approval of the Single European Act would have accentuated the pressures coming from the inside of the Italian economic and political spectrum, leading them towards an antitrust legislation. Legislation, however, that has moved in favour of establishing an independent administrative authority through the Law no.297/90 in the wake of the European choices. (Giraudi, 2000, pp. 257-294)

The process of harmonization of the individual states administrative ordering to the European ordering is now also influenced by other crucial issues, such as the application of the principles of subsidiarity and proportionality - in its vertical and horizontal versions - which are among the factors of great transformation and reorganization of the Community political space. The subsidiarity principle, expressly provided in our Constitution as a result of the modification of Title V of the second part of the same, presides over the division of powers among the various local, regional and national bodies, defining the levels of intervention in order to identify the bodies which should take charge, from time to time, of policy and law making on specific issues<sup>1</sup>. All these have important repercussions on the performance of representative democracy.

A further problem is represented by the enlargement and the strengthening of the role played by Authorities or agencies. The same Giraudi, along with Mary Stella Righettini, noted that, in terms of administration, the governance calls the idea of a

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<sup>1</sup> The reform enforced by the constitutional law no. 3 from 18 October 2001, has introduced the subsidiarity principle of community origin, in the art. 118, paragraph 1 and 4 and 120, paragraph 2 of the Constitution.



set of sub-systems of governance based on interdependence and co-decision between actors, none of whom in a position of absolute dominance and control of a specific resource. The independent authorities may be considered among the most significant phenomena in the evolution of Western democracies governance systems. They represent a shift from institutional systems of government, mainly based on the representative institutions (parties and parliaments), directed towards the centrality of the inputs functions, to government systems aiming at the reevaluation of the courses of action that are more outputs effectiveness oriented. (Giraudi & Righettini, 2002, p. 202)

Therefore, it becomes important to place the individual at the center of these new processes. Only by having a different approach to the complexity of the individual, and starting from their life contexts, it is likely to define a fuller political and civil participation. From this point on, every experimentation and path to innovation of social and political institutions might become possible. (Borrelli, 2001, pp. 9-41)

#### **4.2. Reason of Quality Rules: from “Regulatory Reform” to “Mandelkern Report” through Lisbon Strategy**

During the twentieth century, governments have achieved significant results in the protection of multiple social and economic values due to the regulations expansion. It is known, in fact, that legal rules are essential for the life of a democratic state.

Currently, however, the traditional forms of law-making do not seem appropriate for guaranteeing that the increasing regulatory powers are used effectively in terms of cost and consistent with the achievement of those results.

In order to address this need, there are therefore required measures of "Better regulation" aimed at the "legal-administration" simplifying of procedural steps and the raising of "regulatory quality", with a more systematic analysis of its effects, also from an economic point of view. The elimination of the regulations, the deregulation, can of course be part of this process, but, equally obviously, it cannot absorb it entirely. With this in mind, a better regulation strategy is a decisive factor for system competitiveness. The better regulation topic has become a priority objective of the European Union. The strategic recovery plan of the European economy launched by the Boards of Santa Maria da Feira and of Lisbon has stated that a policy for better regulation is an indispensable tool for the development of the European market, which would make the European economy the most

competitive and dynamic "knowledge-based economy" of the world. Based on this finding, the European debate on better regulation was therefore raised with the need to find a remedy for an excessive law-making that threatens to delegitimize the entire course of action of the Union.

Other fields of action for better regulation are:

- 1- The implementation, by the European Commission, of programmes of simplification, modernization, abrogation, codification or revision of existing laws.
- 2- The formulation of new law proposals, for which there are required impact analysis and consultations of stakeholders and experts, and for which is important respecting the proportionality and the subsidiarity. This was initially realized by the OECD, which has established an ad hoc working group on "Regulatory Reform" pointing out to the Governments of the Member States the existence and relevance of the matter. (Basilica, 2006)

The interest of the European Union comes much later, under the pressure of the Member States. More precisely, it is from the Boards of Gothenburg and of Laken that it begun giving more structure to the regulation evaluation matter. The historic *Mandelkern Report on better regulation* of 2001, in fact, comes from an initiative of the national Ministers for public function.

This is about an action plan for the community regulations quality drafted by a commission of experts, mostly coming from central units for better regulation in the different Member States. The report identifies the principles or objectives the promotion/implementation of which is instrumental to the "*best regulation*".

These principles are:

- 1- the principle of the need for new regulation, which involves the evaluation of the legitimacy and effectiveness of various public action instruments, which are to be chosen according to proportionality and subsidiarity (therefore principles related to the one of necessity).
- 2- the principle of transparency, which involves the participation and consultation of the parties during the preparation of the legislative proposal.
- 3- the principle of responsibility, in respect of which the report recommends that each party involved in negotiation should identify and refer to the authorities that brought about that rule, also in order to be able to refer the possible difficulties encountered in the application of the rule to these bodies.

4- the principle of accessibility, with the implementation of which the Report intends to indicate how essential it is that citizens can refer to consistent and also suitably communicated rules, in such a way as to prevent that people concerned by a specific regulation cannot assert their own rights due to a lack of information.

5- the principle of simplicity, with which the Report emphasizes that regulations should be no more detailed than necessary.

Therefore, on the basis of this report an action plan has been designed, whose main protagonist was the European Commission. More precisely, the implementation of the report was possible in several stages. The 1st stage in June 2002, has consisted in a series of communications from the Commission on improving regulation. The Communication 275 of 2002 (European Governance: Better law-making) provides for the adoption of 3 additional communications, including: the Communication on the simplification 278/2002, creating a plan of action to improve and simplify the regulatory environment, the Communication 276/2002 on impact analysis, the Communication 704/2002 on consultation. All of these actions, consistent with the *White Paper on Governance*, have initiated an *ex ante* evaluation system of the community regulation, and started the progressive simplification of Community regulatory environment.

The 2nd stage, in 2003, has consisted in the approval by the 3 EU institutions (Commission, as a body to which is attributed almost exclusively the legislative initiative, the Council and the Parliament as bodies that approve Community acts) of an inter-institutional agreement on better regulation. Through this agreement, it has been agreed to improve the regulation quality through a series of initiatives and procedures stipulated by the agreement in accordance with the principles of subsidiarity and proportionality, imposing the rules of fair cooperation for better coordination in the legislative process, in the guarantee of greater transparency and accessibility, in choosing the legislative instrument and the legal basis, in using alternative methods of regulation, in simplifying.

The 3rd stage, in 2005, consisted in the Communication 97/2005, by which the Commission has addressed the need for better regulation in the context of a renewed Lisbon strategy more focused on growth and employment.

More specifically, the Commission announced its intention to launch a comprehensive initiative in order to "*ensure that the regulatory framework in the EU meets the needs of the twenty-first century.*" This initiative should try to do

more on better regulation and strengthen *"the way it contributes to achieving growth and jobs, while continuing to take account of social and environmental objectives and of the benefits that citizens and national administrations have from better management of public affairs"*.

#### **4.3. Consultation in its Various Forms through the use of the Internet and of the New Technologies**

The relationship between the new communication technologies and the old and new forms of political and democratic participation is a central theme of various studies, analysis and discussions.

Without detailing here such disputes, it is possible to offer some examples of effective use of electronic technologies, or tools that lead back to the concept of, as they say, *e-democracy*.

The Internet is by definition a fast, flexible tool, which allows cooperation at distance, has generally low costs, allows the creation of large archives, including documentation, in small space; provided that it is used in proper way and not by itself, the network can be one of the means responding to the "culture of secrecy, the unwillingness of officials, poor communication within the administration". Therefore, the type of support that the law should focus on mainly concerns the "information and communication" tools. New ties that facilitate relationships by means of involvement, consultation, coordination and that stimulate a new political leadership based on creativity, change and direct confrontation with citizens. Voters and elected officials who work together live in order to communicate and exchange opinions, make decisions, make shared choices, encourage political participation. And when there is a need for great policies and new ideas, dialogue and interaction with citizens become critical success factors and give life to the most active component of the political strategy: the participation". These lines emphasize the role the Internet plays in today's world: without mentioning the exaggerations of those who consider the Internet a *"new agora"*, it is fair to point out that, thanks to the network, theoretically they all have the possibility to intervene and be heard, and that information may be available in real time and as much as possible. The information sources can be of various kinds, ranging from the provision of technical papers up to a more simple but very effective tool as the free newsletter, or e-mails that attempt to mitigate the inevitable difficulties of the technical papers and which, on a regular basis, sum up in an accessible language all

the measures taken by a certain administration. Nowadays it is easy to find the appropriate links for public debate on the institutional sites or the sites specifically dedicated to this; among the latter see for example the French one ([www.forums.gouv.fr](http://www.forums.gouv.fr)) or the rich and functional one of the European Union ([http://europa.eu.int/yourvoice/consultations/index\\_en.htm](http://europa.eu.int/yourvoice/consultations/index_en.htm)). The latter, amongst other things, already in the policy-making phase (White Papers, Green Papers) creates a support network and "reviews" their formulation also based on recommendations received from any EU citizen. However, it is a use of new technologies that can facilitate but not replace the participation, the direct discussion among citizens, the shared development of ideas and opinions, and the reasoned confrontation by means of which the collective choice is built.

The use of the network is problematic because not everyone has easy access to this technology, whose ubiquity, however, is fairly recent; but we should not underestimate the learning ability of using the Web. The use of technologies, and overcoming of the digital divide, is, among other things, one of the eight so-called "core competencies" that all citizens should possess, according to the European Union programs (Recommendation of the European Parliament and Council on key competences for lifelong learning, 2005).

The network can be a tool to encourage, in addition to the information, the inclusiveness towards those who should be favored in the construction of participatory processes like disadvantaged groups such as disabled, young people who are more experienced and that have a natural bent in the use of new technologies, disadvantaged areas more easily reachable via the web, last, but certainly not least, the school environment with all the wealth of knowledge and potential it possesses.

The listing of participatory tools that can be activated through the network could continue by mentioning the forms of electronic voting on specific objects, important and central to people's lives; in some cases it give rise to forms of thematic surveys that seem to confirm the fact that participatory processes often start from the practical experience to arrive at general talks and to real civic and social protagonists forms.

Even the political commitment of young people seems to move in a particular way, according to recent studies, by sharing and building practices regarding specific aspects of daily life, not ideologies or parties; and young people are attending a lot the so-called weblogs, nowadays ubiquitous, which invite the public to comment

and interact on news published on line; the theme chats with public officials are also widespread, often found in the newspapers online in order to talk *to* citizens instead of talking for citizens.

So as to be effective, the use of electronic tools must be preceded and accompanied by a constant communication effort, even in places of greater access (work, school, meeting places such as markets, stations, clubs etc.); it is also needed a maximum visibility and accessibility of sites dedicated to participation, dissemination of digital skill or of possible reception services (so-called help desk) for those not familiar with the network, the constant monitoring of the number of visits for the evaluation of the effectiveness of the instrument chosen, due respect for the privacy when the case.

## 5. Conclusions

This work was aimed at providing a general overview of the e-democracy phenomenon, in order to demonstrate that the active participation of citizens in political life is possible, and in many cases it is already a reality. The research carried out revealed a truth that should by no means be neglected, that is the direct link existing between the success of these initiatives and the views of institutional decision-makers. Obviously, it is not possible to complete a project of e-democracy if those who should be its promoters ignore, or want to ignore the importance of a participatory practice.

It will be therefore interesting to see future improvements made in this project and in other projects with a view that even those who have not yet understood the importance and the need to start a new policy of constructive dialogue with citizens are positively oriented toward these issues. The target of the development of this thesis was, therefore, to highlight the importance of electronic democracy nowadays, analyzing the aspect of consultations as a means of *better regulation* and the opportunity for active participation rendered feasible by modern *e-technology*.

Another topic is related to the *bottom-up* appearance of democracy, or the lack of participatory services for the citizen, or rather the request for direct democracy addressed by the citizen to the institutions. Participation should not be, in fact, only secured and guaranteed, but also requested by those who need to participate; otherwise, any e-democracy service offered turns out to be useless because it is not

used. Finally, the question arises as to why, even in cases in which there are all the tools to achieve an effective participation to political life, they are not used. One answer can be attributed to the citizen's lack of education on participatory democracy.

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