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## **E-revolution. Actor-centered and structural interdependencies in the realization of Estonia's democratic revolution**

### *Summary*

The citizens of Estonia started electing their political representatives per internet in 2005. Since then the number of e-voters has grown strongly. A number of countries have conducted pilot tests, but no other country has followed Estonia's example to date. Apart from analyzing the political processes up to the implementation of the project, the study examines why it was possible to implement this far-reaching project in Estonia. It concludes that a variety of structural and legislative factors, as well as a number of actor constellations, supported the process. The study analyzes the factors and constellations, highlights the influence of history on the introduction of e-voting aimed at increasing the legitimacy of the political system, and suggests that political power games accompanied the introduction process. It will be interesting to see whether Estonia's e-voting vision spawns sustainable copies in other countries in years to come.

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### 1. Background, terminology and research question

The citizens of Estonia have been electing their parliamentary representatives per internet since 2005. This Baltic state is the only country in the world to give its electorate this voting option. The voter only needs his identity card, a card reader and his personal identification codes. The size of the project required a lengthy preparation period and the laws which pathed the way for the first online election in 2005 were enacted in 2002. To date, internet voting has only been pilot-tested in a number of countries, such as the United Kingdom, France, Spain, the Netherlands and Switzerland.

In the field of e-democracy, Estonia seems to have a headstart of more than ten years over, for instance, the Federal Republic of Germany. Therefore, the *research question* is why Estonia, of all countries, managed to introduce such a far-reaching project, in such a profound and comprehensive way, and in such a relatively short time, in contrast to the marginal and incremental way states often introduce reforms (Reiners 2008 a: 27 et sqq.). The article takes a look at the decision-making process in the run-up to implementation and explains the course of events in terms of the New Institutionalism and the Veto Player Theory. According to the inductive paradigm, the study has a qualitative-exploratory character.

Information technology development has forced major changes in many areas of life. Today, mobile phones and the internet are integral parts of society. It has be-

come commonplace for people to buy, establish social contacts, search and exchange information online.<sup>1</sup> But, the electronic election remains a theme for the future – even though it is reality in Estonia. It sorts under the integrated concept *electronic government*.<sup>2</sup> Principally, the concept covers two areas, namely e-administration and e-democracy, which is the focus of this study. E-democracy does not include internet voting per se. Rather, it incorporates all electronic channels that pull citizens into the decision-making process and so influence the political will (Curran/Nichols 2005: 16 et sqq.). Lavtar mentions passive (information dissemination), active (e-petitions, e-forums) and interactive forms of e-democracy (2008). Internet voting, which is an interactive form, is when opinion-building formally comes to an end, and therefore only one dimension of a multi-dimensional process (Lucke/Reinermann 2000: 5).<sup>3</sup>

The moment of democratic will-formation and opinion-building, or electing as such, is the essence of the term e-voting. In other words, what comes before the occupation of political institutions. E-voting includes all forms of electronic voting. Included is the use of election computers in a polling station, or voting from a computer at home (Buchsbbaum 2004). Buchstein defines the term even clearer (2004). Since e-voting takes on different forms, he distinguishes between the dimensions context, form and status. While *context* distinguishes between private (in associations or companies) and public elections, *form* distinguishes between public and private election instruments, as well as stationary and mobile variants. Public instruments are, for instance, the voting machines used in many countries, whereas the typical home computer or its mobile form, the mobile phone, are private instruments. The dimension *status* describes whether options, i.e., another channel or voting method, are available.<sup>4</sup>

According to this categorization, the Estonian case involved *public elections*, executed with *private instruments* as an *additional voting option*. In the case of Estonia, one also refers to “i-voting”, since the common voting machine has been abandoned (Deutsche Welle 2007).

1 Critical for the fast development of the information age, the individual and societal consequences, or growing asymmetries of such a world, for example Castells 1996/1997/1998.

2 For the definition Reichard 2004; Zechner 2007; Gesellschaft für Informatik 2000: 3; Winkel 2004; Palvia/Sharma 2007.

3 More terms are included under e-democracy, such as e-participation and e-voting (more detailed Gantert 2006 or Lindner 2007). E-participation includes all internet-supported procedures that enable citizens to participate in the political decision-making process. It gives many participants the chance to process focused results at the same time. The term had to be introduced to differentiate these activities from e-government.

4 For the framework requirements of online voting look at Kersting 2004: 17-18 or Thompson 2008.

## **2. Institutional context**

The study starts out by looking at the factors that favored the introduction of online voting in Estonia. What might have looked like a magical quantum leap from communism to advanced e-democracy, in fact, did not come from nothing, but had reasons and causes. The supportive institutional factors can be divided in structural and legislative factors, apart from the political process still to be discussed (cp. Dahl 1989).

### **a) Structural factors**

Among the structural factors, a few demographic characteristics favored the introduction of e-government in general, and specifically e-voting. One of these characteristics was the low Estonian population density of only 30 persons per km<sup>2</sup> (UN Statistics Division 2008). Only two EU member states, namely Sweden and Finland, have lower population densities. Bringing more public processes online theoretically cuts costs for the state, since not all services have to be offered nationwide any longer. These procedures become more efficient (since election costs should drop in the long term), more effective (faster, more accurate vote-counting) and the election act goal of improved, internet-supported election information is supported (Kersting 2004: 22). Even if those without internet access enjoy no, or very little cost savings, those who use the internet to save themselves long trips to polling stations should at least enjoy more comfort and perceive higher levels of state-friendliness towards them. The argument also applies to the big number of Estonians living outside their country, estimated at between 150,000 and 200,000 or about 15% of the population. They should find online voting comfortable, since it saves them having to travel to diplomatic representatives. Furthermore, it takes work away from these representatives. Thus, demographic characteristics made the introduction of online voting attractive.

A second supporting factor was strong networking by the Estonians. They've been using the internet since the 1990 s, and it has become an integral part of their daily lives. In 2006, 52% of all Estonians had internet connections. At 46%, the rural population was slightly less connected (Ray 2007). Compared to industrial states in the West, this connection rate is moderate. But compared to other east-European states, it is quite remarkable. Another distinctive feature is the matter-of-fact way in which Estonians use the internet in the fields of e-commerce and e-government. For instance, already in 2007 79% of internet users conducted their daily banking per internet (Estonian National Electoral Committee 2007). The willingness to transfer highly sensitive data per internet is proof of their confidence in new tech-

nologies. So, Estonia's banks functioned as the conveyor belt for e-voting. They opened up online services early and taught the Estonians basic IT skills (Charles 2005). This confidence in information technology gradually flowed over to the public sector. For instance, in 2007 86% of all income tax returns were submitted online. The confidence in private and public service contractors, and the widespread use of online applications, provided an optimal foundation for the introduction of online voting.

A third argument concerns the political structures. On the one hand, the small, Baltic state was a young democracy that was still part of the communistic Soviet Union about 20 years earlier. Some might wonder what this had to do with the sudden e-revolution. It must be borne in mind that the Estonians, which had implemented really daring market economy reforms and modernized their administration in the 1990 s, did not see their difficult inheritance as a burden but rather as a motivation for a new start (State Chancellery 2004: 12 et sqq.).<sup>5</sup>

In a young democracy, the structures are not yet complex. A measure of eagerness to experiment with new forms of democratic participation might also be present, when it comes to giving the system a new design (Newsweek 2002). From a systemic point of view, constructing something new is always easier than re-organizing an existing system. Specific democratic procedures, such as the visit to the voting office, still have no sacrosanct character and can be changed easier. In established states, attempts to reform often fall victim to the fact that the main focus of their systems is on safeguarding its continuation, and not on becoming more efficient and effective and delivering higher quality. In political science, the concept of policy integration interdependence stands for all political interlinking which forces decision-makers to cooperate for success, when preparing and introducing policy. This interlinking is often problematic for reforms, although it must also be assumed that interlinking does not impair the ability to reform in general. But it often results in long negotiations, agreement on the lowest common denominator, policy that lacks the ability to innovate, resistance to reform, ineffective and inefficient task fulfillment and structural conservatism.<sup>6</sup>

Furthermore, with a population of only about 1.35 million, Estonia is a small country with a limited number of political actors who could interfere in the process

5 With little research done on e-voting in Estonia to date, it was often necessary to fall back on information sources of public authorities, which have to be viewed critically, since the content may be tainted by the power-political motivation of the authorities and may have been manipulated to retain or strengthen the power base.

6 For more detail on policy integration Scharpf/Reissert/Schnabel 1976: 13 et sqq.; Reissert 1993: 503; Benz/Scharpf/Zintl 1992: 12; Reiners 2008 a: 44, 2008 b: 319.

if they wanted to. To summarize, the flexible political structures and the rather low level of institutionalization of certain democratic practices impacted positively on the introduction of online voting.

#### **b) Legislative factors**

Two legislative factors, namely statutory innovation in 1999 and 2000, played an important role in the introduction of internet voting. Firstly, the counting of votes and their processing, or forwarding, was converted to an internet-based activity. From this point on, votes were still counted manually in the offices, but the records were transmitted to the National Election Commission electronically. This speeded the processing up. At the same time citizens were given the option to vote in a polling station differing from the one they were domiciled. The right to freely choose their polling stations were extended to the pre-election period, namely from the sixth day to the fourth day before the election, when people eligible to vote could vote in polling stations as stipulated in §§ 38, 41 and 43 of the electoral act of the Estonian parliament (Drechsler/Madise 2004; OSCE 2007).<sup>7</sup>

The second innovation that played an important role was the introduction of the electronic identity card in 2002. The idea was first floated in 1997 and promoted together by the Office for Citizenship and Migration and private companies, including the Hansabank. The foundation was laid with the Identity Document Act in February 1999 and the Act on Digital Signature in March 2001. In this context, the electronic identity card has two functions. On the one hand it serves as an identity document and on the other hand it has a digital signature which made it usable electronically. This is equivalent to a conventional signature. The first documents were issued in January 2002. By 2005, far more than 1 million identity cards had been activated, representing a substantial implementation rate. Bearing in mind that Estonia has only 1.35 million citizens, of whom 15% are younger than 15 years and have no identity cards, the implementation rate came to over 90% of the eligible citizens. For one, the wide distribution was obtained by the act which made it obligatory to carry the identity card. On the other hand, no other national identity card had existed before. Furthermore, the card is multi-functional and was in steady supply, which also boosted its distribution. The card can be used for more than 100 internet-based services. In bigger cities, public transport tickets can, for instance, be bought with it (cp. Drechsler/Madise 2004).

<sup>7</sup> The call for caution in footnote 5 also applies to, among others, the OSCE.

The implementation of the electronic identity card played three crucial roles at the same time in the introduction of internet voting. Firstly, the signature and encryption technology made voting with it technically possible. Secondly, its wide distribution gave a big majority the chance to vote per internet, and thirdly, its multi-functionality familiarized the population with its use and, in particular, built confidence in the new technology.

The amendments to the legislation could also have been made at a later stage, but the fact that it had been adopted by the time of the political discussion had a positive impact on the process. Apart from the structural and legislative factors, the political will had to be present to push such a far-reaching innovation through. The next section focuses on the groups and individual actors involved and on the political process which accompanied the project (extensively Reiners 2008 a: 58 et sqq.). The process is investigated from the initiation to the introduction of online voting and can be divided into three phases: the initiation phase of *government*, the decision-making phase in *parliament* and the juristic treatment it was given by the *Supreme Court*.

### **3. Process, forums and actors**

#### **a) Initiation by government**

In parliamentary democracies, the bulk of legislation is initiated by governments, for the simple reason that ministries have resource advantages. As a rule, they are the central promoters of modernization processes. They are interested in extending their administrative control, reducing costs and extending their influence. They draw power from their organizational sovereignty, their experts and access to information. They often develop modernization concepts with the private sector, determine the essential content and then get the support of parliamentary representatives for the concepts. When they encounter resistance, they may repeatedly refer to their experience in regulatory matters, while the government is usually covered by its majority in parliament (Reiners 2003: 24 et sqq.).

This is also how the legislative process for the introduction of internet voting progressed. The ministries, with their ministers and the prime minister, were the relevant actors. Estonia has between five and seven parties in parliament, and since 1999, governments have been formed by two-party or three-party coalitions. As in modern states, only a small part of the policy can be controlled from the top. That's why the negotiation mechanism plays an important role – it helps formally equal actors negotiate a consensus. Consensus is found when the participants step away from their original demands and agree on a compromise, support different views

which they are able to unite in a balanced, overall solution, or convince one another and then express common interests (Benz 2001: 169). In Estonia, the actors initially interacted with one another on the basis of this negotiation mechanism.

Analyses of negotiation systems have shown that negotiations create a decision-making and interaction modus packed with preconditions. The effectiveness of systems depends on numerous factors, among them, the institutional development level thereof, kind of negotiations, conflict structures of negotiating opponents, and interest groupings of negotiation partners, what guides the actions and strategies of actors as well as power distributions (Eberlein/Grande 2003: 188). As is shown below, the conflict structures were very moderate: the government coalition and major sections of the opposition pursued a common goal, namely to safeguard democratic legitimacy. So, interests were to a large extent coherent.

In theory, the prime minister holds a raised, quasi-hierarchical position. But not in the Estonian cabinet, which is usually formed by two- or three-party coalitions. The coalition constellations tend to push a negotiation-oriented interaction mechanism to the fore, as far as the prime minister is concerned.<sup>8</sup> When the project was initiated in 2001, the government coalition consisted of the parties *Isamaaliit*, *Reformierakond* and *Mõõdukad* and stood under the leadership of Prime Minister Laar (*Isamaaliit*), who had previously governed from 1992 to 1994. All three parties supported the project, for partly different reasons, in line with the voter groupings supporting the parties. The initiative for the introduction of online voting came from the Ministry of Justice, under leadership of Minister Rask, and the National Election Commission. The Ministry of Justice prepared the amendments of the voting legislation. The Prime Minister supported the idea and suggested a pilot project be launched in the same year. The official motivation was that it would grow voter participation, activate younger voters and make the voting system more citizen-friendly (OSCE 2007: 9).

8 Then the spectrum of political parties included: 1.) *Isamaaliit*: nationalistic, market-liberal, programs similar to those of “Thatcherism”; merged with *Res Publica* to become *Isamaa ja Res Publica Liit* in 2006. 2.) *Keskerakond*: loser in the transitional years, without strong post-socialistic ideology. The party is deemed to be populist, which can be identified in the statements of the long-serving party leader Savisaar. 3.) *Mõõdukad*: self-described social-democrats, but further to the right when compared to social-democratic parties in the west; changed name to *Sotsiaaldemokraatlik Erakond* in 2004. 4.) *Rahvaliit*: aligned in same way as *Keskerakond*, with focus on the rural population. 5.) *Reformierakond*: neo-liberal, market-liberal, middle-right party, which gained most from the reforms of the 1990s. 6.) *Res Publica*: established in 2001, it’s a party of young conservatives, with right-liberal tendencies; it fused with *Isamaaliit* to *Isamaa ja Res Publica Liit* in 2006. 7.) Since 2006 *Ühendatud Rahvapartei* has been called *Konstitutsioonierakond*: post-socialistic, left-oriented, supported by the Russian minorities; been losing standing since 2003 (cp. Drechsler/Madise 2004: 98).



Subsequently, two scientific analyses were prepared, which evaluated the cost and technical feasibility of the project and made recommendations for its implementation. In line with these, a first draft budget was drawn up (Drechsler 2003). Not surprisingly, the initiative came from the Minister of Justice and was supported by the Prime Minister: if internet voting was to raise voter participation and draw especially younger and better paid voters, Rask's party, *Reformierakond*, would in all probability benefit. *Reformierakond* is the more attractive party for young people. Not only was the Minister of Justice able to take credit for the big and modern project. His party would also notch up voter gains if internet voting appealed mostly to younger people (Drechsler 2006). Internet voting also fitted into the ideology of the *Reformierakond* party with its growing commitment to citizen participation.

Prime Minister Laar had a slightly different motivation for backing the idea. He too, could take credit for a popular project. But Laar had already made a name for himself in his first term in office as a strong reformer and became known as a supporter of "e-everything". His party, the nationalistic-leaning *Isamaaliit*, saw an opportunity on the horizon to promote Estonia's image as an advanced democracy and IT nation abroad (Drechsler 2006).

It should be noted, that the government changed several times in the period before the introduction of online voting in 2005. That the project was pursued and implemented was made all the more remarkable by the fact that parties critical of the change or even dismissive thereof were also represented in the government for short periods, although only – in every case – as "partner" of a pro-project party. So, the coalition agreements bound the co-governing parties to the process leading to the introduction of internet voting. Together with a few individuals, these agreements assured the continuation of the project. It should also be noted that a minority government was in power when the process entered the decisive phase. I'll come back to that point.

In the next government (2002 to 2003), led by the economist Kallas (*Reformierakond*), Rask remained minister of justice and continued as one of the most active advocates of the idea. The government was formed with the participation of *Keskerakond*, a party which was critical of online voting. As explained, it was bound by the coalition agreement, which explicitly envisaged the introduction (cp. Drechsler/Madise 2004: 103). The next government (2003 to 2005) under Parts of the newly formed *Res Publica* party also included the *Reformierakond* and the rather skeptical *Rahvaliid*. The last-mentioned party, which is focused on the rural parts of Estonia, was also bound by the coalition agreement (Höbemägi 2003). In 2005, Ansip, a prime minister of the *Reformierakond*, returned to power. It must be accentuated that the *Reformierakond* played a very important role in the project over

many years, that it participated in the different coalition governments without interruption from 1999, and that it was the leading partner in most of these coalition governments.

But more was needed than a government that supported e-democracy to implement a project of this size. The give-and-take of the decision-making process in the Estonian parliament will be analyzed in the next section.

### **b) Decision-making in parliament**

Electoral draft bills of the Ministry of Justice were debated in the Estonian parliament, the *Riigikogu*, in 2001 and 2002. Four bills would pave the way for the introduction of internet voting, namely a bill each for communal and parliamentary elections, a bill for European parliament elections and a bill for referendums.

The group supporting the new election bills included the parties *Reformierakond*, *Isamaaliit* and *Mõõdukad*. A few delegates of *Keskerakond* expressed criticism of the drafts. As part of the coalition with *Reformierakond* after 2002, it was committed to building a legislative foundation. When it later left the coalition government, it fought against the project and registered its concerns regarding online voting with the election observer OSCE (OSCE 2007: 9). The strongest opposition came from *Rahvaliid*, the party explicitly focused on the rural population, and *Ühendatud Rahvapartei*, the party of the Russian minority in Estonia. Proponents and opponents grouped together, depending on whether they would profit from the introduction of the new voting option or not, Madise and Martens noted (2006: 16). And the process turned into a power game between individual actors (extensive Crozier/Friedberg 1979).<sup>9</sup>

It was expected that mostly younger, better-earning citizens from urban environments would vote per internet. Parties hoping to benefit from the increased election participation of this group supported the law. The opposite was expected to happen in the rural population, where the *Rahvaliid* as well as the losers in the transition period, namely *Keskerakond* and *Ühendatud Rahvapartei*, draw their support. They feared a “digital divide” in the Estonian society – a gap between people with and without internet access. International comparisons showed, however, that different countries accentuated different problems of online voting. Among others, the lacking distribution of the internet (*digital divide*), technical problems (*denied server attacks*), lacking confidence in the technology and legitimacy problems flowing from it, irrational voting decisions (*junk votes*), loss of democratic identity and loss

9 Cp. Ortmann 1992: 217 et sqq.; Küpper/Felsch 2000; Neuberger 1995; Reiners 2003: 26 et sqq.

of sense of political community, when the symbolic act of voting at the polling station falls away (*community building*), as well as questions regarding confidentiality (Kersting 2004: 22; Norris 2001).

Many arguments against the idea focused on other potential problems. The opposition parties argued the secret voting procedure, protected by § 60 of the Estonian constitution, was at risk. Voters could be influenced illegally by, for instance, vote buying, the opponents argued. Furthermore, the voting process would lose its transparency, since election observers would not be able to oversee voting activity any longer (OSCE 2007: 9). The supporters countered this argument by saying ballot secrecy (as dictated by the constitution) should be interpreted teleologically, that is, in terms of the norm. The constitution prescribes a secret election process to ensure that voting is done free of influences. This prescription is satisfied with the possibility to vote online more than once – and once in the classical way on election day – with the last vote being the one that counts. Should an online voter decide to vote again at a polling station, the previously submitted online vote would be nullified. In this way, every voter would be able to free himself from influences and so make vote buying unattractive, the buyer cannot control the final vote therefore (Drechsler 2003).

Some opponents feared technical problems, caused by inadequate preparation. Others warned no experience had been gained anywhere in the world – especially not with a project of comparative size. Apart from pragmatic criticism, normative arguments were also raised. One opponent maintained, for instance, going to the polling station was, in itself, an important act. The argument, also mentioned in opposition literature, is connected to the point that a citizen does not get his right to vote from his citizenship, but from the act of going to the polling station on election day (Buchstein 2004: 55; Kersting 2004: 16 et sq.).<sup>10</sup> In any case, it is noteworthy that no fundamental misgiving was aired about the safety of the system (Meagher 2008: 354).<sup>11</sup> Most parties also acknowledged that the introduction would bring benefits, such as higher voter participation, which would be positive for the legitimacy of the system in general (cp. Drechsler/Madise 2004: 103).

The four election bills were put to the vote in 2002. Since the minority government at the time consisted of *Reformierakond* and *Keskerakond* and contributed only 46 of the 101 delegates, it depends on votes from outside. For that purpose, the coalition government made concessions to its critics by way of “political exchange”. Firstly, it pushed the introduction date of internet voting back to 2005, to have more time

<sup>10</sup> Also look at Ferenczi 2008.

<sup>11</sup> To safeguard e-voting systems cp. Ondrisek 2008.

to rid the system of technical problems (cp. Drechsler/Madise 2004: 104). Secondly, to prevent undue influence, a provision was added to the bill that internet voters may only vote themselves. So, the introduction of e-voting was largely the product of a negotiated settlement. With regard to the parliamentary process, it must be borne in mind that the Estonian population did not participate in any meaningful way. The introduction of online voting was largely initiated and carried through by the political elite, as Drechsler observed (2003: 6).

### c) Legal context

Early in the summer of 2005, shortly before the first internet election was to take place with the local elections (in autumn) the project faced a new obstacle. This time, Rütel, the Estonian president, and the Supreme Court were the actors. Rütel instituted legal action in the highest Estonian court against an amendment of the local election legislation passed in May 2005. It stated that internet voters may vote more than once, but only the last vote would count. Furthermore, voters who voted per internet could vote once more on election day in a polling station, in which case only this vote would count. Rütel maintained these provisions infringed voter equality, as defined in § 156 of the constitution. His interpretation of voter equality was that every voter may only have one vote and all should have the chance to vote in the same way. The act in contention favored the internet voter, the president suggested, since it allowed them to reverse their decisions as often as they wanted.

The power of the president is limited in the legislative process, when it comes to preventing an act from coming into force. He may refuse once to enact an act on the ground it is unconstitutional and refer it back to the *Riigikogu*. Should the act come before him a second time, he must either enact it or institute legal action in the Supreme Court.<sup>12</sup> The Supreme Court, *Riigikohus*, consists of 19 judges, three regular Senates and the Senate with jurisdiction for the constitution. The latter is responsible for verifying the constitutionality of laws. The judges are elected by parliament and are independent. The Estonian president is officially also independent and must suspend his party membership for the term of his office. Rütel was elected to the position in 2001 and was a long-standing member and chairman of *Rahvaliid*, the agrarian party which viewed online voting with skepticism. Whether political considerations played a role in the President's law suit cannot be said for sure, but it seems likely.

<sup>12</sup> More extensive: Estonian senate with jurisdiction for the constitution 2005.

In September 2005, the Senate with jurisdiction for the constitution of the *Riigikohus* ruled that the amendments were constitutional. It explicitly did not rule on the introduction of online voting in general – only on the above mentioned amendments. The Senate said the constitutional principle of vote equality meant, first of all, that everyone should have the chance to influence the final result to the same extent. Since only the last vote in the election process or final vote on the election day would count, the principle was intact. The advantage enjoyed by internet voters – namely that they may alter their votes – was moderated by the fact that, de jure, all voters have the chance to vote per internet. The de facto inequality created by different living circumstances of individuals (ownership of computer with internet access or “digital divide”) is balanced out by the goal of the provisions, namely to prevent illegal influencing. Herewith, the *Riigikohus* explicitly took position on internet voting as a way to increase voter participation and integrate new technical channels in the democratic environment – and endorsed it.

Noteworthy is that Rask was chairman of *Riigikohus* at this point, and so also chairman of the Senate for constitutional questions. Rask, the erstwhile Minister of Justice and advocate of the project, had been in this position since 2004 and participated in the decision as chairman. Also here Rask’s independence must be questioned. He was, after all, the initiator of the project and his ministry prepared the first draft bill. In any event, after this decision, no further actions were instituted against any of the online voting acts and nothing stood in the way of the project’s realization (Meagher 2008: 354).

#### 4. Theoretical reflection

##### a) Historical and actor-centered Institutionalism

Recounting the process reminds of the policy cycle (more extensive Jann/Wegrich 2003: 71-104). Theoretically, it makes sense to refer to neo-institutional theories to understand the Estonian process. The study first looks at historical Institutionalism (Steinmo/Thelen/Longstreth 1992; Thelen 2001) and then at actor-centered Institutionalism (Mayntz/Scharpf 1995: 39 et sqq.; Scharpf 2000). Finally, both forms of Institutionalism are linked to the Veto Player Theory.<sup>13</sup> Both concepts stress that institutional conditions define the preferences and that preferences are not determined exogenously. Rather, both the goals and the choice of agent for reaching the

<sup>13</sup> On actor-centered Institutionalism also Schulze 1997: 5; Lehbruch 1989; Kaiser 1999: 191; on historical Institutionalism also Evans/Rueschemeyer/Skocpol 1985; Hall/Taylor 1996.

goals are shaped by the environment without determining them because between institution and action lie the perception and interpretation of the actors.

While historical Institutionalism declares institutions and the path dependencies emanating from them, actor-centered Institutionalism is still largely focused on the results of institution-driven actions. That makes actor-centered Institutionalism more interested in the precise conditions of a change. A point of departure which, for instance, enables one to show the extent to which institutions influence the preferences of actors and their interactions (Benz 2001: 75 et sqq.).

A cursory look at the elements of the second variety shows that it captures political processes determined by institutions as well as the actions and interactions of the actors. In the first instance, it's about the influence that institutions (regulating systems as context for actions) have on the action-orientation (observations/preferences) and resources for acting (skills) of especially corporate actors and groups of actors, as far as their behaviour and forms of interaction are concerned. In this context, it must be observed that in modern societies the individual corporate actor is, as a rule, part of an interacting, complex constellation of actors. It is, therefore, unlikely that a single actor can determine the results in line with his own observations and preferences and by applying only his own skills. Overall, the moulding power of institutional factors is decisive. It shapes a stimulating, facilitating, but also restrictive context for actions and so plays a decisive role in the processes (Scharpf 2000; Mayntz/Scharpf 1995: 39 et sqq.).<sup>14</sup>

To explain the result, the study draws on a hypothesis framework proven for analyzing reforms, which is a symbiotic combination of both varieties of Institutionalism (Wollmann 2004).<sup>15</sup> In 2004, Wollmann identified the key determining powers in the course of a decision-making and implementation process as: the structural point of departure (starting conditions), basic socio-economic conditions and specific constellations such as coalitions of leading participating actors with their (party-)political interests, goals, strategies and interactions (cp. Reiners 2008 a: 89 et sqq.; 2008 b: 319 et sqq.).

### **b) Veto Player Theory**

The neo-institutional approach to explaining the reformability of political structures can now be refined. Individual variables can be investigated at the hand of the veto player concept (Reiners 2008 a: 94). Here the hypotheses of Tsebelis are essential, which draw conclusions from veto players and their behavior – assumedly pre-

14 Extensive also Zintl 1998: 295 et sqq.; Benz 2001: 75 et sqq.

15 Extensive also Wollmann 2003 a, 2003 b; Reiners 2008 a: 89 et sqq.; 2008 b: 319 et sqq.

scribed by their internal structures (Tsebelis 1995; Benz 2003: 230).<sup>16</sup> This needs to be extended for the analysis at hand, because depending on the conditions, potential veto powers may not only block changes but also promote them (Bandelow 2003: 329). For Benz it is decisive to consider how actors use their veto powers strategically and to consider the interplay between conditions for acting and strategies for acting. That makes it possible to categorize the concept under actor-centered Institutionalism. The question, therefore, arises when the potential veto players pursue constructive politics and when not. So, the outcome also depends on the strategies for destructively preventing innovative policies or constructively helping to find solutions (2003: 207, 230).

### c) Theoretic conclusions

The proposed theoretical concepts do not embrace and determine all action-relevant factors – at least not entirely. Those not included come into focus when the attention shifts from the institutional framework to the actors in it. The strategic impact of the actors on the structural conditions, and strategic and tactical autonomy in the action corridor, are also relevant. The Estonian reform was not controlled by institutions only because – in the final instance – policy is made by the actors. Admittedly, an unfavorable point of departure destroys the best concepts and strategies. But the favorable conditions in Estonia created space to maneuver. And because there was space to maneuver, the actors' tactical influencing and their possibilities to strategize should be noted since these aspects are specifically accentuated by the actor-centered variety of Institutionalism. In Estonia, the institutionally restricted spaces for maneuvering were used throughout. Here and there individuals – more specifically important people at the head of the three government actors in 2001 and the Senate for constitutional questions – played significant roles.

Where institutions fail to explain situations, one can draw on methodological Individualism. That's why actors' motives are investigated micro-politically. In this connection, Lindenberg talks of the method of diminishing abstraction (1992). In chapter three it was shown that individual actors and their party machineries operated with power bases and aligned their preferences to the gains or losses of power they expected and that they pleaded for or against a system, depending on whether they expected to win or lose voters. For this, there was unambiguous evidence – partly generated in the institutions – that went beyond pure institutional explanations.

<sup>16</sup> Extensive also Kaiser 1998: 525 et sqq.; Bandelow 2003: 2; Benz 2003: 208 et sqq.



However, the Estonian successes were often clearly controlled by institutions. The study showed how the structural background influenced the action-orientations and preferences of the actors, their resources for acting, and orientations to interact. Also it showed to what extent this behavior of the actors deviated from – or overlapped with – institutionally determined behavioral assumptions and under which circumstances it overlapped. The historical path dependencies lead back to the former communistic system, the clear rejection thereof, and attention given to the Western system in all areas of society, especially as far as the modernization of the administration and democratic system is concerned. Institutional factors supporting the idea included the structural characteristics of the population, Estonian network structures, the rather moderately interlinked political-administrative institutions, legislative factors, the wide availability of new electronic technologies, and the confidence of the population to use them. In this context the electronic identity card was mentioned for the way it blazed a facilitating path for e-voting (Estonian Information Society Strategy 2013, 2006: 6). Furthermore, the result cannot simply be ascribed to the former government actors. In fact, it was negotiated with arranged interactions of which the final decision is a good example. Finally, it also showed how institutions can sometimes act restrictively. For example, the coalition agreements consisted after every change in government.

Linking the theoretical concepts with the Veto Player Theory clearly highlights the interplay between action conditions and action strategies. For example, specific government partners stuck to their coalition agreements and did not block the project – for the sake of “staying in power” – even though their party-political positions really aligned them with the blockers. Their differences only surfaced after they had left government, revealing the circumstances under which potential veto players would pursue constructive politics and when not. That places the process in the central category of politics as a typical case of power acquisition and retention.

## **5. Conclusion and future prospects**

Online voting was introduced to increase voter participation and the legitimacy of the political system. Whether it, in fact, raised voter participation, is doubtful. Online voting certainly lowered the barriers to participation, made voting more comfortable and fitted into a society that has become more mobile. But no clear increase in voter participation was evident from the empirical evidence. It seemed, rather, as if those citizens voted online who would have voted anyway (Kersting 2004: 23). Only basic estimates are available of the extent voter participation had increased. From surveys conducted, Trechsel et al. identified a slight mobilization effect in the parliamentary



elections of 2007 (2007: 33 et sqq.). The authors also strongly denied the existence of a digital divide between urban and rural areas.<sup>17</sup>

The Estonian case shows that moderate shifts and a slight strengthening of the democracy are possible. Since the bulk of Estonia's online voters were between 25 and 55 years old, new voters were only tapped on the fringe. Young Estonians dominated the group of online voters. So, parties appealing to young voters benefited most from the introduction. The digital age primarily helps to retain voter participation at existing levels while opening additional, flexible participation channels.

Undisputed is, however, that online voting grew more popular from election to election. This is clear from the percentages of voters who voted online in the local elections of 2005, the parliamentary elections of 2007, and the elections for the European parliament in 2009 respectively. Online voters – as a percentage of total voters – rose sharply over the three elections, from 1.9% in 2005 to 5.5% in 2007 and a respectable 14.7% in 2009.<sup>18</sup> In the latest parliamentary election in 2011, the number rose to 24.3%. After four elections, the overall assessment was positive. So it came as no surprise when, as the first country in the world, “eStonia” enabled its citizens in 2011 to vote with mobile devices.

The Estonian example offers many stimuli to countries interested in introducing internet voting. That raises the question, namely whether the model is transferable to, for instance, Germany. The introduction of electronic identity cards with optional digital signatures in Germany would satisfy the technical preconditions. However, Germany's interlinked political structures make blocking tactics very likely. Furthermore, Estonia has fewer than one million voters. Given Germany's size and sacrosanct federal structure as well as the fact that Estonia's population is very internet-minded and remarkably open to new technologies, a transfer is not a foregone conclusion. Systems in Western Europe can only hope that time will remove their deficiencies.

Finally, the question is why the Estonians are so open. Its history, above all its forced membership of the Soviet Union, and the fear of its own demise cemented the open-mindedness of the Estonian population to political and technical innovation into a “national identity” of faith in progress, which makes it very difficult for skeptical voices to find an audience. In Estonia, the dominant belief is that state and citizens only have a future as long as they play a leading role, especially in the field of new technologies. This is often exploited by “progress parties” in elections. This

17 “There is no significant difference in the general participation pattern and the use of e-voting based on the origin of the respondents. In other words, there is no major difference, or bias between town and country” (Trechsel et al. 2007: 27).

18 Estonian National Electoral Committee 2007.

modifies the transferability of the Estonian experience with respect to other countries, especially if they are larger than the Baltic country. Nevertheless, it will be interesting to see whether the Estonian example is copied in other countries.

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