

# Deliberative democracy and law-making in the digital era

 María Jesus Garcia Garcia 

University of Valencia, Valencia, Spain

**Abstract:** This paper deals with codification and institutionalization of deliberative democracy among member states and EU institutions in the scope of democratic cohesion in the digital era. The general approach is based on the premise that innovations in deliberative democracy triggered by digitalization and new technologies need to be institutionalized in the legal systems of member states according to a set of legal standards that stem from the EU *acquis* in order to maintain democratic cohesion in the law-making process. The main objective of this paper is to analyse the necessity of institutionalizing deliberative democracy processes in the framework of EU democracies. The hypothesis is that codification and institutionalization of deliberative democracy is necessary to preserve democratic cohesion among EU member states and also to guarantee citizens' entitlements. As for methodology, data collection and data analysis constitute the bulk of the research. Data collection relies on literature, and EU legislation. Data analysis is based on legal reasoning, mainly. The conclusion is that citizens' participation needs to be secured and guaranteed by means of a set of core principles base on the EU *acquis* in order to preserve democratic cohesion among member states. Otherwise, no rights are conferred to citizens and deliberative processes operate at the discretion of public authorities.

**Keywords:** deliberative democracy, participatory democracy, law-making, new technologies, citizens' participation

## Introduction

This paper deals with codification and institutionalization of deliberative democracy among member states and EU institutions in the scope of democratic cohesion in the digital era (Gutmann & Thompson, 2004). The general approach is based on the premise that innovations in deliberative democracy triggered by digitalization and new technologies need to be institutionalized in the legal systems of member states according to a set of legal standards that stem from the EU *acquis* in order to maintain democratic cohesion. The aim of this study is to look into

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 Full professor, University of Valencia, Valencia, Spain; e-mail; m.jesus.garcia@uv.es.

innovation in governance in order to implement new models of citizen participation intended to bring democracy to the highest level of quality and commitment towards citizens (Palumbo, 2024). Governments could foster innovation in participation at a political level by using the latest tools, techniques and organizational models to help democracy to thrive in today's dramatically changing landscape, given the current challenges faced by democracy.

The reasons to introduce innovations in government based on deliberative democracy are directly related to an attempt to enhance democratic requirements such as transparency, accountability, legitimacy and efficiency, and also to bring democracy to a new level in which citizens' participation supersedes representativeness in decision making, at least in certain areas (Fong & Wright, 2003). Democratic systems of government can always benefit from civil engagement and citizen participation in public affairs. This paper focuses on the interaction between government and individuals and how the quality of democracy could be improved by implementing more effective mechanisms to strengthen the legitimacy of public authorities and engage citizens to take an active role in decision-making and government action by resorting to deliberative democracy.

In this scenario, codification of deliberative democracy aims at creating a standardized legal framework of guarantees and safeguards capable of preserving EU democratic cohesion when introducing deliberative decision-making procedures potentially adopted by member states, or European Union institutions in the context of a digital environment.

The codification process should rely on the essential elements of deliberative democracy in the framework of EU values and democratic principles, translating these attributes into practical legal standards to be followed by all member states and European Union institutions. This functional approach aims to transcend the diversity of member states' democratic cultures, as well as the variety of methods through which deliberative democracy can be articulated.

In this regard, the Report on deliberative democracy, issued on the 23th of January 2023 by the European Committee on democracy and Governance of the Council of Europe (European Committee on Democracy and Governance, 2023) put forward that the essential elements of deliberative democracy and its attributes need to be set out in the form of legal standards that guide member states and democratic systems of government to develop new deliberation methods in the framework of a common democratic culture. The Recommendation CM/Rec(2023)6 of the Committee of Ministers to member States on Deliberative Democracy, adopted on 6 September 2023, has become the first international standard in this field (Council of Europe, 2023).

Codification of deliberative democracy is expected to fill this gap and facilitate the process of institutionalization by diving into the EU acquis and following the Council of Europe standards and recommendations.

## 1. Research justification

As the Council of Europe, European Committee on Democracy and Governance, identified on report January 31st, 2023, deliberative democracy has not been an object of codification or institutionalization in a coherent, systematic and comprehensive way until now in the scope of the EU member states (European Committee on Democracy and Governance, 2023). According to this report, deliberation by the public in decision making has been put into practice by different European states from an experimental point of view, and certain methods of participatory or deliberative democracy have been regulated in fragmented laws (Bächtiger et al., 2019). Consultations, or people assemblies have been object of consideration as disconnected mechanisms of participatory democracy. However, deliberative democracy requires something else than a bunch of participatory instruments scattered throughout the legal system of any given member states. Deliberative democracy is not only to give people the opportunity to express their views sporadically. Deliberative democracy requires to respond to a set of core principles and undeniable attributes (Ackermann & Fishkin, 2002). It also requires to meet a number of guarantees and safeguards to avoid being used to manipulate citizens. It requires continuity and commitment by public powers, a process design and also a set of methods or techniques that can be different and still respond to the requirements of a democratic system. Under these requirements the legal standards needed to codify deliberative processes within a regulatory framework should give solutions to certain questions that remain unsolved. Such questions should consider the topics that are more suitable for deliberation, the design of the deliberative process, how the result of such deliberative processes should be embedded in decision making, the scope of deliberation, how the recruitment of participants should be managed, what deliberative method offers the greatest potential, or the impact of the inputs in decision-making. And yet, these questions remain unsolved.

As well as this, deliberative democracy needs to address an additional challenge. Any legal considerations to deliberate by the public must take a future-oriented approach, considering not only to give solutions to current unsolved problems, but also considering the lurking challenges in the context of a changing world (Fishkin, 1991). In this regard, we must consider the intersection of technology and society, which also has a reflection in deliberative processes. These new functionalities allow to scale deliberation up, making possible massive participation by the public in decision-making. The next step will be to use AI to analyse these large amounts of citizens' inputs so that group decisions can be considered as collective intelligence and also as collective will.

The use of artificial intelligence is making it technically possible to gather citizens' opinions on a great scale, allowing for massive participation by the public. European countries need to step into deliberative processes at the same footing. The EU is a community with a democratic heritage and a similar democratic culture.

When it comes to representative democracy, the values are clear. However, when it comes to deliberative democracy this is not the case. We lack a common legal framework of principles in this regard. We need to define the safeguards and warranties to make sure that decisions made by using deliberative democracy meet the democratic standards that we share as EU community.

The main objective of this paper is to analyse the convenience of tackling institutionalization of deliberative democracy among member states and EU institutions in the context of democratic cohesion in the digital era. Our hypothesis is that deliberative practices need be institutionalized in the legal systems of member states and EU institutions according to a set of legal standards that stem from the EU *acquis* in order to maintain democratic cohesion in the digital era.

## 2. Literature overview

Disaffection toward politicians has led to give citizens a more active role in policymaking. The so-called deliberative democracy has been one of the ways of giving citizens a more active role in decision-making. Up to now, deliberative democracy is more of a concept than an articulated and comprehensive set of rules governing deliberative methods of decision-making. Different conceptual frameworks dealing with deliberative democracy have been elaborated and also there is an agreement about some of the principles that have to be considered in any given deliberative process. This includes principles such as transparency, inclusiveness and openness.

Literature on deliberative democracy is varied and diverse and includes theoretical foundations and practical applications. Key authors such as Habermas (1994), Rawls (1993), Fishkin and Laslett (2003) and Ackermann and Fishkin (2002) have set the ground for contemporary research. There is a general agreement on the importance of deliberation, inclusion, and public reasoning in the theory of deliberative democracy. However, subject matters as the nature of consensus, the breadth of public reason, the convenience of large-scale deliberation, or how to address structural inequalities in deliberative processes have been subject to discussion and disagreement Rawls (1971).

Such debates show the complexity of this area of research and also trigger further development of theories. Studies and theories about deliberative democracy are in a constant process of evolution, facing new political circumstances, internal revisions, empirical research, interdisciplinary approaches, methodological and technical innovations and global challenges, such as climate change (Smith, 2022), mass migration, and pandemics (Bächtiger & Dryzek, 2024). Deliberative democracy must be adaptable to these new challenges in order to maintain its relevance and effectiveness in promoting higher standards of democracy. And so must be the theories underpinning deliberative processes (Bächtiger & Parkinson, 2019).

Legal research on deliberative democracy has also been conducted with a view to exploring how deliberative processes can be intertwined with decision-making to achieve real and relevant effectiveness. Fishkin (2011) research on deliberative polling has been substantial in illustrating how deliberative methods can be used in the context of public consultations and legal reforms.

Studies on deliberative democracy in the scope of the EU have been focused on introducing deliberation in the framework of EU institutions with a view to improving EU legitimacy (Fossum & Schlesinger, 2007). Their work focuses on the dynamics of deliberation within the European Parliament and its impact on decision-making. Alemanno and Nicolaïdis (2019) address the functioning of citizens' assemblies in various member states and their potential for implementation at the EU level. Other works have analysed the benefits of deliberative democracy in terms of countering populism (Blockmans & Russack, 2020). Deliberative democracy in the scope of the EU has been approached from a partial point of view, focusing on specifics methods of deliberative democracy, such as citizens' assemblies, (Smith, 2021), or addressing specific cases, such as the Conference for the future of Europe (Alemanno, 2020). Previous research on the topic of deliberative democracy has explored how deliberative principles can be integrated into legal systems to enhance democratic legitimization, participation by the public and equal opportunities to participate in decision-making (Cohen, 1997; Gutmann & Thompson, 2004).

Research considering the impact of new technologies on the deployment of deliberative methods is wide and varied. Although this is a field in constant evolution, new technologies have been considered as long as they are at the service of representativeness (Allen & Light, 2015; Bernholz et al., 2021; Besson & Utzinger, 2007). This works as a limit, since the understanding of democracy in terms of representativeness constrains the potential of new technologies. AI and new technologies are considered in democratic terms as long as they match existing forms of exercising democracy. In other words, new technologies are seen as tools to enable an extended version of democracy, not as a way of reformulating democracy and its functioning in new ways. Even though some research has focused on digital advances on deliberative democracy, representativeness remains at the core of this form of democratic participation

Research funded by the EU has explored subject matters related to deliberative democracy. This is the case of DEMOTEC (Democratizing territorial cohesion: experimenting with deliberative citizen engagement and participatory budgeting in European regional and urban policies. From a similar approach, the research project Cities as arenas of political innovation in the strengthening of deliberative and participatory democracy. Also, we must consider the research project EUComMeet.

Most of the research and studies developed up to now adopt a today-perspective, analysing how the introduction of deliberative democracy processes can enhance democracy and create higher legal standards. However, it is necessary to analyse the impact of AI-deliberative democracy in the evolution of democracy from

a long-term future-oriented approach. Democracy must be considered as a living creature that evolves over time. From this perspective, prospective research aimed to foresee and anticipate future effects on democracy becomes necessary if we are to codify deliberative practices in the context of the EU.

### **3. Deliberative democracy in the context of representativeness**

Representative democracy is in crisis at this moment in time. Citizens have a feeling of disaffection towards politicians and feel that the decisions taken by their representatives are not always the most accurate ones. This triggers a crisis of legitimacy. The development of new technologies provides citizens with quicker and easier access to information and, therefore, they can analyse public decisions and draw their own conclusions. They have the feeling that their representatives do not always fulfil their expectations. Trust in government has been eroded as a consequence of a growing inequality, which has been exacerbated as a consequence of the economic crisis. Deliberative democracy could reduce the rising disaffection towards politicians. Governments would feel a greater sense of accountability to their citizens with no grey lines between what citizens want and what governments provide and this would enhance legitimacy and efficiency at the same time.

Representative democracy is undergoing a process of adaptation and faces challenges that demand the involvement of new actors. By carefully granting decision-making authority to private entities and citizens, governments can achieve considerable gains in both efficiency and consent. New government systems make use of networks to ensure more effective deliberation and democratic legitimacy, which makes it necessary to involve the public and also private actors. Legislation should aim at a more equitable participation of the people in formal and societal governance in accordance with principles of justice and individual rights. This should be a requirement not only to meet the needs of a changing world, but also as an imperative resulting from the development of new technologies, which make it possible for individuals to have an active role in government activity. Citizens must have a more active role in government, both as individuals and also as part of organizations and networks, and in this regard, the role of new technologies is an important tool to empower citizens.

Governments play an important role when it comes to the making of decisions, the formulation of policies and the delivery of public services across a wide range of areas (Podgórska-Rykała, 2024). Governmental action covers the particular needs of localities and citizens. The proximity of governments to the electorate and to the needs and interests of citizens makes it clear that citizens must be given the opportunity to shape public policies and intervene in the decision-making process. It is necessary to look into new ways of citizens' participation (Alemanno & Organ, 2021) and to go deeper into participatory democracy.

Innovation in government is needed. Technologies are accelerating at an exponential rate, yet most government organizational structures and processes remain lineal. Yesterday's best practices are no longer sufficient to succeed in today's fast-paced, tech-driven, disruptive world. Instead, new mindsets and skill sets are required for leaders to envision the future. We are 21st century citizens under 18<sup>th</sup> century government structures and procedures. The aim is to empower citizens by reducing the gap between them and their political leaders, and in this regard the use of technological tools plays an important role. New technologies bring citizens closer to the decision-making process by giving them the opportunity to take a more active role in the process. Likewise, the exercise of democracy can be transformed and reformulated in the light of new technologies. This implies exploring the opportunities offered by new technologies, challenging existing preconceptions. Technological innovations have a great potential and as a logical consequence, democracy cannot be based on the principle of representativeness exclusively.

This prospective approach allows us to challenge existing preconceptions about democracy, such as that of representativeness. The usage of AI-supported deliberation can serve as a catalyst for a new era of democratic government. AI will redefine and transform the idea of democracy and the way in which sovereignty is exercised. For this reason, any legal considerations of deliberative processes must take a future-oriented approach, considering not only present handicaps, but also the lurking challenges in the context of a changing world and codification must be approached from this perspective.

Democracy evolves over time and adapts itself to a given place and time. In ancient Greece, democracy was exercised in the way of direct democracy. Thousands of years later, the best expression of democracy is that of representativeness, given the impossibility of the direct and personal intervention of individuals in public life. However, new technologies will make it possible to express opinions in a massive way and AI offers the tools to have massive amount of information processed and analysed. As AI will transform people's opinions into a kind of new collective will, democracy may not be bound to representativeness as the main form of exercising power. Our assumption is that the introduction of AI in deliberative processes will allow for a new form of direct democracy in the adoption of certain decisions, bringing back the concept of Greek agora. A shift from a democratic system based on representative democracy to a new one in which AI-assisted deliberative democracy will coexist with representative democracy at an equal footing is already technically possible. The idea of polydemocracy implies that different forms of democracy will be able to coexist at an equal footing and representative democracy may not be the paradigm of democracy anymore.

The idea of citizens' assemblies comprised by randomly selected citizens who work under the principle of representativeness shows that even if public powers want to introduce innovations in government, they are stuck on the idea of representativeness. New technologies will make it possible to resort to large-scale

participation without the constraints of representativeness. What do we need these representativeness-based citizens' assemblies for, if we already have representative institutions directly elected by the electorate?

#### **4. Deliberative democracy as an experimental practice**

Currently, deliberative methods and processes are still experimental. The role and purpose of deliberative democracy in the context of a representative democracy needs to be the object of study and analysis. A theory of deliberative democracy still needs to be put in place, as it remains legally undetermined how deliberative democracy should be introduced in decision making processes. Many experiments have been conducted in this regard, mainly in the public sector, but also by private companies.

In the scope of the European Union, deliberative processes have been experimental attempts to involve citizens in decision making. The last of these attempts is the Conference for the future of Europe (Alemanno, 2020). However, in spite of the popularity of these new forms of exercising democracy, deliberative processes have not been institutionalized or codified in the scope of the European Union up to now.

Experimental attempts in the field of deliberative democracy have been conducted by the private sector too. In this sense, Meta carried out an experiment in which technology users were invited to participate in Community Forms where participants had the opportunity to have a say on generative AI. The experiment was conducted with the collaboration of Standford Deliberative Democracy Lab. The aim was collecting public input on issues concerning Meta's products. This experiment driven by the tech industry was based on the so-called deliberative democracy model. Meta made use of AI to moderate Community Forum discussions. The experiment put forward the lack of standards in the field of deliberative democracy, whether in the private sector, or in the public one. The experiment also showed that the result was dependent of the company commitment to follow up the inputs gathered by the public and this is a conclusion that can be easily extrapolated to the public sector, making clear the existence of a democratic gap, which must be closed in the future. Following on the steps of Meta, OpenAI has also held its own AI-supported deliberative processes.

Other experiments in the area of collective intelligence have been run by The Collective Intelligence Project, with the aim of aligning progress, safety and participation in the context of new technologies. Some companies, such as Go Vocal have also developed AI-supported functionalities to enable deliberation, which have been put into practice by several governments providing a field for research.

Experimental research in AI deliberative democracy is also being conducted by different institutions and organizations. The Global Citizens' Assembly is conducting research on the role of citizens' assemblies in agenda setting at a

transnational level. The Stanford Deliberative Democracy Lab is devoted to research dealing with democracy and public opinion obtained through Deliberative Polling and related democratic processes. Along with the Stanford's Crowdsourced Democracy Team, they developed an AI-assisted online deliberation platform intended for massively scale deliberation, which allowed Meta to conduct the experimental approach to deliberative democracy.

Experimental approaches to deliberative democracy based on the method of citizen assemblies have been conducted by FIDE, Federation for Innovation in Democracy- Europe. This research focuses on citizens' assemblies as a form of exercising deliberative democracy, and the facilities to gather selected citizens fostered by digital platforms. However, turning these pilot programs into sustained governmental practices remains a challenge.

## **5. Democratic cohesion as the reason behind codification. Reasons to codify deliberative democracy according to EU values**

Governments and also private companies have been experimenting with innovative practices in the field of deliberative democracy to make the public participate in decision-making. Citizens' assemblies and mainstream participation are good examples of this. However, these experimental practices do not create citizens' entitlements, nor public power duties. Citizens' participation needs to be secured and guaranteed through codification and institutionalization. Otherwise, no rights are conferred to citizens and deliberative processes operate at the discretion of public authorities. Experimental practices, without a legal framework supporting them, are likely to bring about harmful effects on democracy. Citizens may perceive that their participation is useless if their opinions are not considered in decision-making because no legal framework makes compulsory for public authorities to integrate these inputs in the process.

Member states and even EU institutions are reluctant to introduce codified methods of citizens' participation in their legal systems. However, institutionalization of deliberative democracy is the key to secure citizens' rights and also to provide deliberative processes with a set of guarantees and safeguards, such as regular monitoring, transparent reporting, or fruitful feedback.

And yet, there are not common legal standards that could guide the process, as it has been stated by the Council of Europe in a recent report. Having common legal standards to codify deliberative democracy becomes particularly important in a time when governments have to face new challenges, as they need to integrate digitalization and new technologies in the design of deliberative forms of participation. These new technologies have the power to enhance democratic life but also have the potential to transform democracy and the way in which it is exercised. The common democratic heritage of member states and also the integration in a political community demands a common approach to these new challenges.

EU treaties assume that social and territorial cohesion must be promoted (Craig, 2010). The arrival of digitalization and their impact on democratic participation makes also necessary to promote democratic cohesion among member states. Democracy is in the process of being reformulated according to the new possibilities offered by new technologies. Legal standards to codify deliberative processes are more necessary than ever to bring unity when facing such challenges. EU member states need to step into deliberative processes at the same footing. When it comes to representative democracy, the principles are clear. However, when it comes to deliberative democracy, we lack common legal standards in this regard. We need to define the legal safeguards and guaranties to make sure that decisions made following deliberative methods meet the democratic standards that we share as the EU community, especially with the introduction of new technologies. Indeed, the consequences of lacking common legal standards is exacerbated by the potential impact of AI-supported deliberative procedures and machine learning on the exercise of democracy. Up to now, member states had a common heritage and shared common democratic traditions that revolved around the idea of representative democracy. However, the future implementation of AI in democratic practices can make democracy evolve in different ways in different EU member states. Likewise, member states may find different forms of implementing AI and also different forms of exercising democratic power (Habermas, 1994) disaggregating the common democratic heritage as democracy evolves. This makes it necessary for member states to follow certain standards to keep democracy on common grounds.

Deliberative processes assisted by chat boxes, digital platforms and the usage of AI to select participants in citizens' assemblies, are just the first approaches to AI, which have already been implemented in certain countries. Technology has also been of use to determine the level of participation required to undertake a deliberative process. Data collection and its analysis by means of artificial intelligence are future possibilities. This will make it possible to scale deliberation up, allowing for massive and large-scale participation in decision-making. The next step may be to use AI to analyse these large amounts of citizens' inputs so that group decisions can be considered as collective intelligence and also as collective will.

In this future scenario, maintaining democratic cohesion in the exercise of democracy among member states and EU institutions will be a requirement. As a polyhedron, democracy also has many faces. Balance and ponderation among them will have to be struck according to certain standards that will have to be anticipated.

Democratic cohesion will have to be assured by means of a set of rules and legal standards intended to preserve the essential elements and attributes of EU democracy when codifying deliberative democracy, especially when introducing new technologies and AI.

Of course, there is not just one-size- fits- all ways of regulating deliberative decision-making. Each member state will have to pass effective legislation to this end, according to their legal traditions and democratic culture. However, there must

be some legal standards intended to safeguard legitimacy of decision-making adopted by following these methods, and also citizens' rights must be guaranteed when resorting to deliberative processes. Even considering the diversity of democratic cultures, there is a need for standards to underpin deliberative processes in the scope of the EU and their member states. In this sense, the first standardized rule in a democratic environment should be the institutionalization of deliberative democracy.

A standardized regulatory framework of AI-deliberative democracy in the scope of the EU must:

1. be consistent with the Treaties.
2. respect EU values and democratic principles.
3. be respectful with citizens fundamental rights, such as data protection, privacy, rights of minorities.
4. respond to the principle of good administration, so that the design process must be oriented to effectiveness and must have an impact on decision making, allowing citizens to receive feedback.

Deliberative democracy requires it to be codified and institutionalized in a coherent and comprehensive way to give response to the challenges, limits and barriers that governments will have to face, but also to create effective legislation. Of course, there is not just one way to regulate deliberative democracy, but there must be some legal standards intended to safeguard legitimacy of decision making adopted by following these methods, and also citizens' rights must be guaranteed when resorting to deliberative processes. Even considering the diversity of democratic cultures, there is a need for standards to underpin deliberative processes. Such standards should be intended to avoid a harmful impact on democracy and also to create a link between policy making and people's opinions. These limits will allow us to control the actions of government when they adopt decisions using these procedures.

Member states must meet some common democratic grounds in their governmental practices and deliberative processes. Experimental practices in this regard, without a legal framework to support them, are likely to bring about harmful effects for democracy. Citizens could perceive that their intervention in policy making is useless if their opinions are not considered in the final decision because not legal framework makes it compulsory for public authorities to integrate their inputs in the decision-making process. Some examples can illustrate this in the field of participatory democracy. Consultations, for instance, are open to the public (Fishkin, 2011). However, discretion runs the process, as public powers are not bound to send any feedback to participants, who often feel that they have not been heard in the process. This discourages citizens from participating in future processes eroding democracy and trust in politicians. When talking about deliberative democracy we risk the same consequences. For these reasons codification and institutionalization of participatory and deliberative democracy is a mandatory consequence if we are to prevent democracy from weakening.

Up to now, member states have had a common heritage, and shared democratic traditions that revolved around the idea of representative democracy. However, new technologies and particularly the implementation of AI in democratic practices can make democracy evolve in different ways in each one of the EU member states. Likewise, member states may find different forms of implementing AI and also different solutions to the exercise of democracy, disaggregating the idea of democracy and the common heritage as democracy evolves.

Democracy may evolve differently in different countries, even if they share a common democratic background. This makes it more necessary than ever for member states to follow certain standards to keep democracy on common grounds. EU treaties assume that social and territorial cohesion must be promoted. The arrival of new technologies is also necessary to promote democratic cohesion among member states. Democracy risks being reformulated according to the new opportunities offered by new technologies. From this perspective, democratic cohesion among different member states and EU institutions is more necessary than ever. We are facing a time of reformulation of democracy. Legal standards to codify deliberative processes are more necessary than ever to bring unity when facing such challenges.

Digitalization of democracy will bring about different patterns of democracy. Democratic systems of government will not be bound to rely on just representative democracy as the foundation of a democratic government. More than a given legal architectural structure, democracy will manifest itself through different forms. The concept of polydemocracy implies that different forms of exercising democracy will be possible. As AI will allow transform people's opinions into a kind of new collective will, democracy may not be bound to representativeness as main form of exercising democracy. Many forms of democracy will be possible, because different forms of democracy will merge in the same democratic environment. In this context, it will be necessary to create legal standards intended for member states and EU institutions to codify AI-deliberative democracy on common grounds in order to maintain democratic cohesion.

The idea of polydemocracy implies not just one paradigm of democracy underpinned by the idea of representativeness. In such context, keeping democratic coherence among member states and EU institutions becomes crucial in order to preserve political integration. Such democratic cohesion will have to be assured by means of a set of rules or legal standards intended to preserve the essential elements and attributes of democracy when codifying the introduction of new technologies in democratic practices as is the case with deliberative democracy.

In this context, democratic cohesion will need to be guaranteed in order to avoid desegregation. This is more important than ever, because democracy will be recognizable for the limits and respect of democratic rights, principles and values regardless of the way in which it is exercised. And such things will have to take into consideration the specificities of the EU.

## 6. Effects of codification on deliberative democracy

Codification of deliberative democracy will contribute to take practices on deliberative democracy a step further, as follows: 1) By considering deliberative democracy from an EU-oriented perspective, codification will contribute to create a common deliberative democratic culture and to facilitate deeper political integration into the EU community. 2) By considering deliberative democracy not only as a concept or theoretical framework, but also as a form of exercising democracy, codification will imply analysing the legal technicalities and legislative requirements needed to preserve citizens' fundamental rights and common principles and values. 3) By adopting an integrative and comprehensive perspective that goes beyond the regulatory framework of a specific method of deliberation, codification will contribute to build a thorough picture of deliberative democracy in the scope of the EU. 4) By taking a functional approach, codification and institutionalization of deliberative democracy will fill an existing gap in EU democratic practices. 5) By creating legal standards to institutionalize deliberative democracy among EU member states, codification will create novel legal knowledge in the subject. 6) By adopting a future-oriented vision, which anticipates future effects on democracy, codification will contribute to creating legal standards for the functioning of EU democracies in the long-term, maintaining democratic cohesion.

Institutionalization will provide a set of legal standards, based on the EU *acquis*, capable of promoting democratic cohesion and political integration when codifying the functioning and operation of deliberative processes and the role of new technologies. Also, it will anticipate the impact of AI-supported deliberative practices on democracy and will elaborate a core set of legal standards capable of foreseeing upcoming challenges in a context of polydemocracy. Finally, codification will create common legal knowledge on deliberative democracy, which will contribute to build a common democratic culture in this regard.

Developing a set of common legal standards based on EU principles, values and rights will set the stage for governments to codify and institutionalize deliberative democracy in a meaningful and effective way, making it possible for citizens to influence decision-making at a national level. Also, this will provide member states and EU institutions with legal standards to face the challenges created by the introduction of digitalization and AI. Codification will contribute to the implementation of AI-supported deliberative democracy in the context of European government systems, helping member states to pass effective and efficient legislation in line with the European Union *acquis*.

Creating legal standards to institutionalize deliberative democracy among EU member states will transform deliberative democracy from an experimental practice into an institutionalized form of exercising democracy. This will bring democracy to a higher level by integrating deliberative methods into the common practices of members states.

As well as this, the effects are expected to transcend the national level. The EU centered approach intended to build a common culture on deliberative democracy is expected to facilitate deeper political integration into the EU, as member states enter digital democracy at the same footing by following legal standards in line with EU democratic values and principles. The process of codification will also provide legal grounds to escalate deliberative democracy to an EU level, not just as an experimental practice, as it happened with the Conference on the Future of Europe, but also from an institutionalized perspective. Codification is aimed to bring EU democracy to a higher level by integrating deliberative democracy in the common practices of members states in the framework of common EU principles and values and citizens' fundamental rights. Codification also aims at helping the EU enter into digital democracy on the same footing by following legal standards which are in line with EU democratic values and principles.

Finally, even if this is not the purpose of the project, the findings will pave the way to escalate deliberative democracy to an international level, since EU democratic standards can be taken as an example of the highest democratic practices in the world.

## Conclusions

Codification of deliberative democracy addresses a political, technological and societal challenge, as it aims to develop common legal standards to institutionalize deliberative democracy in the framework of EU present and future member states and EU institutions, according to common values, and democratic principles and spread such principles to other countries. This is a standing question. Indeed, the lack of legal standards to codify deliberative democracy in the scope of the EU member states needs to be tackle from a common perspective. Many questions related to the functioning and operation of deliberative decision-making still remain unanswered. The introduction of new technologies exacerbates the process.

Currently, deliberative methods and processes remain experimental. The role and purpose of deliberative democracy in the context of representative democracy needs to be object of study and analysis. It remains unanswered how deliberative democracy should be introduced in decision making processes. The lack of a normative approach in the elaboration of a theory on deliberative democracy makes it difficult to institutionalize this participatory model. And yet, there is a lack of legal standards to guide the development and institutionalization of deliberative democracy in the scope of the EU and its member states. The Council of Europe put forward that the essential elements of deliberative democracy and the attributes that make it recognizable need to be set out in the form of legal standards that guide member states and democratic systems of government to develop new deliberation methods in the framework of a common democratic culture. However, any step taken to deliberative democracy in the framework of the EU must take into consideration

the specificities of the European Union and its member states. It is essential for democracy to create a set of common criteria and legal standards to help countries to codify and institutionalize deliberative democracy in an integrative way and to face the digital challenges of introducing AI in EU deliberative processes.

It is conclusive the unavoidable necessity of developing common principles for the sake of political integration. The transforming power of new technologies put at the service of deliberative democracy will give rise to different forms of exercising democracy. If this transformation is not faced in the framework of a common set of rules provided by common democratic values and principles, democracy risks being disaggregated in many different forms and European countries risk missing their common democratic heritage, also creating inequalities among citizens.

Codification aims to transcend the diversity of democratic cultures, as well as the variety of methods through which deliberative democracy can be articulated. The goal is to come up with the essential elements of deliberative democracy in the framework of EU values and democratic principles and translate these attributes into practical legal standards to be followed by all present and future member states, European Union institutions and third countries.

It is substantial to promote the institutionalization and codification of deliberative democracy in European systems of government in the context of the possibilities open by new technologies and AI, preserving EU democratic cohesion in this future scenario. The general purpose of codification aims at creating a standardized legal framework of guaranties and safeguards capable of preserving EU democratic cohesion when introducing deliberative decision-making procedures potentially adopted by members states, or European Union institutions in the context of a digital environment. Beyond these objectives, the functional purpose of codifying deliberative democracy is to preserve democratic cohesion in the context of EU democracy. The EU centered approach aims to build a common deliberative culture on deliberative democracy, which has the potential to facilitate deeper integration into the EU. Codification is aimed to bring EU democracy to a higher level by integrating deliberative democracy in the common practices of members' states in the framework of common EU principles and values and citizens' fundamental rights.

The challenge beyond codification and institutionalization of deliberative democracy is to maintain democratic cohesion while facing present and future challenges brought about by digitalization and new technologies.

Codification is expected to have a scientific, political and societal impact, whether at a national, or at a transnational level. Developing a set of common legal standards based on EU principles, values and rights will set the stage for governments to codify and institutionalize deliberative democracy in a meaningful and effective way, making it possible for citizens to influence decision-making at a national level and transnational level.

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