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# **Civic tech and simplifying the consultation procedure: developments and measures**

Federal Council report  
in response to the Hausammann (17.3149) and  
Damian Müller (17.4017) Postulates

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# 1 Introduction

In this report, the Federal Council responds to two postulates. The Hausammann Postulate 17.3149 proposing to “standardise and streamline consultation procedures” instructed the Federal Council to examine “measures it can take to make consultation and hearings procedures more efficient and to reduce the administrative burden on the parties to the proceedings”. The development of any digital solutions “must take into account the requirements of the participants in the consultation procedure”.

The Damian Müller Postulate 17.4017 proposing to “take advantage of civic tech opportunities” instructed the Federal Council to address the question of how the opportunities that civic tech brings can enhance citizen participation in the political process in Switzerland. The Federal Council was instructed to present its views and specific ways in which civic tech might be used in future to complement the Federal Council’s “Digital Switzerland” strategy. The focus should be on the “further digital development of existing forms of political participation, including petitions, consultations and hearings. The rights and processes involved in votes and elections and for e-government, however, are not part of this report.”

Both postulates focus on what is commonly understood by the neologism ‘civic tech’. The issues related to the controversial online voting system (‘e-voting’), the online collection of signatures (‘e-collecting’) and the digital transformation of services provided by the federal government for citizens or the business world (‘e-government’) are also addressed, but are not at the heart of the report. The two postulates both aim to identify and capitalise on digitalised forms of public participation in government. The focus of this report is therefore on the broadly defined forms of ‘civic engagement’<sup>1</sup>.

Digitalisation affects politics as a whole. Its effect cannot be limited to specific areas of politics. The purpose of this report is to consider civic tech and the impact of digital technology on politics in a broader framework.

The report is guided by the assumption that digitalisation, particularly in Switzerland, can encourage citizens to participate in the political process. Chapter 2 shows how digitalisation can strengthen certain features of Switzerland’s political system and how this can reduce the thresholds for public participation in shaping government policy beyond online elections and voting. Chapter 2 also examines the potential risks. Chapter 3 summarises the progress achieved in the discussion on civic tech and presents examples of possible applications, with the objective of gaining a clearer picture of the action that needs to be taken. The scope of Chapter 4 is more sharply defined: special emphasis is placed on developing the consultation procedure online in response to the postulates. The conclusion in Chapter 5 sums up the main messages of the report and presents three follow-up measures.

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<sup>1</sup> The term ‘e-discussion’ is used in the German texts by Matthias Ammann, Fabian Schnell: *Digitale Demokratie. Schweizer Volksrechte stärken*. Avenir Suisse, Zurich 2019, where is defined as ‘shaping political opinion in the digital domain’ (p. 7).

## 2 On the effect of digital transformation on politics in Switzerland

Digitalisation can be used to enhance certain features of Switzerland's political system, including its marked political integration, stability, continuity and legitimacy. This underlying theme of the present report is based on the observation that Switzerland's political system has certain structural characteristics (2.1) which must be reflected in the logic and dynamics of digital transformation (2.2). With all due caution, we can therefore make certain assumptions about the possible consequences of digitalisation for the political process in Switzerland (2.3).

The underlying assumption in this report is based on the observation that political influence in Switzerland is less tied to the outcome of elections or coalition negotiations than in other political systems; rather, it relies on the ability to follow policies from their origins through the decision-making process to implementation, and, if possible, to have an influence at all stages. This ability requires a certain degree of organisation in the information gathering process and the coordination of players in time and space.

Digitalisation makes tools for gathering information and coordinating players more accessible, and offers new forms of political involvement. It thus reduces the obstacles to political organisation and civic engagement, offering solutions that go beyond the ad hoc and familiar tools of direct democracy, such as votes and elections.

Greater and earlier involvement of broader groups that are institutionally not clearly defined can, however, also cause uncertainty. Legitimacy comes not only from the widespread and ideally permanent involvement of as many citizens as possible. Legitimacy is also the result of decisions made in representative institutions according to clear procedures and rules.

Ultimately, it is important to bear in mind that there is a trade-off between two approaches: the broadest and earliest possible involvement of stakeholders on the one hand; and clear processes in regulated institutions that lead to decisions on the other. This is no easy task. Both approaches hold values with a long tradition in Switzerland's political thinking. Preserving confidence is essential to striking the right balance between the two approaches. The digitalisation of politics is not merely a technical process. Digitalisation will change our political culture and may require legal or institutional adjustments. Striking the right balance will hinge on whether we can maintain and enhance confidence in the politics and institutions of our country.

### 2.1 Peculiarities of Switzerland's political system

Politics can be defined as social action that influences decisions and control mechanisms that are generally binding and which regulate the coexistence of people. A distinction can be drawn here between three aspects, which have become established terms in the English-speaking world of political science.

Politics encompasses processes for the distribution of power, such as elections or parliamentary negotiations on forming a coalition or a government. The term 'politics' is used to refer to this aspect of what is known in German as *Machtpolitik*.

The term 'policy', on the other hand, refers to the exchange of arguments when deciding on substantive and regulatory issues in various areas of public life. 'Policy' in German is *Sachpolitik*.

Both the distribution of power among various interest and value groups and policy decisions take place within the framework of political institutions which more or less formalise the rules of the game for processes and decision-making. These institutions form 'the polity'.

These structural elements of politics take on a special character in Switzerland's federalist form of government and political culture, which is based on direct democracy, consensus and involvement of all the country's political forces. Whether the majorities required to take decisions on policy areas can be achieved is not known in advance, unlike in purely parliamentary or presidential democracies. On the contrary, they need to be constantly re-established and consolidated for each specific issue.

The focus in Switzerland is therefore not primarily on politics in the sense of winning elections and building durable coalitions, but rather on the battle over policy issues (policy). The logic of politics in Switzerland is not determined by majorities which then dictate the substantive issues on which policy is made, for example in a coalition agreement, but by the search for individual majorities for specific policy solutions. Policy determines the politics rather than the politics shaping policy. It is no coincidence that electoral turnout is lower in Switzerland than in other democratic states. Political scientists see a possible cause as the lower priority given by Swiss voters to national elections compared with voters in other countries.<sup>2</sup>

There is a danger of focusing on the details of day-to-day politics: which parliamentary group voted with whom in which vote in Parliament? What was the position taken by the different cantons in the consultation procedure? The intensive media coverage of daily goings on does not conceal the fact that in Switzerland's political system, policy issues have a long life cycle. Political work begins with the question of which issues are politically relevant (also known as agenda-setting) and continues with problem analysis, devising possible solutions, securing majorities at the formal decision-making moments, determining the details of implementation, and evaluating the decisions made. This policy cycle can stretch over a number of years.

In daily politics, various issues overlap at different stages of the process. This leads to interactions at various levels, whether it be for tactical alliances on certain issues, policy interdependencies or external influences. Day-to-day political life is characterised by a permanent and broad-based network of people, organisations, interests, issues, opinions and information. The different stages take place in various bodies and forums, including civil society, the political parties, the media, the administration, the federal government, Parliament, the cantons and the business community. It is not necessarily known in advance which actors are relevant to an issue at which stage and to what extent

The direct democratic instruments – in particular popular initiatives and referendums – ensure that not only professional players, but also individual citizens or

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<sup>2</sup> 'Politik: Panorama 2019', Publication of Federal Statistical Office (FSO No. do-d-00.01-slide-17).

representatives of minority interests can place issues on the political agenda that would not otherwise be considered by the federal government and Parliament. These instruments let the people play the role of an institutionalised opposition. Direct democracy instruments therefore also help to determine the structure of the political process, and maintain Switzerland's political culture as one of negotiation and consensus, not dominated by the majority group in parliament.<sup>3</sup> These instruments thus not only shape decisions, but also the political system as such. It is these instruments that have played a decisive role in making practical policy in Switzerland so important compared to power politics.<sup>4</sup> The regular votes and the associated public campaigns have also led citizens to feel closely involved in the decision-making process on policy issues. The political rights of the people have come to be considered as the epitome of Switzerland and its politics both in Switzerland and abroad.

This, however, can lead to a situation where the issue of citizen's participation in the political process is too easily reduced to the exercise of political rights. Seen purely in terms of volume, only a fraction of the normative decisions adopted each year by the political establishment are put to the vote of the people. In Switzerland, as in other countries, politics is primarily a matter dealt with by complex and specialised procedures in government and parliament. The question of whether digitalisation can contribute to increasing the participation of citizens in the political process cannot be answered without also considering the effects of digital technology on fostering civic participation in these governmental and parliamentary procedures.

Within these governmental and parliamentary procedures, it is possible to exercise political influence because the opportunity is there to follow an issue in time and space on various web platforms and forums and possibly to have a say in the outcome. Exercising political influence is therefore very much dependent on having a certain degree of organisation, i.e. an ability to collect and structure relevant information on specific issues over an extended period of time; to identify emerging issues; to pool interests; to organise timetables, to secure majorities throughout the consultative and decision-making process; and to shape the implementation process.

This explains why intermediary political organisations – first and foremost the political parties, but also national trade associations, social organisations and environmental groups with their respective cantonal or local chapters as well as the media – play an important, albeit sometimes underestimated, role in Switzerland's political system. In day-to-day political life, it is these intermediary political organisations that provide most of the permanent networking between people, organisations, interests, issues, opinions and information, thus representing the link between the (otherwise abstract) state and individual citizens with their concerns, interests and opinions. It is precisely these intermediary organisations with staffed and equipped administrative offices that make it possible to pursue coherent strategies on particular issues and follow political issues throughout the policy cycle.

It is important not to lose sight of this fact when examining the risks and opportunities associated with the digital transformation of politics in Switzerland.

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<sup>3</sup> See entire chapter in: Wolf Linder, *Direkte Demokratie*. In: Ulrich Klöti et al., *Handbuch der Schweizer Politik* (4th, completely revised edition), Zurich 2006.

<sup>4</sup> In literature, the poles of this trade-off are also described as 'electoral democracy' and 'voting democracy'. See for example: Wolf Linder, *Schweizerische Demokratie. Institutionen, Prozesse, Perspektiven* (2nd edition), Bern 2005.

## 2.2 Digitalisation

The German term *Digitalisierung*, which may be variously translated as 'digitalisation', 'digitisation' or 'digital transformation', originally referred to the transformation of analogue information into digital formats. Understood as such, *Digitalisierung* is a purely technical procedure allowing certain processes to be simplified and made more efficient: letters can now be sent as email, photographs can be saved as a sequence of bits to a hard disk instead as being kept as negatives and music can be stored on a memory stick.

The exponential capacity of the technologies we use (computing, storage and network capacities) has led to new uses and combinations of uses in various areas of application. This process has led to a broader notion of *Digitalisierung* as 'digital transformation', no longer simply the technical process of an analogue to digital switchover. The term now also takes into account the structural and often unexpected changes that digital technologies trigger in various social, economic and cultural fields.

German has adopted two English terms now to distinguish these two different forms of *Digitalisierung*: the term 'digitisation' refers to the conversion from an analogue format to a digital format (for example, scanning a letter to obtain a pdf file), while the term 'digitalisation' is used when talking about the structural changes, often unexpected and radical, made possible by and resulting from digital processes.

These structural changes in social, political and economic systems are often regarded as disruptive. They are virtually impossible to anticipate. This is all the more surprising given the observation that digitalisation essentially involves just a few and, in themselves, comparatively mundane structural changes in information processing compared to the analogue world. These structural changes in information processing can be described as follows:

- Information can be reproduced almost instantaneously and at no additional cost.
- Information can be distributed to any number of recipients almost instantaneously and at no additional cost.
- Information can be offered at practically no cost in 'pull' mode (the recipient decides whether they want the information), instead of 'push' mode (the sender decides who receives the data). This makes it possible to disseminate data, even when the intended group of recipients is not known in advance.
- Information can now be recorded in a structured way in far greater detail than in the analogue world, and can then be searched, evaluated, sorted and recombined according to any criteria almost instantaneously and at no additional cost.

However, these elements, when combined with the abovementioned progress in computing and networking capacity and in the design of interfaces between human actors and ICT systems, are sufficient, individually or in combination, to facilitate new processes and organisational forms and support the emergence of new operators in various sectors of society (including business, healthcare, research, culture and politics).

There is no need to be particularly discerning to understand that the digitalisation of data processing, described above, finds itself on fertile ground in the political system. Both these areas have similar structures: political processes can, as noted above, be described, especially in Switzerland, as the processes of gathering information, sharing information, networking between people and coordinating people in space and time. Parties, associations or networks are created and maintained by bringing together and organising people who are interested in particular issues, who share the same values or have common interests; opinions are brought together and positions are consolidated; information on trends in public opinion (e.g. in the form of press reviews) and on the political process (e.g. committee

meetings, Federal Council decisions, consultation responses) is collected and evaluated.

All these political activities – finding and disseminating information and opinions, networking elected officials, opinion leaders and stakeholders, reaching common ground – are structurally comparable to the processes that are being transformed digitally.

This also applies analogously to further policy activities specific to Switzerland, such as the collection of signatures for referendums and initiatives, the financing of political activities or campaigning. The collection of donations is governed by new rules, thanks to new payment methods and techniques (e.g. micropayments), and the collection of signatures and campaigning can be relaunched on a new basis thanks to increasingly precise data on the target audience and the new digital channels.

## 2.3 Opportunities offered by digitalisation

The observation that structural characteristics of Switzerland's political system (2.1) make it ideal territory for digitalisation (2.2) must be put into practice. This, however, raises a number of difficulties. Disruptive change – which digitalisation can cause – is often unpredictable. A structural feature of digitalisation is that it is largely supply-driven, rather than demand-driven. It would be a mistake to expect new digital tools to come into use only where political processes are perceived as deficient<sup>5</sup> or in response to a clearly articulated need. Innovative options will emerge, creating their own demand, or disappearing again. The various digital tools will also have unanticipated effects on the processes, roles and power structure of political business. These changes will, in turn, change the basic conditions and the incentive systems for using other digital tools. Claims with regard to the nature and extent of the changes to politics in Switzerland brought about by the digital transformation will therefore always be somewhat speculative.

It is clear, first and foremost, that 'digitisation', i.e. the conversion from analog to digital, can streamline existing processes. Online voting (e-voting) has been at the heart of the ongoing public debate: online voting can, for example, facilitate the participation of Swiss citizens abroad in votes and elections, especially for those who live in countries with unreliable postal services. E-voting can also make it easier for people with disabilities to vote. For the authorities, online voting simplifies and speeds up the process of establishing the results.

Increased efficiency is also frequently cited in the rather heated debate surrounding the digitalisation of the collection of signatures for referendums and initiatives (e-collecting). Although e-collecting is ostensibly a good example of a case where the efficiency of a process can be increased through digitisation, increasing efficiency in collecting signatures could also bring structural changes to the way in which the system, in this case direct democracy, works (digitalisation).

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<sup>5</sup> See for example *Ammann/Schnell* (footnote 1) regarding the digital transformation of the consultation procedure: the authors contend that although this is of interest, it needs to be put into perspective in the context of Switzerland's political system, 'since there are no serious shortcomings that need to be remedied.'

These effects can be desirable or undesirable. The efficiency gains through e-collecting contrast with the fear that the thresholds for the online collection of signatures may be set too low, both in terms of quality (a quick click instead of reaching an informed opinion by discussing the issue with campaigners) and quantity (achieving the quorum for the success of initiatives or referendums). Efficiency gains in technical aspects can therefore have desirable or undesirable effects on the political culture and, if they are allowed, can make new rules of procedure necessary in the short or medium term.<sup>6</sup>

## 2.3.1 Practical examples

While exercising due caution in statements about the future impact of digitalisation, this report's underlying assumption that digitalisation can help citizens better pool their interests, opinions and values and bring them into the decision-making process can be substantiated by providing examples of potential applications at various stages of the political process.

Implementing political policy is generally a multi-stage process. In an ideal case, it can be described as a 'cycle', which begins when a problem or question is first recognised as a politically relevant issue (agenda setting), and ends with the implementation of a specific regulation or measure and its evaluation. The left-hand column of the following table describes various stages of this policy cycle; the right-hand column lists the possible digital applications or effects of digitalisation on the stage concerned.

| Policy cycle                                                                                                                                                                                                                                                                                                                                                                                                      | Digital transformation process                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <p><b>Agenda setting:</b> A particular issue comes to the attention of the relevant political players as a result of certain events, targeted efforts (agenda setting) or new findings by the authorities. Issues reach this stage, for example, through media coverage, parliamentary questions or – in Switzerland's system of direct democracy – by becoming the subject of potential popular initiatives.</p> | <p>– <b>Bypassing traditional media:</b> New social media can generate awareness of an issue without having to rely on coverage in the traditional media. This has put the 'gatekeeper role' of the traditional media into perspective.</p> <p>– <b>Fostering direct democracy:</b> Digital tools lower the organisational and financial barriers for setting up ad-hoc committees and collecting signatures, bypassing the established players.</p> <p><b>Building thematic alliances and ad hoc networks:</b> Digitalisation facilitates the temporary creation of ad hoc thematic networks (to replace established and thematically broad-based parties or associations).</p> |
| <p><b>Problem analysis:</b> Issues are considered and analysed: statistics are collected and compiled; the legal situation is clarified; potential stakeholders or groups that are affected are identified.</p>                                                                                                                                                                                                   | <p>– <b>Open Government Data (OGD):</b> An important requirement for citizens to become more involved in problem analysis is that they have access to the raw data on which the analysis is based.<sup>7</sup></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

<sup>6</sup> For example, *Ammann/Schnell* (footnote 1) have proposed to triple the necessary quorum for collecting signatures 'for initiatives and referendums' to '6% of the voting population'.

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| <p>Product examples for this stage of the process include Federal Council reports requested by Parliament (postulate reports) or discussion documents from a department submitted to the Federal Council.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>– <b>Linked data:</b> the provision of government data in standardised and easily understandable formats, which also allows the data to be automatically and dynamically linked and evaluated (using the 'Semantic Web'<sup>8</sup>), challenges the USP of experts (e.g. in the Federal Administration), in particular their control over access to data and knowledge about its structure. This has made a critical prerequisite for the expert analysis of problems more widely accessible. Expertise in a specific field has become easier to acquire, even outside the institutions traditionally provided for that purpose, such as the administration.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>Solution variants:</b> Problem analysis is not clearly separable from the development of solution options in technical or political terms. It is at this stage at the latest that the formation of political fronts and alliances generally begins. Solution options are usually developed within the administration through input from stakeholders or are developed in Parliament (for example, in the form of parliamentary initiatives). This step in the process is formally embodied in the consultation procedure that is required by law, which allows the cantons, the political parties and stakeholders to participate in the opinion-forming and decision-making processes of the federal government. The consultation procedure is also intended to provide input on the accuracy, feasibility and acceptability of federal proposals.<sup>9</sup></p> | <p>– <b>E-consultation / forum functions:</b> Digital tools make it possible to structure the data provided by participants in the consultation process (including both metadata and submissions). This increases the value of the consultation process both for participants and the federal government, in particular in the following forms:</p> <p>– <b>Horizontal coordination:</b> Before submitting their opinions, participants have the opportunity to hold consultations and consolidate their positions. The preparation of structured opinions facilitates issue-specific networking for the further steps in the decision-making process.</p> <p>– <b>Efficiency and transparency gains in evaluation:</b> The evaluation of position statements by the Federal Administration can be simplified and made more transparent.</p> <p>– <b>Processing data provided by participants:</b> The conversion of position statements into structured data and metadata makes them easier to search for and more useful for later stages of the decision-making process. In particular, this could make it easier to access position statements and proposals during the deliberations in Parliament.</p> |

<sup>7</sup> See the portal <https://opendata.swiss>, a joint project between the Confederation, the cantons, the communes and other organisations with a government mandate. It makes open-format public sector data available to the general public in a central catalogue. The Federal Statistical Office is in charge of operating the portal.

<sup>8</sup> Linked data is structured data which is interlinked with other data so it becomes more useful through semantic queries. The data can involve a huge variety of different issues and different sources. Linked Data is part of the Semantic Web. See the website 'Linked Data Suite LINDAS' of the Swiss Confederation: <https://lindas-data.ch>.

<sup>9</sup> See Article 2 of the Consultation Procedure Act (CPA; SR 172.061).

**Formal decision-making process:** The adoption of a proposal in Parliament is followed by the formal decision-making process. The law requires reasons to be given for each bill and the individual provisions to be commented on. The Parliament Act lists a number of specific points that require explanation.<sup>10</sup> The decision-making stage is the point in the policy cycle when the general public is generally most aware of a political issue, with special emphasis, needless to say, on issues that will be put to the vote of the people after the decision of Parliament.

**Political rights of the people:** Direct democracy is the most visible and direct way to involve citizens in the formal decision-making process. The debate over civic tech is to significant extent about whether and to what extent instruments such as e-voting or e-collecting can increase the participation of citizens in the political process.

**Information from the parliamentary debate:** It is already possible to analyse voting patterns in Parliament. It is even possible to find speeches from the parliamentary debates online by entering the relevant metadata (political issue, date, speaker, parliamentary group, etc.). This makes the decision-making process more transparent, at least at this stage. This type of information is used by applications made available by civil society such as the Swiss parliamentarian rating app 'Parlamentarierrating'<sup>11</sup> and the Swiss parliament observation tool 'Smartmonitor'<sup>12</sup>. However, the information from the parliamentary debates is still not clearly linked to the related legal texts on the federal law portal.

**New decision-making procedures:** digitalisation can simplify the introduction of innovative decision-making and electoral procedures, such as quadratic voting. This is a collective decision-making procedure where votes express not only a preference, but the intensity with which that preference is felt. Quadratic voting makes it possible to maximise the 'value' of a decision in the view of the persons involved in the decision-making process.

**Implementation:** Under the federalist system and the principle of subsidiarity, the implementation of decisions is often decentralised, whether by the cantons, through self-regulation by a branch of industry or by a delegation to a specialised entity such as an expert commission. The details of implementation, in ordinances for example, can be of significant practical relevance. The implementation stage should therefore not be understood as a purely technical procedure, but as part of the policy cycle in which political actors are also involved.

**Making the implementation visible:** In principle, digitalisation makes it possible to link structured data from executive agencies with the underlying issue. This will ensure that each group that has contributed to a new law or measure at the decision-making stage can also keep track of and be involved in the implementation process. Examples of these interconnections include creating links in federal acts which refer to cantonal acts that implement federal law, or to court decisions that interpret certain articles. Similarly, expenditure in the federal budget (such as subsidies) can be linked

<sup>10</sup> See Article 141 para. 2 of the Parliament Act (ParlA; SR 171.10).

<sup>11</sup> The parliament rating provides a left-right political spectrum of the National Council. The rating is conducted by the NZZ in cooperation with the Sotomo research centre. See: <https://www.nzz.ch/schweiz/parlamentarierrating> (rating of 9 Dec. 2019).

<sup>12</sup> See: <https://politools.net/projekte/smartmonitor/> (observation of 9 Dec. 2019).

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | to the underlying legal provisions and decisions. Furthermore, developments can be measured using statistical indicators and compared with earlier statements made, for example, in government reports about the expected effects of legislative revisions. In line with the requirements of the above-mentioned Semantic Web, the data underlying these interconnections must be recorded in a structured fashion and made available so that it can be integrated and linked regardless of its source.                                                                                                                                                                                                             |
| <b>Evaluation:</b> Whether a specific policy decision has the intended effect is measured and evaluated in different ways depending on the issue and policy area. Parliament often commissions the federal government to evaluate a new measure after some time and to report to Parliament. The results are regularly published in official statistics. In addition to these more technical forms of evaluation, interested parties can at any time put a policy decision on the political agenda again if they believe it has produced the wrong or insufficient effects. This brings the policy cycle back to square one (agenda setting) of the process. | <b>Big Data:</b> It is to be expected that the evaluation of policy decisions (such as new laws) will increasingly be determined by a multiplicity of data sets. The tremendous drop in costs for data collection (sensor technology, the Internet of Things, social media), data storage and data processing, and the progress on the standardisation of data models and their integration have made it unlikely that the state will monopolise data in future. On the contrary: the state already has less data than the people directly affected or interested in the issue in question. Digitalisation therefore has the potential to turn the way in which the effectiveness of laws is evaluated upside down. |

For the reasons mentioned at the beginning of this report, the likely effects of digitalisation on the policy cycle outlined above provide an analysis grid rather than a forecast. The analysis grid makes it possible to attribute applications and developments in the field of civic tech to certain aspects of political work depending on their functionality.

The grid offers an overview rather than focusing on specific stages of the policy process and on individual applications. Experience has shown that political influence, especially in Switzerland, lies in the ability to follow and shape a political issue throughout the policy cycle. There is a tendency to overestimate the importance of individual civic tech applications that are used at specific stages in the policy cycle. Digitalisation is not an end in itself. It would furthermore be a misconception to confuse the craft of politics with measuring the current political mood or a specific expression of opinion.<sup>13</sup> On the other hand, digitalisation offers great potential to make better use of data and knowledge from one stage of the process in the subsequent stages. This can be contact details of interested parties or actors, opinions of and findings on potential majorities, expertise, policy data and evaluations or variants and evaluations of solutions. Digitalisation lowers the organisational and financial obstacles to following a political issue through several stages of the policy cycle.

<sup>13</sup> This recalls the frequently cited dictum of the German sociologist Max Weber: "Politics means a strong slow drilling of hard boards, with passion and judgement at the same time." (found under 'Politics as a vocation' on: [https://en.wikiquote.org/wiki/Max\\_Weber](https://en.wikiquote.org/wiki/Max_Weber) on 14 January 2020).

The full significance of the digitalisation of the political system may lie in the interplay of different digital applications throughout the policy cycle. In this sense, digitalisation should be seen as an opportunity to strengthen the long-term ability of citizens to participate in an informed manner.

## **2.4 Risks and challenges posed by digitalisation**

The effects of digitalisation on Switzerland's political system are likely to be overestimated in the short term, and underestimated in the long term. It is important to consider not only the direct and intended effects, but also the indirect and undesired or at least unplanned effects. These effects will be evident in all areas of politics, namely in politics per se – the way in which power is sought and allocated; in policy and in the way in which specific policies are made; but above all in the polity, which includes the institutional framework, expectations and the rules that govern political life. While taking the necessary precaution with forecasts, it makes sense to compile a selection of the questions and observations that currently characterise the debate on the prospects for the structural effect of digitalisation on politics. It is nonetheless important to bear in mind that these questions and observations do not form an exhaustive list and that both enthusiasm and apprehensions regarding this topic in particular are volatile, and in hindsight, are rarely accurate.

### **2.4.1 Degree of organisation and organisational costs**

The significance of individual applications for the digitalisation of certain steps of the policy cycle (e.g. e-collecting, e-voting and e-consultation) is sometimes overstated. On the other hand, the ability to follow a political issue through the entire policy cycle and exert a lasting influence tends to be underestimated; it requires a certain degree of organisation, including identifying and networking the parties interested in a specific political issue, providing them with information and coordinating their positions. This needs to be carried out not only now and then, but consistently throughout the various stages of the policy cycle. Digitalisation helps to increase the organisational abilities of individual actors without increasing costs and it facilitates effective and sustainable civic engagement. Where previously significant paper and postage costs were incurred for bulk mailing, nowadays this is virtually free via email; and where a subscription fee had to be paid to obtain printed official publications, the same information can now be viewed free online.

### **2.4.2 New governance issues – exercising control over data and web platforms**

The growing importance of web platforms for networking, mobilisation, opinion-forming and the provision of information to political actors brings to the fore questions of governance of these platforms. In Italy, for example, the ostensibly grassroots democratic movement and current governing party 'Cinque Stelle' relies on a proprietary web platform called 'Rousseau' for internal party voting, which is not owned by the party itself, but by a privately owned company.<sup>14</sup> In Switzerland, the political web platform 'We-Collect' has been used since 2015 to collect signatures, crowdfund political campaigns and actually run campaigns.

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<sup>14</sup> See: <https://www.panorama.it/economia/piattaforma-rousseau-voto-come-funziona-governo-movimento-5-stelle/> (website available in Italian) (seen on 12 Dec. 2019).

The founders have since parted ways with the web platform, which was taken over by a foundation in autumn 2019 with a view to broadening the portal's range of clients and to increasing its legitimacy. Experience with the internet so far indicates that for certain services sophisticated web platforms are indispensable. These web platforms alone are capable of generating, collecting and analysing the amount of data necessary for innovative services. This makes the question of how the web platforms offering these services can and should be regulated all the more pressing. One of the main aims of democracy is to ensure legitimacy for political decisions. This legitimacy depends on the transparency and credibility of the institutions and the processes they use to make decisions. It also depends on the transparency and credibility of the new web platforms that citizens use to find out about political processes and actors, to become involved, to express their opinions and to stay active in day-to-day political life.

### **2.4.3 Major changes in citizens' contacts with intermediary institutions**

In the political arena, digitalisation is changing the direct relations of citizens with the state and vice versa. This is not, however, the only change, and perhaps not the main change. Digitalisation facilitates and changes the way individual citizens who share common interests and values find each other, organise themselves and get involved in the political process. Digitalisation is therefore a serious challenge for intermediary institutions, which are still extremely important in a direct democracy like Switzerland, above all the political parties, but also stakeholders such as social partners, and national environmental, transport and trade associations. It is therefore rightly suggested from time to time that traditional forms of commitment (membership) and funding (annual membership fees) are on the decline, while loose ad hoc networks and issue-specific projects are on the increase. By their very nature, political parties have always been structured as networks of networks of networks either spatially (local party, cantonal party, national party) or thematically (economy, women's concerns, environment).

### **2.4.4 Promoting the personalisation of politics**

Digitalisation lowers the thresholds for achieving a sufficiently high degree of organisation to successfully exert influence. This makes the political process more 'democratic' in that established institutional players in politics such as the political parties or large associations have less veto power. This development can, however, also promote a certain measure of 'personalisation'. Digitalisation facilitates the development of political organisations around people instead of, as in the past, the rise and establishment of political figures through established institutions such as parties or associations. It has become easier to circumvent institutionalised forms of control and the promotion of political players, both when accessing the general public and when accessing the political process. This may in the future lead both to strengthening and to weakening the credibility and legitimacy of individuals and issues, depending on the circumstances.

### **2.4.5 Fragmenting the public sphere**

Social media make it possible to present issues to and generate interest among the public without involving the mainstream media, and to build ad hoc networks around specific issues for a target audience. Parliament deliberates nearly 100 legislative proposals every year. Thanks to new digital tools, reporting and opinion-forming can be more detailed and involve a wider circle of interested parties. On the other hand, there is also a risk of creating echo chambers and losing sight of the big picture.

## **2.4.6 Security and confidence**

Digitalisation opens the way to new forms of participating, expressing opinions and networking based on shared common interests or values. However, digitalisation also makes it possible to analyse this behaviour in ways subtle and not so subtle and, if necessary, to influence it. Furthermore there is a danger of misinforming people by flooding the public space with contradictory allegations, statements or opinions. The use of electronic tools and increasingly sophisticated programmes, such as bots, to automatically generate text, content and opinions can do lasting damage to public confidence in fact-based discourse and the media. In addition, many citizens feel an underlying uncertainty about the stability and security of the applications and web platforms used to shape opinions, network, people, and reach decisions. This uncertainty is emerging against the backdrop of a growing willingness to question the foundations of social order and to criticise the system. In a society that is heavily dependent on digital tools, the technical security of ICT systems and the confidence people have in them shape confidence in the social order and its rules— and vice versa.

## **2.4.7 Greater involvement of expertise in the political process**

At a technical level, digitalisation can lead to the democratisation of expertise and thus make the political process less dependent on the expertise of the administration in particular. Making data in the possession of the state systematically available can contribute to this democratisation of expertise. It is also important to have channels that can make external expertise and independent opinions available to the political decision-making process. The consultation process can play a key role here (see Section 4). Digitalisation can thus help to ensure that subject-specific policy knowledge is available at all stages of the political process, which can increase the sustainability and legitimacy of political decisions. Conversely, this development may present the Federal Administration with new challenges and require new processes for integrating this expertise.

## **2.4.8 Change in political culture as a result of increased transparency and analysis of data**

Digitalisation facilitates the systematic gathering and analysis of structured data, which can be seen in the political decision-making process in the various existing applications for evaluating the presence and voting behaviour of members of parliament. This trend can be expected to intensify, making it possible to analyse more and more aspects of the political decision-making process. These analyses can be more or less useful and meaningful, yet should, all in all, improve the transparency of the process. Improved transparency can enhance the legitimacy and credibility of the process. It can, however, also change the behaviour of the actors. As an example, members of the Council of States have deliberately refrained from systematically recording and publishing their voting behaviour, not least because they fear that the systematic collection and analysis of the voting behaviour of members of parliament would lessen their willingness and ability to forge compromises.

## **2.4.9 Are data and web platforms the new public goods?**

Digitalisation thrives on data and their analysis. This is also true in the political realm. As in other areas, the question arises as to what rules the state should apply for making data on political activity available, and how this data should be used, prepared and, if necessary, re-used (for a fee). The exploitation of synergies (e.g. the multiple use of data, for example, for statistical and administrative purposes) can provide new opportunities for e-government services. This would require defining regulations on data access rights, data quality, data collection and on the use of infrastructures. The more this data becomes relevant for political processes, the more the question will arise as to who controls this data and by what authority. By analogy with the ever more central role of web platforms mentioned under 2.4.2, this question is likely to lead to a discussion on what 'digital goods' are public goods, which the

state is required to safeguard in some way, separate from or supplementary to the tasks of private companies or civil society.

## **2.4.10 Federalism as analogue protection against manipulation**

In Switzerland, political life functions on the basis of small-scale structures: small constituencies, federalism and subsidiarity bring political life close to the everyday lives of many people. The media is not the only venue for politics. Many events are held locally, and national politicians have strong local roots. These structures protect Switzerland to a certain extent against the manipulation of democratic opinion, for example by foreign actors.

Digitalisation, as we understand it so far, has no spatial limits; on the contrary, its existence is defined by the fact that people can join and participate on a platform or a process from anywhere at any time. Digitalisation can thus help decouple political opinion forming and the political process from local roots. From a technical point of view, digitalisation can also have a centralising effect, since technical solutions can exceed the capacities of individual communes or cantons, and since standardisation is an important prerequisite for the interaction of different systems and their functioning in a national context.

Coordination between levels of government is necessary and useful, with a view to pooling resources and avoiding any redundancies. eGovernment Switzerland has provided a longstanding common organisational structure for eGovernment in the Confederation and the cantons, in which cities and communes also participate. The Confederation and the cantons concluded a framework agreement to this effect as early as 2008. For the 2020–2023 legislative period, the Federal Council and the Conference of Cantonal Governments adopted a slightly adapted version of the framework agreement.<sup>15</sup>

Furthermore, on 24 October 2019, the Federal Council published the final report “Digitale Verwaltung: Projekt zur Optimierung der bundesstaatlichen Steuerung und Koordination” (Digital management: project aiming to optimise federal governance and coordination). The report aims to institutionally strengthen cooperation on digitalisation between the Confederation, the cantons and the communes and offers three different solutions.<sup>16</sup>

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<sup>15</sup> [www.egovernment.ch](https://www.egovernment.ch/de/EGovernment-Strategie-2020-2023)> eGovernment Strategy 2020–2023.

<sup>16</sup> See press release archive: <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-76798.html>.

### 3 Civic tech – stocktaking and the need for action at federal level

This section begins by defining ‘civic tech’ and shows that three sub-areas of civic tech can be identified based on the existing knowledge. It then considers the Digital Switzerland strategy, adopted by the Federal Council in September 2018, and the Tallinn Declaration on eGovernment, approved by the Federal Council in September 2017. This is followed by views on the division of tasks between state and civil society in relation to the rights of democratic participation and the integration of data. The following paragraphs address the claims in relation to civic tech in the Postulate 17.4017 submitted by Council of States member Damian Müller, touching on online participation mechanisms as well as the risks and opportunities involved. The section concludes by discussing the development of the right to petition and the introduction of a digital popular motion in the context of digitalisation, which are the two requests at the heart of current publications and Damian Müller’s Postulate 17.4017.

#### 3.1 Stocktaking

##### 3.1.1 What is ‘civic tech’?

The rationale of Damian Müller’s Postulate 17.4017 defines ‘civic tech’ as follows: *“Civic tech stands for technical concepts from the field of information and communication technology (ICT) that improve civic engagement and participation. Civic tech covers various fields including eGovernment and e-voting as well as other forms of political participation involving ICT. Easy interaction with the authorities and politicians plays an important role in these forms of political participation, replacing the traditional one-way communication.”*

There is no precise and generally accepted definition for the term *civic tech*. However, three (not clearly distinguishable) sub-areas of civic tech can be identified based on existing knowledge:<sup>17</sup>

1. In current publications, technologies that give citizens the opportunity to participate in political processes electronically are referred to as civic tech instruments.<sup>18</sup> Ultimately any well-known and widely discussed form of *digital* participation in the political decision-making process can fall within the definition of civic tech. This includes e-voting<sup>19</sup> and e-collecting, but also online discussion forums and websites dealing with policy issues. Digital tools could extend the opportunities for political participation and as a result create new opportunities for participation, for example for people who are not eligible to vote, in particular young people.
2. The possibilities for *digital* interaction and communication with the authorities regarding administrative matters. These can include smartphone apps that allow users to report defective infrastructure to the authorities, without any red tape, or to share all kinds of ideas and input online.

<sup>17</sup> See also the following classification of civic engagement projects:

<https://www.staatslabor.ch/de/der-beteiligungs-spider-sieben-schweizer-partizipations-projekte-im-vergleich>. (webpage available in German)

<sup>18</sup> Daniel Graf/Maximilian Stern, Agenda für eine digitale Demokratie, Zurich 2018, p. 15.

<sup>19</sup> Online voting.

<sup>20</sup> Online collection of signatures.

Digital interaction also allows administrative services to be provided or requested online (such as the Guichet Unique system<sup>21</sup>). This would require the authorities to digitalise their processes end-to-end as far as possible.

3. Civic tech makes it possible to make data from public authorities available to the public. The key word here is 'open data'. The application of relevant civic tech solutions encourages transparency and provides a way for civil society to develop added-value services. For private companies, civic tech has facilitated the creation of interesting new business models as far as the evaluation and processing of data are concerned.

In this report, the term 'civic tech' is deliberately defined in broad terms and not subject to specifically defined limits. As explained in Section 2, the impact of digital technology on politics does not originate by itself nor does it originate primarily through selective applications, but through the combination of specific digital tools specialised in political matters with other digital products such as social media (including Facebook, Twitter and Instagram, to mention just a few) and other technical and social developments.

Civic tech apps already exist as participation platforms (Züri wie Neu<sup>22</sup>, Stadtmelder<sup>23</sup>), collaboration tools (engage.ch, Inilab<sup>24</sup>, Digitaler Dorfplatz<sup>25</sup>) or open data (processing and provision of data for a fee: politik.ch).

### 3.1.2 The 'Digital Switzerland' strategy

The 2018 'Digital Switzerland' strategy sets out the objectives to be achieved and the guidelines relating to digitalisation in all relevant aspects of life.<sup>26</sup> It is the result of the further development of the strategy of the same name from 2016. The strategy was developed in a multi-stakeholder process, involving consultations with people from business, academia, politics and civil society. In its strategy, the Federal Council states that technological developments also make new forms of participation in political processes possible and change the needs of citizens. In the Federal Council's view, account must be taken of these changes.

According to the Digital Switzerland strategy, Switzerland sees new technologies as a windfall for democracy. New forms of political participation based on the use of such technologies should be explored and encouraged. In addition to voting, these include in particular online consultations and signature collecting as well as project-specific participation opportunities, for example in local building projects. These new applications are intended to motivate the population to participate more in community and political life. Accessibility to the applied technologies should also provide persons with disabilities with equitable access to exercise their political rights.

The effects of the new channels for participation on the democratic decision-making process need to be examined, and any risk of jeopardising trust in the majority decision process needs to be addressed early on (see also 2.4).

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<sup>21</sup> [www.guichetunique.ch/public/](http://www.guichetunique.ch/public/).

<sup>22</sup> [www.zueriwieneu.ch/](http://www.zueriwieneu.ch/).

<sup>23</sup> <https://stadt.winterthur.ch/themen/die-stadt/stadtmelder>.

<sup>24</sup> <https://inilab.ch/projects>.

<sup>25</sup> <https://2324.ch/>.

<sup>26</sup> [www.bakom.admin.ch](http://www.bakom.admin.ch) > Digitale Schweiz und Internet > Digitale Schweiz.

The Federal Administration's specific implementation efforts in relation to the strategy are published in an action plan which is updated once a year.<sup>27</sup> Since the strategy is designed as a multi-stakeholder strategy, projects of national importance by actors outside the Federal Administration (e.g. within the framework of research initiatives, technology and digitalisation projects) can now also be included in the action plan.

### 3.1.3 Tallinn Declaration on eGovernment

All the EU Member States and EFTA countries signed the *Tallinn Declaration on eGovernment* on October 2017.<sup>28</sup> The Federal Council had approved the declaration earlier in its decree of 22 September 2017. The declaration is meant to serve as a road map for the digitalisation of national administrations and for their international cooperation. It was prepared by the *E-Government Action Plan Steering Board*, an EU and EFTA working group in which Switzerland is also represented. The declaration follows the *E-Government Action Plan 2016–2020*<sup>29</sup>. It has no legally binding effects, but should be understood as a strategy paper or implementation guidelines.

The declaration proposes policy lines for the five central principles for eGovernment contained in the action plan:

1. Principles of digital-by-default, inclusiveness and accessibility
2. Principle of once only
3. Principle of trustworthiness & security
4. Principle of openness and transparency
5. Principle of interoperability by default

Various strategies adopted by the Federal Council take up the objectives of the declaration, including the Digital Switzerland<sup>30</sup> strategy, which was adopted in September 2018 and has been further developed since (see 3.1.2), the eGovernment Strategy Switzerland<sup>31</sup>, the Federal ICT Strategy<sup>32</sup> and the National strategy for Switzerland's protection against cyber risks.<sup>33</sup>

### 3.1.4 The situation in Switzerland by international comparison

Ratings such as the United Nations *E-Government Survey* provide an overall picture of the development of eGovernment and e-participation in different countries. In the latest UN survey from 2018, Switzerland ranks 41 out of the 193 UN Member States for e-participation (*E-Participation Index* [EPI]).<sup>34</sup> Compared to the 2016 survey, Switzerland had moved up 31 spaces in the EPI. European countries are in the lead, with Denmark and Finland in first place, followed by the Netherlands, Spain, the UK and Norway.

<sup>27</sup> [www.bakom.admin.ch](http://www.bakom.admin.ch) > Digital Switzerland and internet > Digital Switzerland.

<sup>28</sup> <https://ec.europa.eu/digital-single-market/en/news/ministerial-declaration-egovernment-tallinn-declaration>.

<sup>29</sup> <https://ec.europa.eu/digital-single-market/en/news/communication-eu-egovernment-action-plan-2016-2020-accelerating-digital-transformation>.

<sup>30</sup> BBl 2018 5961; [www.bakom.admin.ch](http://www.bakom.admin.ch) > Digital Switzerland and internet > Digital Switzerland.

<sup>31</sup> [www.egovernment.ch](http://www.egovernment.ch) > eGovernment Strategy Switzerland > Implementation.

<sup>32</sup> [www.isb.admin.ch](http://www.isb.admin.ch) > Topics > Federal ICT strategy and planification > Federal ICT Strategy 2016-2019.

<sup>33</sup> [www.isb.admin.ch](http://www.isb.admin.ch) > ICT specifications > Strategies and partial strategies > SN002 – National strategy for Switzerland's protection against cyber risks (NCS).

<sup>34</sup> <https://publicadministration.un.org/egovkb/en-us/Data/Country-Information/id/166-Switzerland>.

The EPI shows the opportunities in using online services that facilitate the provision of information to citizens (*e-information sharing*), interaction among stakeholders (*e-consultation*) and participation in the decision-making process (*e-decision making*). The survey evaluates the availability of e-participation tools on national government portals for the three areas mentioned. The EPI thus illustrates the e-participation options provided by a government in comparison with the other member states of the UN.

On 22 November 2018, the European Commission published the *eGovernment-Benchmark 2018* report.<sup>35</sup> This report is a biennial study in which the Commission examines the progress in the digitalisation of government services. Over a period of two years, the Commission looks at eight events from the private and business sectors to see if they are in line with the main indicators of user-friendliness, transparency, transnational mobility for people and companies, and basic services. The 28 EU Member States along with six other countries including Switzerland participated in the study. Malta, Estonia, Austria, Latvia and Denmark achieved the best overall results in the survey.

Switzerland was able to improve its eGovernment services in most of the main indicators compared with previous years. Swiss local authorities produced the best results in transnational mobility for companies (2014/2015: 56%, 2016/2017: 70%).

On the other hand, Switzerland is lagging far behind in basic services. This is so because the government's 'digital mail', i.e. the electronic transmission of information and documents between the state and the population or companies, is not yet fully operational. In addition, there is no government-recognised electronic identity verification (E-ID) available at this time, and only very few authorities offer the service of making prefilled forms available based on existing data. The study shows that the leading states in eGovernment offer very good basic services. The eGovernment Strategy 2020-2023, which is currently in progress, aims to develop further basic services.

## 3.2 The need for action

The progress of digitalisation raises fundamental questions for the division of tasks between state and society in relation to democratic rights of participation. Experts clearly differ on the role assigned to the authorities.

Some experts more readily view the role of the state as to provide online services and less to organise digital participation. Since the state should remain politically neutral, its role in online participation should be limited to setting up the guardrails.<sup>36</sup>

Other experts believe the authorities should do more than *merely* informing the electorate. Providing information is not enough to encourage discussion, which also requires web platforms to facilitate exchanges of information, while complying with the certain rules of the game.<sup>37</sup> A proposal has been made for a pilot project to convert the Federal Council's explanatory statement on the proposals that are being put to a popular vote as quickly as possible into an online information portal.<sup>38</sup>

<sup>35</sup> [www.isb.admin.ch/isb/de/home/dokumentation/medienmitteilungen/newslist.msg-id-72897.html](http://www.isb.admin.ch/isb/de/home/dokumentation/medienmitteilungen/newslist.msg-id-72897.html). (press release available in German, French and Italian)

<sup>36</sup> UweSerdült, Zur Verbesserung der direkten Demokratie. In: Schweizer Monat, Sonderdruck 'Mut', 2/2018, p. 32–33.

<sup>37</sup> *Graf/Stern* (Fn. 18), p. 70-71.

<sup>38</sup> *Graf/Stern* (Fn. 18), p. 72.

Specific opportunities for the digitalisation of processes, in particular for petitions and consultation procedures, include the creation of a new online portal.<sup>39</sup> Digitalisation has also opened the way for the introduction of a new popular right, namely a popular motion.<sup>40</sup> At present, voters have access to popular motions only at cantonal level.

With regard to the role of the Confederation in promoting instruments facilitating online citizen participation, the questions of the division of tasks between state and civil society and the role of the Confederation in public policy need to be addressed. The Federal Council is primarily responsible for creating the *basic conditions* for online collaboration, information and brainstorming mechanisms, in particular by *making data available*. On the other hand, it should be left to civil society actors to develop further online services on this basis. Where there is considerable interest in these services, they will almost certainly become widely used.

Optimising dealings with the authorities thus promises to be most successful in the place where legal rights and obligations are enforced. The executive bodies are often the communes and the cantons, which are also responsible for the digitalisation of these procedures (for example, the ‘*in comune*’ project of the Association of Swiss Communes<sup>41</sup>). The federal government already plays a coordinating role, in particular in the digital strategy and in eGovernment. It also provides IT platforms for law enforcement bodies in various areas, or is working on setting up such platforms (Fiscal-IT; DazIT).

At its meeting on 21 September 2018, the Federal Council also launched a new national research programme focusing on digital change. The main objective of the programme is to ascertain the risks and opportunities associated with digitalisation for society and the economy. The programme includes a module on ‘Ethics, Reliability and Governance’.<sup>42</sup>

### 3.2.1 Integration of data

Data relating to political business must be integrated: the effects outlined of digitalisation on each step of the policy cycle demonstrate the importance of structuring and linking data relating to political business (see 2.3.1). It is not possible, for the moment, to monitor the progress of an item of political business – such as a popular initiative or a Federal Council bill submitted to Parliament – throughout the various stages of the policy cycle from a single source. To obtain an overview of an item of business, you need to search for the relevant information on various websites – such as Parliament's website, in Federal Council press releases, on the webpage on ongoing consultations or on the webpages of the parliamentary committees – or use a data aggregator service such as politik.ch. The relevant data and information needed for the substantive assessment of an item of business in a structured manner remain limited, but also need to be searched for in different documents (e.g. Federal Council papers) or on different websites (e.g. the responsible federal office or the Federal Statistical Office).

### 3.2.2 E-voting

The joint project of the Confederation and the cantons ‘Vote électronique’ is intended to enable voters to cast barrier-free, mobile and traceable votes.

<sup>39</sup> Serdült (Fn. 36), p. 33, see also Graf/Stern (Fn. 18), p. 74.

<sup>40</sup> Graf/Stern (Fn. 18), p. 78.

<sup>41</sup> [www.chgemeinden.ch](http://www.chgemeinden.ch) > kampagnen-projekte > in-comune. (website available in German, French, Italian and Romansch)

<sup>42</sup> [www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-72264.html](http://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-72264.html).

Electronic voting channels prevent invalid votes from being cast, help the authorities determine results more efficiently, and can reduce delays that may occur with postal voting. E-voting enables target groups with special needs, such as voters with disabilities, to exercise their political rights autonomously.

However, there is no e-voting system available in Switzerland at the moment. The canton of Geneva abandoned its e-voting system in 2019. Swiss Post announced in mid-2019 that it would no longer be offering its individually verifiable e-voting system to the cantons. Instead, it intends to make its system available in the future as a fully verifiable system.<sup>43</sup>

In June 2019, the Federal Council also decided not to introduce online voting into regular operation for the time being. In the consultation on the planned amendment of the Federal Act of 17 December 1976<sup>44</sup> on Political Rights (PRA), the majority of respondents generally expressed support for e-voting, but considered its introduction into regular operation to be premature. In addition, the Federal Council commissioned the Federal Chancellery to work with the cantons to redesign the way in which the trials are operated by the end of 2020.<sup>45</sup> The focus is on effective audits and supervision, greater involvement of the scientific community and the general public, and greater transparency with regard to the fully verifiable systems that come into operation.

### 3.2.3 E-collecting

There is currently no conclusive or generally valid definition of the notion of e-collecting. As an approximation, it can be said that e-collecting involves four processes: online signature by voters; online collection of the signatures by the electoral committees; verification of the signatures by the certification bodies; and electronic counting of validated signatures by the Federal Chancellery.

The introduction of e-collecting requires an adjustment of the law. Political rights in their current form involve certain legal formalities that stand in the way of e-collecting, e.g. the use of electronic identification (eID) is not currently possible. Signatures supporting referendums or initiatives, for example, must be handwritten (Article 61 para. 1 and Article 70 of the Political Rights Act). This and other formal requirements have a validation function and reflect the explicit will of Parliament. Only a few years ago, Parliament tightened the formal requirements to make it necessary to write first names, in addition to surnames, by hand on signature lists.<sup>46</sup>

E-collecting would lead to changes in various processes. At present, committees get people to sign a list on paper for popular initiatives and optional referendums, and submit the lists of signatures to their commune where the authorities check to make sure the signatures belong to registered voters. The commune then returns the lists to the committees who submit them to the Federal Chancellery, which counts the signatures per commune.

It is not clear whether the use of e-collecting would still require committees to act as intermediaries in ferrying the lists of signatures to the communes and the Federal Chancellery.

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<sup>43</sup> Changing the possibility to verify the e-voting system individually by the cantons to a system with one comprehensive verification procedure: [www.bk.admin.ch](http://www.bk.admin.ch) > Political rights > Online voting.

<sup>44</sup> SR 161.1. You can search for consultation proceedings under [www.bundesrecht.admin.ch](http://www.bundesrecht.admin.ch) > Vernehmlassungen > Abgeschlossene Vernehmlassungen. (search tool available in German, French and Italian)

<sup>45</sup> See: <https://www.bk.admin.ch/bk/en/home/dokumentation/medienmitteilungen.msg-id-75615.html>

<sup>46</sup> Amendment of 26 September 2014 of the Federal Act on Political Rights (BPR, SR 161.1). Entry into force on 1 November 2015 (AS 2015 543).

If the committees are able to collect signatures online, this will bring new challenges, such as checking whether the information provided on the websites of the committees and possibly other associated groups that wish to collect signatures is correct (see the requirements on signature lists laid down in the PRA). It is also questionable whether the signature lists should simply be sent directly to the Federal Chancellery; and if the signature lists are submitted to the communes online, the question arises of whether the communes can directly send the certified signature lists to the Federal Chancellery.

In addition, the new interfaces between the communes and voters who sign the lists, the committees or the Federal Chancellery are likely to require innovative and specific transmission channels, especially since data relating to a referendum or a popular initiative, as it is information on political and ideological views, requires a higher level of protection under data protection law than comparable data in a commercial environment.<sup>47</sup> Since e-collecting would complement but not entirely replace the actual collection of signatures, the online and real life processes would have to be managed in parallel over a fairly long transition period. Lastly, there is also the question of whether the provision of technical infrastructure for e-collecting is an official task or if the development of suitable alternatives lies with the private sector.

The Federal Council has already expressed its opinion on the possible introduction of e-collecting in its position statement on the Grüter Motion 18.3062. In its view, there are not yet any suitable solutions. An e-collecting system must ensure that the right to demand a change in the law is exercised in accordance with the law, and guarantee that popular proposals only go to a vote if the process has been legitimate. The potential effects of e-collecting on Switzerland's political system are difficult to assess, not least in view of the quorums and deadlines laid down in the Federal Constitution. It is not possible to predict whether, let alone to what extent, e-collecting would lead to an increase in the use of the popular rights involved. In addition to the question of increased usage of the popular rights involved, it must be considered whether there will be any change in the way these rights are currently exercised. It cannot be ruled out, for example, that certain political interest groups will have more success in calling for popular votes, while others will hardly benefit at all. It therefore seems appropriate to gain experience with e-collecting at communal and cantonal level before introducing e-collecting at federal level. The cantons of Basel-Stadt and St.Gallen have already introduced legislation on conducting trials with e-collecting.

The introduction of digital identity credentials, as provided for by the e-ID Act of 27 September 2019<sup>48</sup>, could help the authorities to verify the identity of voters who wish to exercise their political rights. In view of the above, it is worth noting that this only represents a sub-process of the digitalisation of the collection of signatures for federal popular initiatives and referendums.

### **3.2.4 Developing the right to petition**

The right to petition is enshrined in Article 33 of the Federal Constitution<sup>49</sup>, and is based on a long standing constitutional tradition. As an informal instrument, it can be used by individuals and groups, including persons who do not have the right to vote, to voice specific concerns and suggestions to the authorities. It is possible to submit a petition regardless of age, gender or nationality. Petitions do not require any particular form and are not subject to any time limits.

<sup>47</sup> See the data protection guidelines of the federal and cantonal authorities on the application of data protection law to the digital processing of personal related to voting and elections in Switzerland, [www.edoeb.admin.ch](http://www.edoeb.admin.ch) > Datenschutz > Dokumentation > Leitfäden > Wahlen und Abstimmungen. (available in German, French and Italian)

<sup>48</sup> BBl 2019 6567. The call for a referendum against the eID Act was successful (BBl 2020 1285), and will therefore be put to the vote of the people.

<sup>49</sup> SR 101.

Petitions are generally submitted in writing, but may also be submitted online. In addition, petitions can be submitted to any authority. The authority to which the petition is addressed is only required to take note of the petition, but the authority will generally also respond to the petition. Articles 126–128 of the Parliament Act of 13 December 2002<sup>50</sup> (ParlA) provide that the petitions addressed to the Federal Assembly are dealt with by the committees concerned. “If the committee endorses a petition, it shall take up the matter to which the petition relates by preparing a parliamentary initiative or a procedural request.” (Art. 127 ParlG). This opens the way for the matter to be included in the parliamentary process.

Both of the Federal Assembly’s political institutions committees instructed their councils in 2013 not to endorse Petition 12.2048 on the ‘establishment of an electronic system for submitting petitions’<sup>51</sup>. Petitions could already be submitted as an email attachment in pdf format with scanned signatures. The committees of both councils were of the opinion that this was sufficient as an unbureaucratic way of submitting petitions. In addition, the low formal requirements would basically make it easy for anyone to submit a petition. The committees also rejected calls to set up an online petition platform, comparable to the platform used by the German Bundestag<sup>52</sup>, which they thought would be excessive. They argued that the creation of a petition and discussion forum only made sense in a system in which petitions are a widely used instrument for civic engagement. However, according to the political institutions committees, petitions have never become particularly important in Switzerland’s political system, which already has extensive direct-democratic participation rights. The Federal Assembly receives 40 to 60 petitions per year, several of which come from the same authors (youth sessions, individuals). In the view of the committees, this hardly justifies the introduction of a system the running of which would require significant human resources.<sup>53</sup>

The question of expanding the right to petition may gain in importance with increasing digitalisation. It has been suggested that official online platforms, combined with the obligation of Parliament to address the concerns raised in petitions if a certain number of signatures is reached, would enhance the value of petitions.<sup>54</sup> Against this it may be argued that petitions are basically designed as an informal instrument. As a result, petitions are submitted in various forms (lists of signatures, posters, individual petitions, etc.). Once this informal nature of petitions is abandoned and new regulations are introduced, such as mandatory quorums of signatures for an issue to be addressed in Parliament, or a form requirement, a new direct democratic right would in fact have been introduced.

An official online portal for publishing petitions for the Federal Council and Parliament and making them open for discussion would be technically feasible and conceivable for Switzerland. This would be in line with the German Bundestag’s platform. However, as stated above, Parliament itself has seen no need so far for an online petition platform. The Federal Council also considers that the current procedures for petitions have been proven to work. The publication of petitions could raise privacy issues in relation to the publication of personal data, in particular the names of the authors of the petitions. In addition, the Federal Constitution states that the authors should be protected from adverse consequences. As mentioned above, petitions can be submitted to any authority. This makes it considerably more difficult to publish a complete list of petitions submitted at federal level.

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<sup>50</sup> SR 171.10.

<sup>51</sup> Wäfler Urs Petition 12.2048, ‘Einführung eines elektronischen Systems zur Einreichung von Petitionen’.

<sup>52</sup> <https://epetitionen.bundestag.de/>. (webpage available in German)

<sup>53</sup> The committee reports are available at: [www.parlament.ch](http://www.parlament.ch) > 12.2048.

<sup>54</sup> *Graf/Stern* (Fn. 18), p. 78.

Finally, the question of which petitions could actually be included in the list, and who decides on publication would have to be examined in greater depth.

There is no urgent need for the Federal Administration to have its own online portal, since there are already various platforms that provide the option to digitally sign petitions.<sup>55</sup> However, the Federal Council is willing to examine the question of whether and in what form the petitions submitted to the Federal Chancellery could be placed on a central publication platform for the sake of transparency.

### 3.2.5 Introduction of a digital popular motion

There has been a renewed call for the introduction of a (digital) popular motions, which could enhance political participation as a form of digitalisation in line with the new possibilities for the online collection of signatures.<sup>56</sup>

In its position statement on the Minder Motion 12.3712<sup>57</sup>, which called for the introduction of federal popular motions, the Federal Council stated that the right to bring popular initiatives and request referendums are the cornerstones of direct democracy. These political rights contribute to the effective functioning and balance of the political system in Switzerland and enrich the political debate. In the view of the Federal Council, Switzerland, with its rich democratic tradition, should rank among the world's most innovative countries in the area of democratic rights and in the way that it continues to develop instruments for the active participation by citizens in the political process.

In its earlier position statement, the Federal Council had already criticised the introduction of a popular motion, and concluded in summary that this could in fact present a risk of weakening the popular rights. In its opinion at the time, there were still too many uncertainties with regard to the new instrument, including technical aspects (level of the quorum, possible validity check, possibility of a direct counter-proposal or an indirect counter-proposal or the possibility of amending the wording of the motion, etc.).

The Federal Council's fundamental arguments against the introduction of popular motions are still valid. The technical developments since 2012 have had no influence on this. If only for consistency of procedure, popular motions (filed online) would have to be structured in a similar way to the existing right to bring popular initiatives. If access to political participation is to be improved, lower-threshold instruments and options should be promoted that enable better communication with the authorities.

### 3.2.6 Financial support for new applications

Finally, there are also questions about how to *finance* these projects. Obtaining critical mass is crucial for the creation of online *communities*. Before a critical mass is reached and the sustainable usage and effect of the projects are ensured, investments in online platforms are fraught with uncertainty, especially if the platforms are not for profit. This is why civil society actors would like clarification on the question of who should bear the development costs, and the question of which financing models should be made available.

In principle, financial support is possible within the framework of existing federal funding for innovative projects.

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<sup>55</sup> For example, see: [www.openpetition.eu/ch/region/petition/Schweiz](http://www.openpetition.eu/ch/region/petition/Schweiz) or [www.petitionen24.com](http://www.petitionen24.com).

<sup>56</sup> Graf/Stern (Fn. 18), p. 78-79.

<sup>57</sup> Minder Thomas Motion 12.3712, Introduction of federal popular motions.

In particular, the two websites eGovernment Switzerland (see 2.4.10) and Regiosuisse<sup>58</sup> can give priority to the promotion of projects. Innosuisse is also a potential funding instrument. From the point of view of the Federal Council, however, responsibility primarily lies with the private sector.

Finally, it should be noted that private developers could, under certain circumstances, end up in competition with the state. In this respect, it should be noted that *investment protection* must be guaranteed. This argument also suggests that the federal government should act with restraint in relation to online participation platforms.

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<sup>58</sup> <https://regiosuisse.ch/>.

## 4 The consultation procedure

In the public eye, the consultation procedure is somewhat overshadowed by the opportunities for direct-democratic participation. However, the importance of the consultation procedure for the effective functioning of the political system cannot be underestimated. The consultation procedure is designed to provide information ‘on material accuracy, feasibility of implementation and public acceptance of a federal project’.<sup>59</sup> It serves to obtain valuable technical expertise (‘material accuracy, feasibility of implementation’) and at the same time to gauge the political majority in favour of a project (‘acceptance’). It comes at a relatively early stage in the policy process, and is thus often the starting point for the relevant political actors to form an initial opinion. At this stage of the political process, important decisions are made and changes in direction are still possible to a certain extent.

The information on which the consultation process is based and which by the administration and from the participants in the consultation might be expected to digitally process is largely unstructured. The documents submitted to the consultation process are typically provided in pdf format.

The responses to the consultation are sent by post or email. These are specific one-way inputs. Any coordination of consultation responses by like-minded people takes place, if at all, without the support of specialised digital tools.

The summary of the results of the consultation procedure prepared by the administration is also currently made available in unstructured form (pdf). The report provides information on the position statements submitted and a well-structured and objective summary of the content.

In the medium term, it would be worth exploring the possibility of increasing the direct exchange of position statements via digital channels and of using new digital processes to increase the transparency of the administration’s internal evaluation of the comments submitted.

Article 7 paragraph 1 of the Consultation Procedure Act (CPA) states that ‘the Federal Council may provide that consultation procedures be carried out *exclusively online* provided the necessary technical requirements are met’. Based on Article 11 letter c of the CPA, the Federal Council can regulate how the consultation procedure is conducted in electronic form in an ordinance. The legislation for conducting the consultation procedure online within the currently established processes is therefore in place.

The measures proposed in the following paragraphs are based on the existing legal framework.

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<sup>59</sup> Article 2 paragraph 2 of the Consultation Procedure Act (CPA; SR 172.061).

## 4.1 Short-term measures

### 4.1.1 Avoiding media switching within and outside the Federal Administration

The consultation procedure is already being carried out online. Participants in the consultation procedure receive an invitation via email to take part in the consultation, and are asked to submit any position statements by email. The information email about the consultation, including the supporting documents, is published online on the Federal Chancellery's consultation portal<sup>60</sup>. However, since some of these documents are scanned versions of paper documents, this can lead to a change in media within the Federal Administration. In order to reduce the workload within the administration, heads of department should not be required to sign paper documents. It should be clarified within the administration how the information email about the consultation can be signed electronically in future. One solution is the introduction of an electronic signature within the framework of the new ICT standard for GEVER (Acta Nova). This would ensure the continuous electronic processing of the consultation procedure within the administration. The Dobler Postulate 18.3502, which demands the use of e-signatures for documents within the administration, was approved by the National Council on 28 September 2018. The research conducted for the purpose of the postulate can help to find solutions for preventing media switching.

As far as procedures outside the Federal Administration are concerned, it should be noted that the needs of the participants in the consultations vary considerably. This has been demonstrated by the research carried out so far. The participants in the consultation do not necessarily have to physically amend or comment on the documents made available on the consultation platform. Participants are already free to deal with the documents (e.g. bills, explanatory reports) online within the organisation, and to return them to the lead agency in electronic form with appropriate comments or proposed amendments. In the absence of an online consultation system with workflow-oriented features, publishing the documents on the consultation platform so the participants can process them online remains the most practical solution.

Finally, the introduction of new process management systems is likely to further simplify procedures. The necessary legal provisions will be introduced in an amendment to the Government and Administration Organisation Act of 21 March 1997<sup>61</sup> (RVOG), which is pending in Parliament.<sup>62</sup> This should make it possible in the medium term for consultation participants to respond to documents on the federal systems without having to send them by email.

### 4.1.2 Storing documents in a central location to improve document retrieval

Once the decision has been taken to start a consultation procedure, either by the Federal Council, a department or the Federal Chancellery, a body of the Federal Administration empowered to legislate or the relevant parliamentary committee, the documents are sometimes made available at two different locations.

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<sup>60</sup> [www.admin.ch](http://www.admin.ch) > Bundesrecht > Vernehmlassungen. (webpage available in German, French and Italian)

<sup>61</sup> SR 172.010.

<sup>62</sup> See the Federal Council Dispatch of 15 September 2017 on the Total Revision of the Federal Act on Data Protection and amendments to other data protection legislation (BBl 2017 6941) including the amendments proposed to Art. 57h ff. GAOA; [www.parlament.ch](http://www.parlament.ch) > 17.059.

Firstly, the documents are published as part of a media release by the lead agency or they are posted on the department's website. Secondly, the documents are also published on the Federal Chancellery's consultation portal. The difference is that only the documents on the consultation portal have been checked and finalised for the consultation procedure.

The future consultation portal that will be introduced in the second phase of the modernisation of the Federal Chancellery's electronic publication system will offer a more user-friendly and accessible overview of the procedures and the associated documents. However, the introduction date for the new publication system will not be before the fourth quarter of 2020.

It would be beneficial for all consultation participants and the optimal customer-friendly solution if all documents for a consultation were only to be published in *one* central location, i.e. on the consultation portal run by the Federal Chancellery. In the medium term, the new publication system of the Federal Chancellery's Official Publications Centre will enable the departments and offices to publish documents submitted for consultation themselves immediately after a decision is made by the Federal Council, and make it possible to end the current practice of publishing the same documents in two separate locations.

### **4.1.3 Providing synopses and a standard feedback form**

The lead agencies have a considerable degree of discretion in the structure of the documents, with the exception of the email announcing the consultation and the list of participants. The Federal Chancellery's templates are used for the two latter documents. Article 6a of the CPA and Article 8 of the Consultation Procedure Ordinance of 17 August 2005<sup>63</sup> (CPA) lay down the content specifications for the explanatory report. However, there are no standard questionnaires or response forms nor are there any provisions on how the actual consultation draft (which generally means the text of an act or ordinance) is to be structured. This is where the Hausammann Postulate 17.3149 comes in, proposing a feedback form that is standardised across all federal offices and the highlighting of the proposed changes in the various items of legislation, in order to simplify the administrative procedures for the participants.

Consultation procedures concern many different forms of legislation and other matters, such as Federal Council reports of a strategic nature. In some cases, consultation drafts also include lists of questions. It is therefore hardly likely that a standardised form could usefully cover all the practical needs of participants and administration.

On the other hand, it seems sensible to adapt the requirements for the consultation to the legislative bills. A synoptic presentation can contain the text of the enactment and, if applicable, the proposed amendments. The amendments should be highlighted to make them visible in a suitable and accessible form. Finally, the new response form should include an option to present amendments and their justifications.

The Federal Chancellery will examine an amendment to Article 7 of the CPA and the creation of a standard response form as described above that can be used by the participants in all consultations with the Federal Administration and the parliamentary committees for draft enactments. Special attention will be paid to the barrier-free accessibility of this form.

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<sup>63</sup> SR 172.061.1.

## 4.2 Long-term measures requiring examination

### 4.2.1 Communicating the results of the consultation procedures

There may also be potential for optimising the communication of the consultation results. Several improvements have already been made in this regard in the revision of the consultation procedure legislation in 2016. Today, all procedures are expressly subject to the obligation to publish the position statements and the result reports (Art. 9 CPA; Art. 16 and Art. 21 para. 1 CPO).

However, participants still have access to relatively little information on the weighting, assessment and consideration of their position statements. The assessments of these statements are primarily found in submissions to the Federal Council, which are not accessible to the public. The amount of information provided in Federal Council reports (dispatches) concerning the handling of the results of the consultation procedure varies greatly. There is a serious lack of information in the explanatory reports on ordinances. Here, it should be examined how an increased amount of this information could be made available to consultation participants and to the public, and how digital instruments could be used to reduce the work and cost involved. It is also conceivable that digital channels could be used for direct exchanges on position statements with the authors or with the public.

### 4.2.2 Digital access to the consultation procedures

There is no legal obstacle to selectively expanding consultation procedures or enhancing them with digital participatory mechanisms. The authorities have considerable room for manoeuvre to structure the procedures for preparing legislation and other projects. There are only a few legal regulations for these procedures. In addition to the general rules for internal administrative procedures, there is an obligation to include the cantons at an early stage (Art. 15a of the Ordinance of 25 November 1998 on the Organisation of the Government and the Federal Administration<sup>64</sup>, GAOO). This does not rule out the possibility of targeting individual groups in the preliminary legislative procedure.<sup>65</sup> Often, in addition to the cantons, specialist associations, interest groups, social partners and other organisations are involved. For topics that directly affect broad sections of the population, it would be conceivable to organise broader (digital) consultations.

It was also proposed that consultations be held on benchmark papers, rather than on draft legislation. The EU in particular is familiar with this practice in its consultation on green papers.<sup>66</sup>

Technical solutions that can be used for this purpose are already available today on the private market. For example, popular polling tools can be used to individually structure an online survey on draft legislation.

### 4.2.3 Digital support for the assessment of consultation procedures

Steps have already been taken for some time within the Federal Administration to provide digital support for conducting assessments, which have so far been used primarily for consultations with a very large number of responses.<sup>67</sup>

<sup>64</sup> SR 172.010.1.

<sup>65</sup> See the observations in the dispatch of 6 Nov. 2013 on the amendment to the Consultation Procedure Act, BBl 2013 8875, 8893, 8898.

<sup>66</sup> [https://eur-lex.europa.eu/summary/glossary/green\\_paper.html](https://eur-lex.europa.eu/summary/glossary/green_paper.html).

<sup>67</sup> See the following presentation from the FOPH on the forum for legislation of 30 June 2016: <https://www.bj.admin.ch> > Staat & Bürger > Legistik > Forum für Rechtsetzung > Übersicht über die Themen der Veranstaltungen > 30. Juni 2016 – 27. Veranstaltung > Ziffer 6. (webpage available in German, French and Italian)

Information on best practices for more efficient online processing was published some time ago in the Newsletter of the *Forum für Rechtsetzung* available within the administration.<sup>68</sup>

There is potential for improvement in the future. A database-supported log of position statements, in particular, would provide more efficient automation of the evaluation process (this data could also be made available for further use by third parties and thus be put to more innovative use). This would require using a standardised response form and a corresponding data model. Such solutions, however, require specialised systems of a certain complexity.

#### **4.2.4 Full online processing of the consultation procedure**

A pilot test carried out by the Federal Chancellery (completed in 2017) revealed that it may be difficult to devise a digital tool that addresses the needs of all consultation participants. If, in the course of the digitalisation process, an adjustment to the consultation process and revisions to the relevant legislation were envisaged, a large number of the consultation participants would also be forced to adapt their internal processes to the new requirements. The Federal Council assumes that the efficiency gains would not be large enough to justify the required investment. It is also concerned that there is not (yet) sufficient willingness among consultation participants to redefine the procedure. Certain simplifications in the handling of the existing process are also foreseeable with the introduction of new electronic records and process management systems.

Several providers currently offer products with functions that could potentially provide end-to-end digitalisation of the consultation procedure. Should solutions emerge on the market that would meet the current demands for digitalisation, the situation would have to be reassessed. It should also be noted that the federal government is not forcing private providers out of the market by developing its own solutions. This also speaks in favour of a cautious and resource-saving approach.

Efforts are currently being made within the Federal Administration to digitally transform the consultation process. The experience gained with this project will provide indications as to whether the solution to be created could be made available to the entire Federal Administration.

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<sup>68</sup> See the Newsletter of 3 August 2016; <https://www.bj.admin.ch/bj/de/home.html> > Staat & Bürger > Legistik > Forum für Rechtsetzung > Archiv des Newsletters zum Forum für Rechtsetzung > Newsletter 2016 Nr. 22. (webpage available in German, French and Italian)

## 5 Conclusion

The effects of digitalisation on politics are multifaceted and sometimes contradictory. Digitalisation can create uncertainty with regard to democratic processes and erode trust in institutions. It can, however, also help to increase civic engagement, especially in Switzerland (see Section 2). Digitalisation can simplify civic engagement and increase barrier-free access to the political process. It can facilitate networking among political players to help them exert influence on a specific political issue. It can also facilitate the political process through the traditional direct democracy instruments. This is possible because the digital process significantly reduces the organisational and financial costs of core political activities, such as the collection and analysis of information, networking and mobilisation, shaping of opinion, exertion of influence, fundraising and public communication. Digitalisation also makes it easier to collect data from a variety of sources and then evaluate and use it at different stages of the political decision-making process.

Digitalisation can strengthen the structural features that already characterise Switzerland's political system today – the political involvement of a large part of the population, sustainable policy solutions, stability, continuity and legitimacy. In this regard, this report sees digitalisation primarily as an opportunity for politics in Switzerland.

Experience has also shown that it is almost impossible to plan the progression of digitalisation and that new digital instruments can have unexpected and undesirable consequences, especially in a complex system such as politics. Digitalisation leads to disruption when new players emerge and established processes are called into question. It can also lead to online platforms with civic-tech functionalities suddenly playing a central role, raising questions with regard to their legitimacy and governance. The role of the state in the provision or regulation of such platforms and the associated data collections, and its separation from private companies or civil society, may have to be redefined. Digitalisation may necessitate changes to the rules of procedure and institutions that influence political opinions and decision-making process. Digitalisation can unsettle democratic processes and chip away at confidence in politics. Digitalisation will change the political culture in Switzerland, in ways that are only partially predictable and controllable.

This means that in politics as in other fields, digitalisation is not only and not primarily a technical process, which involves offering new applications on a selective basis, but rather it involves a complex interaction of technical innovations, regulatory framework conditions, government institutions and political culture. In view of the above, a step-by-step approach should be used to exploit the opportunities that digitalisation offers for democracy in Switzerland. This could help to support the interplay between technology, regulatory framework conditions and political culture, and allows adjustments to be made if necessary.

The main task of the federal government is to ensure that the technical and, if necessary, the regulatory and institutional framework is provided that allows the political players, civil society or private companies to benefit from the opportunities that digitalisation offers in politics, and that prevents or corrects any errors. At this stage, the Federal Council has identified a need for action in three areas and proposes the measures described below.

## 5.1 Access to data and creation of a generally compatible data model

As part of its data policy, the Federal Council has made a commitment to open data and data portability.<sup>69</sup> Implementation is underway. An important requirement for civic tech applications that go beyond selective functionalities has, however, only been partially implemented. There is currently a lack of a technology-neutral data model for political procedures, political decisions or events and for results arising from political processes, such as acts, ordinances, media releases or related material, including statistical data or reports and studies, i.e. the 'knowledge' that exists in state institutions handling political business. Furthermore, this data is not always made available to the public. When it is made available, the data is often in a format that cannot be linked for evaluation or further use across several data sets.<sup>70</sup> A generally compatible data model and appropriately structured data are a prerequisite for systematically monitoring political business throughout the policy cycle – beginning with the decisions made by the Federal Council and the consultation process to parliamentary debates and any referendums all the way through implementation, linking these items of business to related data from other sources (such as legislative texts, court decisions, statistical data, figures from the financial budget and the like), and evaluating this data. Priority should be given to creating a generally compatible data model and publishing the data currently available on different web platforms and in different formats from the Federal Administration and Parliamentary Services.

In its work on updating the platform for publishing federal law,<sup>71</sup> the Federal Chancellery is currently developing the technical and conceptual foundation required for creating a data model of this type. The Federal Chancellery is in consultation with the FDF's Federal IT Steering Unit (FITSU), which is responsible for ICT specifications, the Federal Statistical Office (FSO) which is responsible for data standards and Open Government Data (OGD), the Swiss Federal Archives (SFA) in its role as coordinator of the LINDAS platform specialising in linked data applications, and Parliamentary Services with a view to gradually extending the data model to include other items of political business and structuring the related data for this purpose. The Federal Chancellery will also include the political players (parties, national associations), companies involved in civic tech and civil society players in the conversation. The aim is to publish the data and interface standards as freely accessible eCH standards. European solutions should also be taken into account.<sup>72</sup>

### *Measure 1*

The Federal Chancellery has the task, in consultation with the FITSU, the FSO, the SFA and Parliamentary Services, of developing a data model for items of political business and related materials, and for structuring the data accordingly and making it available to the public as part of its ongoing work on updating the applications. The aim is to establish an appropriate eCH standard.

<sup>69</sup> <http://www.bakom.admin.ch> > Digital Switzerland and internet > Data policy.

<sup>70</sup> This is in line with the principles of linked data, i.e. in particular by using universally unique, permanent and thus technology-neutral identifiers (URI) that can be located on the web, as well as ontologies that can be read and evaluated by machine. For the use of linked data in the Federal Administration, see: [www.geo.admin.ch](http://www.geo.admin.ch) > Services > Geoservices > Linked Data Service, as well as: <http://classifications.data.admin.ch> > Linked Data?

<sup>71</sup> Siehe <https://www.admin.ch/gov/en/start.html> > Federal law.

<sup>72</sup> <https://ec.europa.eu/digital-single-market/en/newsroom-agenda/consultation/all>

## 5.2 Consultation procedure

The consultation procedure is designed to gauge the 'material accuracy, feasibility of implementation and public acceptance of a federal project'<sup>73</sup> early in the political opinion-forming and decision-making process. Switzerland's political system is geared towards achieving the broadest possible consensus on political solutions. The consultation procedure aims to stake out where these solutions can be found at an early stage both in technical and political terms. The consultation procedure therefore plays a crucial role in the Swiss political system.

Digitalisation can help increase the transparency of consultation procedures. The administrative procedure for the submission of position statements by consultation participants can be simplified. Furthermore, digitalisation can make it easier for political actors with similar interests or values in a particular area to find each other and organise themselves early on in the political process. Finally, through digitalisation, the submissions made during the consultation procedure can be put into a structured form that makes them easier to evaluate and use in the subsequent decision-making process (see Section 4). Better use can therefore be made of the potential in the early involvement of the cantons, political players and experts.

In the course of 2020, the Federal Chancellery will conduct a project initiation study to consider the measures that can be used to develop the consultation procedure in the desired way using digital tools. The focus, not least as a result of the Hausammann Postulate 17.3149, which calls for consultation procedures to be standardised and made more efficient, will be on the following measures:

- Improving the metadata model for consultations and consultation responses: The Federal Chancellery currently publishes all planned, ongoing and completed consultations on the federal law platform, organised by year and by department.<sup>74</sup> No additional data are recorded in any structured way that would make it possible to conduct systematic searches of the current and planned consultations. Nor is it possible at the moment to systematically search for or evaluate the data from the consultation database, such as data linked to the Federal Council reports prepared for Parliament in the consultations, to parliamentary business or to legal texts. The same holds true for the metadata relating to position statements submitted to a consultation, since the metadata is currently not recorded in a structured manner. Systematic searches of metadata are not possible or can only be conducted in a roundabout way, for example by searching all consultation responses of a specific canton within a specific timeframe or on a specific topic.
- Clearly structuring consultation documents in the form of synoptic tables: At the moment, consultation documents typically consist of various separate documents, mostly in pdf format. There is normally an information email and a list of participants, a bill and an explanatory report. If the bill is for an amendment to the law, the relevant texts must also be downloaded from the federal law platform for comparison with the currently valid version of the legislation. If a reply form is included among the consultation documents, this is typically a fourth, separate document. This means that the consultation participants need to work on three to four documents at the same time in order to get an overview and to draft their position statements.

<sup>73</sup> Article 2 paragraph 2 of the Consultation Procedure Act (CPA; SR 172.061).

<sup>74</sup> See [www.admin.ch/gov/de/start.html](http://www.admin.ch/gov/de/start.html) > Bundesrecht > Vernehmlassungen. (webpage available in German, French and Italian)

There is no denying that this creates a relatively high administrative burden. This burden could be reduced by presenting the different consultation documents in a single, synoptic representation, similar to the synoptic tables used for parliamentary business.<sup>75</sup>

- Establishing an interface for entering structured consultation responses: It should be examined whether those participants in the consultation process who wish to do so should be offered the option of submitting their position statements in a structured format through a web form. This can be done, for example, via a web editor and using an XML schema. Ideally, this web form could be integrated into the above-mentioned synoptic table. Columns can be added in parallel to columns for applicable law, the bill and the related explanatory notes to make space for consultation addressees to enter amendments and the reasons for them. In comparison to unstructured consultation position statements, which until now have only been available as scanned pdf files, the structured data can have a more sustainable impact in the medium term. This is because structured data are easier to evaluate and can therefore be searched for and evaluated more easily further in the political process.
- Creating a structured summary of the results of the consultation procedure: The summary of results prepared by the administration for each consultation procedure is currently made available in an unstructured form (pdf). It should be checked whether the information and data contained in these summaries could be structured. This would make preparing the summary easier and more transparent. Structuring the results would in turn create new search and evaluation possibilities, which could increase the value and benefits of the consultation process to the subsequent political decision-making process.

Digitalisation of the consultation process is a technically demanding project that is difficult to plan. The complexity results not least from the large number of players, from both inside and outside the administration, involved in the consultation procedure, with their disparate technologies, corporate processes and demands. The Federal Chancellery is currently laying the foundations for moving towards e-consultation within the framework of a project to renew the federal law platform. The aim is to establish a data model and related technologies that allow content that is structured so that it can be digitally interpreted to be published in different languages and to receive and process any feedback. After the successful completion of this project, it should be possible to give detailed consideration to extending or modifying the consultation procedure in the direction described and, if necessary, to test these changes through pilot projects.

#### *Measure 2*

The Federal Chancellery has the task of identifying practical measures for simplifying the administrative procedure for consultations and to enhancing the metadata available for the consultations by the end of 2020 as part a project initiation study on 'e-consultation' and, if necessary, for commissioning implementation projects. Any measures and implementation projects must be closely coordinated with ongoing work in the departments related to the consultation procedure.

<sup>75</sup> See [www.parlament.ch](http://www.parlament.ch) > Parliamentary business > Fahren lesen.

## 5.3 Further development of the right to petition

Under Article 33 of the Federal Constitution, every person has the right, regardless of their age or nationality, to petition the authorities. The authorities must acknowledge receipt of such petitions. Up until now, the authorities have not published any of the petitions submitted to the Federal Administration. There is thus no transparency with regard to the petitions received or their authors (see 3.2.4). The Federal Assembly (Parliamentary Services) publishes some information online on the petitions it receives. Digitalisation makes it possible to publish petitions without a great deal of effort, so that they can be viewed by the public and evaluated if necessary.

The Federal Chancellery will examine the feasibility of setting up a publication platform for petitions from the constitutional-institutional, legal, organisational and technical points of view. Since the Federal Assembly also receives petitions, the Federal Chancellery will conduct its assessment in close coordination with Parliamentary Services.

### *Measure 3*

The Federal Chancellery has the task of examining from the constitutional-institutional, legal, organisational and technical points of view the feasibility of setting up a publication platform for petitions submitted to it, reporting to the Federal Council and proposing any further action required by the first quarter of 2021.