JOURNAL OF DELIBERATIVE DEMOCRACY

Przybylska, A., et al. (2026). The Embeddedness of Norms of Deliberation in Regulations on Public Consultations in the Multilevel Governance System. *Journal of Deliberative Democracy*, 22(1), pp. 1–12. DOI: https://doi.org/10.16997/jdd.1583

RESEARCH ARTICLE

The Embeddedness of Norms of Deliberation in Regulations on Public Consultations in the Multilevel Governance System

Anna Przybylska*, Tobias Escher†, Malte Steinbach‡ and Marta Jas-Koziarkiewicz*

Recently, we have observed an increase in the use and regulation of public consultations in the multilevel government of the European Union (EU). To determine whether regulations define favourable conditions for consulting citizens, as is the case in experimental mini-publics, in the German-Polish project, we studied documents that frame and guide consultations in local governments in both countries within the legal national, regional, and European contexts. The analysis showed, among others, that (1) while deliberation is not yet a framing concept for organising public consultations, some explicit references to deliberative norms already exist, especially in non-binding EU and local regulations, with particularly rare citations of reflexivity and reciprocity; (2) non-binding regulations support procedures implementing norms of deliberation to a larger extent than binding ones; (3) the lack of consistency between the regulations, especially in some aspects of openness and inclusion, could be amended by following an example of documents supposed to guide the practice of EU institutions; (4) some local governments set examples of particular innovativeness in implementing procedures supporting, among others, reflexivity and reciprocity.

Keywords: public consultations; regulations; deliberation; norms of deliberation; procedures; multilevel government

This article aims to contribute to the discussion on establishing a deliberative system of governance by examining the intervening role of regulations, using the example of those governing public consultations. The increased number of regulations may indicate a mature stage in the institutionalisation of the consultation mechanism. Moreover, it was accompanied by the rise in the experimental uses of mini-publics responding to the need for including considered judgements of various social groups in decision-making. However, regulations, which are established to guide the practice (Levy 2013), may facilitate the diffusion of deliberative formats or neglect them.

We argue for studying regulations on public consultations in the supra-national context of the European Union (EU) for three reasons. First, public consultations are part of a system in which various actors interact to create and enact policies across different levels of government. Second, regulations at other tiers of government must remain compatible, even when political and legal traditions differ (Skelcher & Torfing 2010). Third, laws at higher government levels may encourage, ignore, or stifle democratic innovations at lower government tiers (Amsler 2016; Ianniello et al. 2019).

In the multilevel regulation framework, we compared Germany and Poland. Both countries are obliged by the EU to consult citizens in specific policy areas, and their local governments are responsible for many public services (Jagoda 2018). Despite these similarities, their distinct approaches to public consultation regulations—possibly shaped by different EU membership histories (Germany as a founding member, Poland joining in 2014) and traditions of citizen participation (Mielczarek-Żejmo 2016)—may impact the regulation's content. This comparative analysis shows how convergent or divergent the patterns may be when adopting a deliberative approach to public consultations in the EU.

The article begins by examining the role of deliberation and its standards in public consultations within contemporary democracies. Then, it presents our research methodology and results, which discuss the embeddedness of deliberative norms across stages of public consultations in regulations issued by the EU, as well as by German and Polish institutions. By embeddedness of norms we mean explicit references to them and, more importantly, procedural standards that enact them.

* University of Warsaw, Poland

† Department of Social Sciences, Heinrich Heine University Düsseldorf, Germany

‡ Zebralog GmbH, Germany

Corresponding author: Anna Przybylska (a.przybylska@uw.edu.pl)

The Model of Deliberative Public Consultations and Deliberative Norms

Regulations for public consultations do not transfer formal decision-making power to citizens. Nevertheless, public consultations are 'a key mechanism used by bureaucratic and legislative decision-makers to engage citizens and interest groups in the design, formulation, and evaluation of public policies and legislation' (Bunea 2022: 1250). Consultations may contribute to improving the quality of decisions and their legitimacy in the public perception (Steinbrecher 2009). However, if the government prioritises the latter and disregards the former, it poses a risk to democracy and may deepen distrust in public institutions, leading to a withdrawal of people from public engagement (Bussu et al. 2022; Kies & Nanz 2013; Strebel, Kübler, & Marcinkowski 2019). This is why the increased use of public consultations has been accompanied by the debate on how to design them to fulfil the democratic goals.

An extended process of public consultations can be divided into phases, including planning and preparation, recruitment of participants, participation and data collection, and reporting results and evaluation, which demand particular actions from organisers and participants. The deliberative approach to public consultations requires creating a framework conducive to equal and reciprocal reflection on options and preferences, based on expert knowledge, experiential evidence, and recognition of group interests (Bächtiger et al. 2018). Deliberative mini-publics, despite some differences, propose common actions for organisers and participants that may establish good consultation practice.

The evaluation of mini-publics experimental implementations usually references the normative framework with a selection of norms and their sometimes differing operationalisations. The efforts to promote a set of comprehensive measures of deliberativeness are continuous and require accounting for the context and the goal (Bächtiger et al. 2022). The critical discussion contributes to a more recent investigation into how democratic innovations can be more systematically implemented (Curato et al. 2021; Quirk et al. 2018; Setälä & Smith 2018). In this article, we analyse the deliberativeness of procedures presented in regulations on public consultations, focusing on norms of openness, inclusion, reflexivity, and reciprocity, acknowledging that some authors would add other norms to the list. Below, each paragraph discusses the meaning of a selected norm in reference to theoretical and empirical literature on deliberation and deliberative democracy.

First, *openness,* in its common definition, is akin to transparency (Bächtiger & Parkinson 2019; Levy 2013; Steiner 2014). Steiner suggests that in political decision-making, it is 'good enough if ordinary citizens have sufficient access points to see what is going on at critical junctures and how they can make their influence felt' (Steiner 2014: 147). Next, Rummens (2018) conceptualises openness as a government's predisposition to welcome ideas and contributions. In turn, Papadopoulos and Warin (2007) pair it with various social groups' access to participation. They write that the availability of resources, credibility in the eyes of elites, and the capabilities or willingness to conform to the interaction pattern, which includes reasonableness and empathy, may modify the involvement of marginalised or privileged groups, depending on the mediating category. As is usually the case, not all members of a population can deliberate; inviting a random sample to a consultation, controlled by particular demographic and attitudinal characteristics, is 'the second best' proposal (Fishkin 2018). Random (but not statistically representative) or targeted sampling may also be used in some mini-public methodologies. Achieving at least limited representativeness involves applying various categories of incentives, such as partnering with authorities to confirm impact, assisting persons with disabilities, taking care of participants' dependent family members, and offering financial rewards (Curato et al. 2021). Finally, the word 'open' is present in the concept of 'open-mindedness', which indicates a person's ability to change their opinion in response to a better argument in a discourse situation between participants holding initially diverse positions. Landemore (2018) highlights diversity as its necessary condition.

Following a seminal work by Young on exclusion (2000), numerous authors identify two formats of *inclusion*: 'external', referring to creating conditions for representation of various groups, which also might be categorised as 'openness', and 'internal', signifying the plurality of ideas resulting from different situations or positions. Bächtiger and Parkinson (2019) characterise 'inclusion' as relevant to, on the one hand, promoting equality and, on the other hand, recognising various perspectives. Similarly, Steiner (2014) claims that inclusion may refer to the preconditions for the substantial input of different actors and the input itself. However, we are reminded that inferring input diversity from a group's demographics may be flawed (Niemeyer et al. 2024; Young 2000), and that intervening factors may distort opinions (Curato et al. 2021). Further, the division into external and internal inclusion is also used in empirical studies on mini-publics where the former is linked to recruitment, agenda-setting, presenter diversity, and the social oversight of them, and the latter to facilitation, group composition, format of interactions, decision-making rules, communication modes, and the social control over them (Harris et al. 2020). Finally, some scholars project that inclusion may be promoted to the degree that a 'proposal must be acceptable to a wide range of differently situated others' (Bächtiger & Parkinson 2019: 10).

Then, *reciprocity* is akin to responsiveness and is an expected feature of authorities' performance (Rummens 2018; Bächtiger & Parkinson 2019). It implies the government's reception of messages transmitted from civil society through various channels and feedback or even interaction. In group communication among citizens, a trained moderator supports respectful interactions (Curato et al. 2021). Listening, relevant to Young's (2000) conception of internal inclusion, is central to sincere reciprocity and can be measured as references to interlocutors and the content of their speech (Bächtiger

& Steiner 2015; Morrell 2018). Moreover, reciprocity is conceived of as perspective-taking that affects reflexivity (Muradova 2021).

Finally, in the literature on deliberation and deliberative democracy, *reflexivity* considers how interlocutors support policy proposals or opinions with reasons and facts, sometimes in relation to values. The level of justification can be measured (Bächtiger & Steiner 2015), as can be differences between individual preferences (Niemeyer et al. 2024). The understanding of reflexivity has evolved in response to criticism aimed at the elitist criteria for rational communication. Due to concerns about inclusion, the justification for one's position has become understood broadly as providing the relevant considerations or evidence using various narrative formats (Curato et al. 2021). Whereas access to expert knowledge is an established feature of mini-publics, and the knowledge level can be measured before and after participants are exposed to it (Fishkin 2018), some authors highlight that experts' cognitive authority may limit autonomous reason-giving among participants (Curato et al. 2021). In addition, while earlier deliberation was conceptualised as oriented towards the common good, now self-interest constrained by fairness has become legitimised (Bächtiger et al. 2018). Finally, not only consensus but also voting can legitimately conclude deliberation, and clarifying conflict can also be its goal.

In the next section, we will draw on the literature review to propose an analytical framework linking public consultation procedures to deliberative norms for our systematic study of regulations.

How Regulations Support Standards for Deliberative Public Consultations: An Analysis

Our research relies on the premise that 'we cannot understand the conditions for effective deliberative democracy without asking questions about the roles of law' (Levy 2013: 357). In our analysis, we consider laws next to recommendations or guidelines. While only the first possesses the quality of an 'enforceable body of rules' (Law 2018), the latter can suggest courses of action to public authorities. Regulations reflect particular cultures and, at the same time, shape political culture and the functioning of institutions.

Methodology

We analysed legal documents issued by the EU as well as by German and Polish institutions to answer the following research questions:

> Q1. How do the public consultation regulations of different government levels mention deliberation and its norms?
> Q2. How do the consultation procedures covered by these regulations support the norms of deliberation across the stages of public consultations and the different government levels?

To answer the first research question, we systematically searched for explicit references to 'deliberation' and the deliberation norms, in particular, to openness, inclusion, reflexivity, and reciprocity, to understand the role assigned to them in the text. We have coded additional norms whenever their meanings in the text overlapped with those of the four main norms. It is because our focus is on predispositions for institutional actions that we expect these to create.

In response to the second research question, we searched the regulations for particular categories of public consultation procedures and coded them as they appeared. Then, we analysed how they support deliberative standards.

Below, we present our literature-based proposal for how procedures at various stages of public consultations may promote openness, inclusion, reciprocity, and reflexivity.

To begin, *openness* entails sharing control and decision-making power. This includes acting transparently, welcoming competing ideas, and fostering collaboration or even co-design. The government is expected to clarify the goals and rules of consultations and to communicate through multiple channels to engage diverse publics. Sharing expert knowledge before or during consultations reduces barriers to participation. Co-creating or consulting on informational materials enhances social oversight and demonstrates acceptance of challenges, that is, dissenting views. Proactive recruitment, which may involve incentives, helps vulnerable groups join. Ensuring participant diversity and using dialogical consultation methods cultivates open-mindedness. Allowing citizens to review results and understand their influence on outcomes demonstrates transparency, but involving the public in reviewing or drafting reports is a more participatory intervention into decision-making. Finally, evaluating processes highlights the government's willingness to learn from experience.

We assume that *inclusion* during public consultations requires organisers to actively facilitate diverse and autonomous input. Early involvement of participants in creating or reviewing informational materials helps capture a broader range of proposals. Recruitment strategies that go beyond self-selection—such as random selection of a statistically representative sample or even mapping diverse perspectives, intentionally engaging minority views—are essential for implementing inclusion. We compare various consultation methods based on their ability to support free and nondiscriminatory contributions to the development of considered solutions. While standardised questionnaires offer equal input opportunities with a low entry barrier, they may also limit the emergence and support of new ideas. In many-to-many communication settings, self-censorship or silencing by others can occur; therefore, moderation is necessary to ensure equal and diverse input. Additionally, consulting participants or co-creating the presentation of results can further promote inclusion.

Next, *reciprocity* during public consultations concerns communication exchanges between authorities and citizens, or among citizens. From planning and preparing consultations to reporting results and conducting evaluations, authorities can regulate interactions with

citizens. While access to information is necessary for transparency, it is a limited form of reciprocity as compared to inviting citizens to consult knowledge inputs, comment on a report, or offer feedback on the consultation experience, which implies at least limited exchanges. Co-creation involves even more interactions. The choice of communication channels can also intervene here. Then, while analysing regulations may not evidence particular indicators of reciprocity among participants, it can help identify differences in creating conditions for it through the choice of methods and the use of moderation, which should guarantee listening and vigorous exchanges.

Finally, *reflective* participation assumes creating well-reasoned proposals and counterarguments. Access to information about the consultation goal, rules, and subject already stimulates reflection, and the invitation extended to citizens to contribute to briefing materials deepens it. Then, the listed methods of data gathering may encourage participants from different backgrounds to exchange informed opinions, supported by a moderator, which is followed by the expression of preferences through a questionnaire or collaborative recommendations. Unless individual answers are merely aggregated, or random feedback from a few participants is collected. If not invited to co-create the conclusions, participants should at least be able to reflect on how their input was reported. Finally, regulations can engage citizens in reflecting on past consultations as part of the evaluation, and this reflective activity can shape the framework for future consultations.

We link the categories of public consultation procedures that we coded with deliberation norms in **Table 1**.

In our coding of regulations, we observed that each procedure category included a diverse range of proposals. For example, at the participation stage, under 'methods of participation and their features', we identified over 30 methods and techniques that partly overlap. These methods range from individual comments—submitted either via a predefined questionnaire or not—to public hearings and mini-publics. Mini-publics typically assume moderation, yet we chose to code separately whether moderation or facilitation was mentioned in the documents. We also captured moderation characteristics, such as 'impartiality', 'being external to the office', 'prior training', 'encouraging equal participation', and 'encouraging the exchange of arguments'.

Due to a large number of documents to analyse, we adopted quantitative descriptive analysis, which followed some exploratory qualitative analysis for Q1 and Q2 and, in response to Q1, also preceded some explanatory qualitative analysis.

Regarding the regulations on public consultations published by EU institutions, the analysis covers the period from 16 September 1999 to 31 May 2019. The starting date is linked to the beginning of the new term in office in the European Commission and the increase in attention to the citizens' participation in the decision-making. As for German and Polish national, regional, and local governments, the analysis covers all documents valid at the time of our data collection, that is, by the end of 2019.

We listed 28 EU documents for the analysis. Then, in Germany, we examined four acts of national law in policy

Table 1: Linking procedures to norms.

Planning and preparation	• Informing about public consultations • Providing access to knowledge • Co-creation or consultation of information materials • Channels of communication	Openness Inclusion Reciprocity Reflexivity
Recruitment	• Defining eligible participants • Addressing groups of particular interest or care • Measures to increase participation	Openness Inclusion
Participation	• Methods of participation and their features • Moderation or facilitation and their features	Openness Inclusion Reciprocity Reflexivity
Reporting and feedback	• Informing about consultation results • Co-creation or consultation of results • Informing about the impact of results • Channels of communication • Evaluation involving citizens	Openness Inclusion Reciprocity Reflexivity

Source: Own proposal.

areas requesting public consultations, regulations passed by North Rhine-Westphalia and Baden-Wuerttemberg on citizen participation, as well as regulations adopted by 62 (out of a total of 2,055) German towns and cities, all of which had adopted guidelines for public consultations. While only eight municipalities had passed the guidelines as bylaws, making them binding, 50 municipal councils had passed the guidelines as a self-imposed measure. In the remaining cities, the guidelines had been issued as administrative regulations. In Poland, we analysed six acts of national law in policy areas requiring public consultations, all four regional regulations on public consultations implemented at that time, and 536 out of the 729 city and town resolutions on consultations with citizens (74%). In the preliminary analysis, we established that 729 out of 940 Polish towns and cities (75%) had adopted them. We covered all regulations by cities with a population above 10,000 inhabitants and 57% of towns with a population below 10,000, representing all 16 regions.

Explicit References to Deliberation and Its Norms

The analysis of EU documents revealed that the term 'deliberation', which appears rarely alongside the more frequently referenced 'dialogue', is associated with high standards of policy formulation and the legitimacy of decisions. 'Dialogue' may be a descriptive term for 'committees', 'methods', or 'tools'. In Germany and Poland, deliberation does not appear in any national legal provisions. German law also does not mention 'dialogue'. It usually describes the role of citizens in decision-making as 'Beteiligung', meaning 'involvement', which is more vague than 'participation'. An exception is the emission control law that prescribes collaborative processes involving interactive formats. In Poland, only the act on urban regeneration references dialogue during public consultations. EU regulations influence both of these policy areas.

Deliberation is also not quoted in the municipal codes governing participation at the federal level in Germany, even though they name the instruments used for consultations. Similarly, in Poland, regional councils' resolutions regulating public consultations do not cite 'deliberation'. However, in the introduction to the resolution drafted by Zachodniopomorskie Voivodeship, it is stated that the document resulted from collaboration with entities experienced in developing civic dialogue and participation. Although 'deliberation' and 'dialogue' in regulations issued by German and Polish local governments are not framing concepts, they have three applications: the first equates consulting citizens with them; the second presents them as the ultimate goal of public consultations; while the third concerns methods such as 'deliberative polling' in Poland or instruments like 'deliberation platforms' in Germany.

Simultaneously, references to the norm of *openness* are particularly frequent, present in all but one document referencing the EU policy of consultations and one-third of documents on various policy areas with parts devoted to consultations. The European institutions often use the term 'open consultations'. They also include 'openness' to minimal standards of consultations. While 'openness' and 'transparency' might be mentioned next to each other, the first can also be defined by the latter. Documents indicate that open consultations should be transparent, address policy initiatives at an early stage of decision-making for better public impact, target a broad spectrum of participants (unless they concern particular groups), take place within a time span that enables participation, and use accessible methods and language.

Afterward, five EU documents mention *inclusion*, some using the term 'inclusive approach', which emphasises that anyone may participate in the consultation process, provided they meet specific criteria for equitable input. Then, one document specifies that institutions' openness to involve stakeholders may commit them to 'increased responsiveness'. In yet another document, it specifies how 'feedback' to consultation input should be improved in the procedure-focused discussion. So, while *reciprocity* is not quoted, its synonyms are. Yet there is even less direct reference to *reflexivity*, and when the knowledge-based approach and reflection are mentioned, they concern policy-makers who consider input from citizens. The EU documents concerning public consultations organised in Member States do not appear to specify these standards when they require national authorities to consult plans and actions that, for example, affect the environment.

In Germany, national legislation does not spell out the norms of deliberation. At the regional level, references to transparency were found in two regulations that focus on interactions with the public, but not in municipal codes. In Poland, unlike acts of national law, regional governments' resolutions on public consultations include norms of transparency, meaning access to information, and universality, which signifies popular participation. These, in themselves, do not reveal much about the government's openness to control-sharing in decision-making.

The deliberative norms are overall frequently referenced in regulations issued by German and Polish local governments. In Germany, 39 (63%), and in Poland, 203 (38%) of documents mention openness in various contexts and meanings. First, it is commonly presented under the name of 'transparency', which is expressed explicitly more often in Germany than in Poland. Second, it denotes the universal right to participate in public consultations. Third, in Germany, it characterises a process that does not have a predetermined result and is, therefore, open to all kinds of solutions that may emerge during interactions. Then, *equality*—a norm cited in 32 German guidelines (52%) and 55 Polish resolutions (10%)—signifies the right of all social groups to participate in political processes on the same terms. It can be expressed in phrases like 'participants should have the opportunity to acquire the same level of information on the matter' (Landau, Germany) or 'the participants are equal in dialogue' (Gorzów Wielkopolski, Poland). The former is associated with openness, in the expectation that the government will lower the threshold of engagement for certain groups, and the latter is tied to the inclusion of input from diverse groups. However, the norm of *inclusion* or *representativeness* of participants

whose input should be linked to the impact on decisions is directly addressed in only nine documents (15%) in Germany and 70 documents (13%) in Poland. In the German guidelines, one can also encounter references to 'equality' where the interactions of citizens, clerks, and politicians are considered, which does not occur in the Polish resolutions.

Further, the two remaining norms have a marginal explicit recognition, if any. *Reciprocity* has not been found in the analysed documents, and *responsiveness*, mentioned in 22 documents (4%) by Polish and 18 documents (29%) by German local governments, has the closest meaning, although it does not imply interaction. Finally, in the absence of citations of *reflexivity* by Polish local governments, we found three resolutions that mention *rationality* and apply it to decisions made following consultations. In Germany, documents used the verb 'reflect', particularly in reference to evaluating consultations. Out of the 19 mentions (31%), the majority concerned responsible administrations learning from the experience, while the minority described situations in which citizens played an active role, such as 'in-person rational discussion' (Freiburg, Germany).

Implementation of Deliberative Norms through Procedures

The second part of the analysis demonstrates how the procedures outlined in the public consultation regulations published by the government at different levels establish conditions for achieving openness, inclusion, reciprocity, and reflexivity at each consultation stage. The sections relating to the successive stages of the consultation process refer to the standards and findings.

Planning and preparation

Thoroughly informing citizens about upcoming consultations fulfils the transparency standard. This principle is routinely included in regulations at all government levels. Further analysis revealed that informing about the subject, goals, methods of data collection, and schedules is a prerequisite for preparing public consultations under EU and most national laws across various policy areas, as well as regional regulations. However, there is considerable variation at the local government level, with only 33 (53%) of German and 148 (28%) of Polish regulations specifying all four elements of information.

The more information there is about the format and subject of participation, the more it also stimulates citizens to reflect on their role and contribution. Providing citizens with expert knowledge, which can also be organised or deepened at a later stage, furthers openness in the sense that it makes the process more accessible to marginalised groups. Meanwhile, although complementing citizens' knowledge seems to be the EU regulation standard, only rules addressing the practice of European institutions recommend its adjustment to the needs of various participants. Also in Poland, despite proposing expert materials, one out of three national acts in policy areas requiring consultations covers this additional provision, but none at the regional level. Whereas in Germany, only one out of two analysed states necessitates extensive information about the consulted subject. At a local level, 48 (77%) of German and 129 (24%) of Polish regulations reflect it, which is nuanced by the fact that 26 of the German (62%) and only 16 of the Polish cities and towns (3%) indicate that information should be 'easy to read'.

The opportunity for citizens to consult or co-create information materials extends openness and reflexivity. During the planning and preparation consultation stage, it provides a unique access point for citizens' ideas and suggestions to be included, alongside those of experts. Considering participants' input also involves more exchanges between them and authorities than simply receiving expert materials, which supports reciprocity. However, regulations sporadically recommend this practice, with the exceptions of three Polish municipalities.

Finally, capturing the attention of the general public requires consultation organisers to make considered choices about communication channels, as their various reach and support for interaction influence citizens' control of the process (openness) and reciprocity. Relying on either mass or social media may exclude certain groups. The findings show that EU regulations recommend the use of websites, institutional networks, and email. National and regional governments may use mass media, but they do not promote direct contact with citizens. Local governments, on the other hand, specify a variety of measures but rarely directly reach out to citizens, in Germany, using email and social networks beyond social media, while in Poland, social media is used.

To conclude, although transparency may seem to be a standard at this stage of consultations in regulations at all government levels, the request for crucial categories of information is not universally present in municipal documents. Then, knowledge-sharing, with its empowering role and support for reflective participation, is highlighted at three levels: by EU regulations, at the national and regional levels - more effectively in Poland - and at the local level, most notably in Germany. Interestingly, the concern for literacy is higher in the case of guiding documents prepared by the EU for European institutions or German local governments, but not in the case of binding ones. At the same time, the control of citizens over the content executed by including their ideas or reflective comments is missing, with a few exceptions among Polish municipalities. As such, overall, reciprocity is almost limited to information reception, with the EU and some local governments attempting to connect with citizens directly, for example, via internet communication channels, which may most efficiently involve users but need other media to avoid excluding non-users.

Recruitment

Public consultation regulations promote openness also by explaining who is eligible to participate and outlining the conditions that apply. Our analysis shows that the regulations require European institutions to list the groups of citizens who are eligible to enrol in public consultations and justify the selection criteria. Rules for conducting consultations within the Member States

specify the right of societies or communities affected by decisions to participate. The same applies to German national regulations, whereas in Poland, universal participation is highlighted. In both countries, regional and local regulations may introduce a territorial criterion. However, the Polish municipal documents often do not even mention this condition. Meanwhile, 85 (16%) of them emphasise the importance of involving a 'representative sample of inhabitants'.

Measures that increase participation may strengthen openness and, by addressing groups of particular interest or care and shedding light on conflicting interests, improve the representation of diverse perspectives, and enhance inclusion. In the analysed documents, these measures comprise proposing convenient dates and places of consultations and alternative participation methods. Neither gratification for participants nor assistance in situations where their duties conflict is among these measures. The need to increase citizen participation is pronounced in 24 (39%) German local guidelines compared to 62 (12%) Polish local resolutions. Next, EU and German institutions require the identification of groups in need of support, which is a step towards encouraging input from these groups. In Poland, this is primarily outside of regulations, although it could improve representativeness.

To summarise, the absence of restrictions on participation in public consultations, except for citizenship, residency, or being affected by a decision, may be perceived as an indication of openness. However, it should be emphasised that this approach can disadvantage marginalised groups, who are often less informed and may exclude themselves by underestimating their competencies. The analysis shows that the non-binding regulations of the EU and German institutions explicitly address these groups. It is worth mentioning that achieving even descriptive representativeness would require control over enrolment, that is, registration, which is not evident in the analysed documents. Furthermore, justified selection, typical of deliberative methods, is proposed only in non-binding EU documents. A statistically representative sample of citizens, which offers the highest assurance of covering the broadest range of views, lacks clear support, especially at lower government tiers. Last, but not least, the scope of measures to motivate people to participate in consultations is narrower than in mini-publics.

Participation and data collection

Different formats of involvement in consultations offer citizens varying degrees of control over input and output. Likewise, only some methods provide citizens from across society with the opportunity to learn from experts and become more confident in enrolling and contributing. These procedural elements regulate openness. Also, some methods prioritise representativeness, while others do not, which is relevant to the inclusion of input from groups holding different opinions and preferences. Furthermore, only some procedures necessitate knowledge-sharing and argument-building among participants, creating conditions for a more reciprocal and reflective process.

The EU documents specify that the choice of methods corresponds to a particular policy area, the consultation's objectives, the target groups, the timeframe, and the budget. The methods range from consulting policy documents via an online poll or discussion platform and social research (both quantitative, e.g., surveys, and qualitative, e.g., interviews) to workshops and other formats that facilitate interactions. However, the crucial EU document—'Towards a Reinforced Culture of Consultation and Dialogue'—references three methods: commenting on documents online or in a traditional format and participating in an online text forum. While regulations on consultations in Member States shortlisted only public hearings and submitting individual opinions.

Correspondingly, in both Germany and Poland, national and regional regulations mention these two methods, also allowing online opinion submission. Yet, they list complementary methods, like, in Poland, at the national level, with single mentions of a permanent advisory commission, a working group of authorities and citizens, workshops, a sightseeing or a town/city walk, a poll and an online poll; and in Germany, a video conference and a video discussion. In four Polish regions, this includes group discussions (three times), research (twice), workshops, a survey, a poll, and an online poll (each mentioned once). In addition, three out of four Polish regional authorities and one of the two German states included in the study have proposed a text-based online forum. The other German state does not specify instruments but mentions seeking consensus.

In both countries, documents issued by local governments cover over 30 methods and techniques for collecting information from citizens, although some may bear similarities. A comparison reveals different patterns in the use of consultation methods. In Germany, workshops are most popular, mentioned in 27 documents (44%), followed by small group discussions in 18 guidelines (29%) and working groups of authorities and citizens in 15 documents (24%). Thus, methods that combine participation (or even collaboration) with deliberation are favoured; public hearings, a less participatory method, nonetheless take fourth place with quotes in 13 documents (24%). It is worth noting that these formats do not define representativeness. This issue is more transparently addressed in mini-publics, such as planning cells—originating in Germany—where participants are randomly selected. They are mentioned in 13 documents (21%) and are ranked fifth. In turn, in Poland, the most widespread public consultation method is the public hearing, cited in 465 (87%) resolutions. It is followed by a poll, probably based on self-selection, as there is a distinction between a poll and a survey across regulations, with citations in 382 documents (71%). Third and fourth places go to individual comments written on paper, with 298 mentions (56%), and online comments, with 258 references (48%). An online poll, with 229 quotes (43%), is ranked fifth. These are non-deliberative formats.

However, we can mitigate this cleavage by observing that in Poland, there are more local regulations than in Germany, which mention such deliberative formats

like citizens' juries (29 to 4), deliberative polling (4 to 0), small group discussions (34 to 18), workshops (97 to 27), or working groups of authorities and citizens (32 to 15). German guidelines have more references than Polish resolutions to planning cells (13 to 4), consensus conferences (8 to 1), and participatory planning (5 to 3). See **Table 2** for more details on the number and frequency of uses of various methods in regulations and their rank. Highlighted in bold are the four most frequently cited consultation methods in Germany and Poland respectively.

To have an even better assessment of the recognition of deliberative methodologies in both countries, we have measured the presence and co-presence of seven deliberative formats, including deliberative polling, planning cells, citizens' juries, consensus conferences, participatory planning, workshops, working groups of authorities and citizens, and moderated small group discussions. The last three may or may not meet all standards of mini-publics but suggest participation and deliberation. Our analysis shows that one Polish and three German documents present a combination of four deliberative methods; respectively, 3 and 7 documents, three methods; 23 (4%) and 9 (15%), two methods; and 83 (15%) and 19 (31%), one method. It indicates that (1) a tiny number of local governments recognise several participatory and deliberative consultation methods in their regulations on public consultations, with more German governments in this group; (2) there are considerably more Polish local governments, which have mentioned one or two deliberative methods in their regulations, although proportionally to all analysed documents per country, the higher percentage of those citing deliberative formats is in Germany.

In German local guidelines, overall, quantitative methods are less popular than in Poland, but the picture is also nuanced. Surveys are the sixth most popular consultation method in Germany, with 11 mentions (18%), compared to 80 (15%) in Poland, and rank ninth in that country. However, an online survey already holds the sixth position in popularity in Poland, being quoted 113 times (21%), compared to eight (13%) in Germany, where it is ranked seventh. Quantitative methods involving self-selection of participants—both traditional and online—are more widespread in Polish than in German regulations. Poll received 382 mentions (71%), ranking second, compared with five mentions (8%), ranking ninth in Germany. Online polls received 229 mentions (43%), ranking fifth, compared with seven mentions (11%), ranking eighth in Germany.

Lastly, the study demonstrates that under Polish local regulations, other internet formats also receive better support than in Germany. For example, in Poland, collecting comments on documents online and engaging citizens in a text forum get, respectively, 59 mentions (11%) and 31 mentions (6%). Simultaneously, in Germany, there was no citation for the first and one citation (2%) for the latter.

In the model of deliberative public consultations, the role of a moderator is to ensure the inclusion of input from various perspectives, reciprocity through active listening and respect for discussants and their contributions, and reflexivity by impartially facilitating balanced exchanges of evidence-based arguments. Our analysis reveals that moderation is not discussed in either the EU or Polish national or regional regulations. But it is cited in the German national document, interestingly, in reference to

Table 2: Mentions of consultation methods in local regulations in Germany and Poland.

Method	German regulations			Polish regulations		
	N	%	Position	N	%	Position
Citizens' juries	4	6	10	29	5	13
Consensus conferences	8	13	7	1	0	17
Deliberative polling	0	0	13	4	1	16
Planning cells	13	21	5	4	1	16
Participatory planning	5	8	9	3	1	16
(Moderated) small group discussions	18	29	**2**	34	6	12
Workshops	27	44	**1**	97	18	7
Working groups: authorities and citizens	15	24	**3**	32	6	12
Public hearing	14	23	**4**	465	87	**1**
Survey	11	18	6	80	15	9
Online survey	8	13	7	113	21	6
Poll	5	8	9	382	71	**2**
Online poll	7	11	8	229	43	5
Individual comments on paper	2	3	11	298	56	**3**
Individual comments online	1	2	12	258	48	**4**

a public hearing. In the local regulations, the moderator's role is considerably more pronounced in Germany, as described in 27 documents (44%), compared to 12 regulations (2%) in Poland. Impartiality is the most crucial feature of moderation in both countries, mentioned in 17 German guidelines (27%) and 11 Polish resolutions (2%). However, German regulations also highlight the moderator's independence from the organising institution and the possession of the relevant skills.

In conclusion, deliberative methods of public consultation may not be mainstream yet, which impacts the implementation of deliberative norms, but they are already represented in varying degrees. The EU regulations are open to various methods, which, in combination with the concern for justified selection, make a (more) deliberative turn possible. However, they are less demanding in their expectations of the Member States. National documents, in support of a public hearing and individual comments, are considerably conservative, even with some additional methods, also in dialogical formats, in both countries. The missing information on moderation, except for one in a German document, mitigates expectations of more inclusive, reciprocal, and reflexive participation. The search for new methods is even more advanced at the regional level, but only local government regulations authorise mini-publics. At the local level, the practice is diversified within one country, Poland, and between the two countries included in the analysis. Proportionally, German cities and towns support formats of citizen participation that better recognise deliberation standards. More consideration for moderation here strengthens the assessment. Nevertheless, in Polish towns and cities, some dialogical methods or even mini-publics receive more interest in regulations. At the same time, online data collection in the EU (non-binding regulations), nationally (German dialogical and Polish non-dialogical formats), regionally (text forums in both countries), and locally (especially in Poland, non-dialogical formats prevail) may strengthen openness and social inclusion if there are alternatives.

Reporting and evaluation

Informing about consultation results and impact meets the transparency standard and appeals to reflexivity, albeit to a limited extent if it does not involve citizens in interactions at this stage. Channels of communication affect how effective and reciprocal communication can be. The analysis reveals that EU regulations enable citizens to access reports from consultations, information on the impact of consultations on decisions, and any deviations from participants' input, along with the relevant justification, via the websites of European institutions. The EU also requires Member States to adhere to this rule. The law at all government levels in both Germany and Poland stipulates the standard for access to the consultation results. However, the requirements differ by government level and country. German national law requires the information on consultation results to be accompanied by a justification for consultation methods, results, and the decisions. Similarly, the Polish national legislation, in policy areas influenced by EU regulations, involves these provisions. In contrast, they are absent at the regional level in both countries. At the two government levels and in both countries, information is expected to be available on the institutions' websites.

Then, most local regulations in Poland and Germany require informing citizens about the results: 472 (88%) in Poland and 52 (84%) in Germany. However, the requirement to inform about the impact on decisions is less frequent, reflected in 88 documents (16%) in Poland and 34 documents (55%) in Germany. While websites are a common communication channel mentioned in the regulations of both countries, German local governments may also communicate with participants via email. Mass media are also used more frequently in Germany. In Poland, national regulations referring to local governments' responsibilities to inform the public of results use the term 'as it is customary', which may even mean a poster.

When citizens can comment on or co-create a report, social oversight increases. Involving citizens in co-creation also fosters inclusion and reciprocity. However, there are hardly any provisions for citizens to contribute to or comment on reports at any government level. In Germany, the former is present in four, and the latter in three documents. In Poland, two resolutions refer to citizens' involvement in the preparation of conclusions. This evidence is weak but present and worth giving as an example.

Finally, the evaluation creates an opportunity for considered, iterative exchanges between the government and citizens, also accounting for openness. The EU covers evaluation in the regulations on public consultations, whereas documents issued by national and regional institutions do not. At the local level, it is more prominent in Germany, with mentions in 40 guidelines (65%), compared to Poland, which is mentioned in 23 resolutions (4%).

In summary, a transparent approach to reporting allows citizens to understand the impact and meaning of their participation. Our analysis demonstrates that the rule of publishing consultation results is universal at all levels of government and in both countries. However, the explanation of their impact on decisions is missing in some national regulations in Poland and regional regulations in both countries. Also, proportionally (but not in numbers), it is considerably less frequent in Polish local resolutions. Websites and other internet formats, as compared to more ephemeral broadcasting, seem most effective in supporting transparency if citizens are well guided. Other customary means, excluding the press, may limit the content and reflexivity. The communication formats also matter for the feedback or co-creation if it takes place during the process. This implementation of openness, reciprocity, and reflexivity is limited to several examples with German local governments taking the lead (which can also be explained by the choice of methods). Finally, the evaluation contributes unequally to embedding deliberative norms in public consultations

across levels of government, having a stronger position in EU regulations and local German governments.

Conclusions

Aligning consultative procedures with deliberative norms beyond experiments is a necessary condition for developing a deliberative system of decision-making. For that reason, examining regulations on public consultations that frame and guide the practice is informative. This is even more relevant in light of the trend to regulate public consultations and their increasing use at various government levels in the EU.

Firstly, the results of our analysis show that although some references to 'deliberation' already exist in the regulations of the EU and some local governments, it is not presented as a framing concept. Next, mentions of deliberative norms have been found across various government levels, except the national one, where regulations devoted to public consultations are absent. Also, various norms get unequal attention. 'Openness', if conceptualised as a scalable control of citizens over the process and outcomes, is foremost presented as access to information, which suggests a relatively conservative approach to consultations. Then, some requests in EU non-binding documents, repeated in the same sense as removing inequalities in access to knowledge or dialogue by some local governments, promise to develop more inclusive and reflective participatory processes. Less commonly cited, and only by the EU and local governments, 'inclusion' indicates the concern for equitable input. Interestingly, scarce explicit mentions of reflexivity or rationality, found only in the EU and municipality (mostly German) documents, are attributed to the reporting and evaluation and not the participation and data collection stage and concern policy-makers. Lastly, while 'reciprocity' is not cited, 'responsiveness' or 'feedback' is evidenced in at least some EU and local regulations.

Secondly, the complementary analysis of procedures covered by regulations across consultation stages, which may, to varying degrees, create conditions for deliberativeness, also reveals differences in support for norms; however, in this case, we had more information and a more nuanced situation. Transparency is particularly prominent across all levels of government and at various stages of the public consultation process; however, the scope of relevant information differs, and it is more evident when public consultations are announced than when they are concluded or when results should be explained in connection with decisions. In Germany, unlike in Poland, there is a policy in line with EU recommendations that considers particular social groups and their needs. When institutions make efforts to encourage engagement, it contributes to openness and also furthers inclusion. The wide range of methods proposed within regulations to collect citizens' opinions is neither a sufficient indicator of openness nor (especially) of inclusiveness, reciprocity, or reflexivity. Several mini-publics are mentioned exclusively in local regulations in both countries. Also, other formats that may promote reciprocity and reflexivity have been featured. Still, co-creation or comments on either information materials or on the report are marginal, which limits control, reciprocity, and reflexivity at these moments.

Interestingly, while the EU non-binding documents that address public consultations in European institutions seem to promote deliberation, the binding documents addressing Member States do not expect them to follow robust deliberative procedures. Even without imposing standards, documents can set examples, but application is less certain. Deliberative norms are mostly absent from national legislation. However, one can observe that laws passed in the policy areas regulated by the EU demand, albeit moderately, that public consultations promote dialogue, knowledge-based interactions, and an anti-discriminatory approach to civic engagement. Still, there is a tension between reluctant nation-states and more ambitious actors both above and below the national level. This communicates divergent messages to citizens and prevents, in particular, local municipalities, being the lowest level of government, from adopting a joint approach to consultations. The application of the norm of openness as a universality of political participation may serve as a case in point. It is impossible to meet the expectations of every person who has the political right to participate in every process they are interested in and, at the same time, organise a discussion between representatives of various social groups, where none of them dominate the others. Moreover, it is difficult to make sense of consultations when various public authorities organise them according to different principal rules. The EU standard and understanding of openness, which allows for the selection of participants to meet the requirement of representativeness whenever justified, should be more confidently and consistently implemented in the law of institutions at the lower levels of government.

Yet it is at the municipal level in both countries where regulations are most developed and, sometimes, show the most affinity for deliberative standards. Some local governments adopt regulations that exceed provisions at other government levels, exemplifying their important role in the EU multilevel governance arrangement. However, while there are leaders of change, there are also cities and towns that lag or choose not to join the trend. Some interesting differences in the models of consultations in Germany and Poland can also be observed. There are points where German municipalities advance the deliberative agenda, which concerns, apart from attention to groups with special needs, moderation and evaluation. Inviting the citizens' contribution to information materials is an example of innovativeness from Polish municipalities. Another could be the use of internet platforms, if processes were more conducive to deliberation. Interpreting findings requires considering that some Polish local governments have passed binding regulations under external pressure. At the same time, in Germany, where local governments in the majority pass non-binding documents at their will, regulations more consistently express an innovative approach. Meanwhile,

in the situation where most local governments do not have such regulations, one cannot extend the conclusions to all municipalities.

Competing Interests

The authors have no competing interests to declare.

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How to cite this article: Przybylska, A., Escher, T., Steinbach, M., & Jas-Koziarkiewicz, M. (2026). The Embeddedness of Norms of Deliberation in Regulations on Public Consultations in the Multilevel Governance System. *Journal of Deliberative Democracy*, 22(1), pp. 1–12. DOI: https://doi.org/10.16997/jdd.1583

Submitted: 13 February 2024 **Accepted:** 19 December 2025 **Published:** 16 April 2026

Journal of Deliberative Democracy is a peer-reviewed open access journal published by University of Westminster Press.