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# Implementation of the European Citizens' Initiative

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The experience of the  
first three years

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IN-DEPTH ANALYSIS

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**Ex-Post Impact Assessment Unit**

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# Implementation of the European Citizens' Initiative

## The experience of the first three years

### In-depth Analysis

On 18 November 2014, the Constitutional Affairs (AFCO) Committee of the European Parliament decided to undertake an Implementation Report on the European Citizens' Initiative. Such reports are now routinely accompanied by European Implementation Assessments, drawn up by the Ex-Post Impact Assessment Unit of the Directorate for Impact Assessment and European Added Value, within the European Parliament's Directorate-General for Parliamentary Research Services.

The current paper is a preliminary analysis, which has been prepared for the AFCO/PETI Public Hearing on the implementation of the Regulation on the European Citizens' Initiative, on 26 February 2015, by the Ex-Post Impact Assessment Unit. It will be updated following this hearing and the forthcoming European Commission report on the same subject, and form part of the European Implementation Assessment for the committee in due course.

#### **Abstract**

The European Citizens' Initiative (ECI) has been in operation for three years now. By 1 April 2015, the Commission is required to issue its first report on the application of the ECI Regulation. It is widely expected that this review will prompt a revision of that regulation. Observers have identified a number of shortcomings in its implementation, which impact negatively on the effectiveness and acceptance of this relatively new instrument of transnational participatory democracy. Against this background, stakeholders are calling for simplification and a substantial revision of the current ECI framework and its application, including its implementation in the EU Member States. This paper seeks to provide a systematic overview of the current weaknesses in the ECI process and summarises concrete recommendations actors have put forward for a better functioning ECI.

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## **ABOUT THE PUBLISHER**

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## Executive summary

The European Citizens' Initiative (ECI) was introduced by the Lisbon Treaty as an innovative instrument for transnational participatory democracy. It aims to involve citizens in political agenda-setting at EU level, by providing them with an indirect form of the right of legislative initiative. Operational since April 2012, the track record of the European Citizens' Initiative appears mixed: while a high number of initiatives have been put forward, only a tiny fraction complied with the conditions and requirements set out in the ECI Regulation, and notably their rigid application by the Commission. So far three initiatives – of 51 proposed – have passed the 1 million signature threshold. Observers consider their follow-up by the Commission as a litmus test for the future acceptance of the ECI amongst citizens. The low percentage of successful initiatives raises the question of how well the instrument is functioning, and whether the objectives set out in the ECI Regulation have been achieved.

While broadly welcoming the ECI tool as a milestone towards reinforcing European citizenship, ECI organisers, NGOs, EU actors and scholars have voiced serious concerns about the implementation of the ECI by both the Commission and the Member States. They have identified a great number of shortcomings in the ECI process that impact negatively on the usability and hence success of the instrument; these are discussed in detail in this paper.

What was originally intended to be a simple and user-friendly tool for all EU citizens has turned out to be cumbersome and challenging in its use. Notably in respect of supporting an ECI, the implementation by Member States led to an over-complex system of multiple sets of national requirements for personal data. These rules not only deter citizens from supporting individual initiatives, they also disenfranchise some 11 million citizens from their right to participate.

The European Parliament has been a strong supporter of the ECI since the very beginning of the debate on its establishment. The Parliament's Petitions Committee is closely monitoring the implementation of the ECI. Together with other stakeholders, it calls on the Commission and Member States to simplify the requirements to make the tool better work, and urges the Commission to reconsider its rigid admissibility test for proposed ECIs, which has so far dismissed nearly 40 per cent of all proposed ECIs before they even had a chance to stimulate public debate.

Stakeholders have come up with concrete recommendations on how to adjust the instrument, to make it work more effectively. Nearly three years on, all eyes are on the Commission, which is required to present its first report on the application of the ECI Regulation by 1 April 2015. It is widely expected that this review will be the first step towards a revision of the ECI Regulation, in line with the Better Law-Making principle of seeking to 'evaluate first' before amendments are proposed to existing legislation.

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## Introduction

The European Citizens' Initiative (ECI) was instituted by the Treaty of Lisbon as an innovative instrument of transnational participatory democracy. Aimed at reinforcing European citizenship, one of the main objectives of the ECI is to bring EU citizens closer to the EU, by providing them with an indirect right of legislative initiative. This is a non-binding agenda-setting tool, by which citizens can invite the Commission to propose a legal act, within the framework of the Commission's powers, provided they find – within a period of twelve months – the support of at least one million EU citizens coming from at least one quarter of all EU Member States. National minimum thresholds also apply per Member State making up this quarter of the total, which is established as the number of seats in the European Parliament for that Member State multiplied by 750. As a transnational instrument, the ECI is designed to stimulate Europe-wide public debates on issues of concern to EU citizens.

After nearly three years, the track record of the ECI Regulation as regards resort to this initiative is mixed: on the one hand, the ECI has shown great potential. With a total of 51 initiatives presented to the Commission, the take-up of the ECI as a policy tool by EU citizens appears high. Many of the proposed ECIs (see Annex) intended to promote European solidarity and identity, while a small fraction carried Euro-sceptic objectives. The initiatives related to a wide range of different policy areas, *inter alia* social policy, environment, animal welfare, education or constitutional affairs. Initial fears that trade unions or lobbyists would use and pervert the purpose of the ECI, which is designed for use by ordinary citizens, were not confirmed. Conversely, most ECIs were run by groups of citizens with little or no presence in Brussels. Consultant Janice Thompson believes this is because "powerful groups have access to much cheaper and easier ways to influence EU policy".<sup>1</sup>

On the other hand, out of the 51 initiatives proposed to date, only three managed to exceed the minimum threshold of one million signatures. While many initiatives were either withdrawn by the organisers or failed to collect the necessary support, a large proportion – nearly 40 per cent – was declared legally inadmissible by the Commission at an early stage in the process, namely registration. Stakeholders expressed their concerns about how strictly the Commission applies the admissibility check, and this appears to be supported by the fact that, to date, five ECI organisers have challenged the Commission's refusal before the European Court of Justice, corresponding to 25 per cent of all rejections. This suggests that the ECI instrument has considerable weaknesses or limitations in its current design.

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<sup>1</sup> Carsten Berg and Janice Thomson (eds.) (2014), *An ECI that works! Learning from the first two years of the European Citizens' Initiative / The ECI Campaign*, p. 73.

The low percentage of successful initiatives raises the question of how well the ECI instrument is functioning, and whether the intended objectives set out in the Regulation have been achieved, notably:

- that every citizen has the right to participate in the democratic life of the Union by way of a European citizens' initiative;
- that the procedure affords citizens the possibility of directly approaching the Commission, inviting it to submit a proposal for a legal act for the purpose of implementing the Treaties;
- that procedures and conditions required for the citizens' initiative should be clear, simple, user-friendly and proportionate to its nature as to encourage participation by citizens.

However, even if the ECI was designed to be a citizen-friendly and simple pan-European instrument, it requires nonetheless strict procedures and conditions that guarantee its safe use and the protection of personal data throughout all stages of an ECI. This dilemma leads to a number of issues ECI organisers perceived as challenging and cumbersome hurdles in the process of running their initiatives. Against this background, stakeholders call for simplification and a substantial revision of the current ECI framework and its application, including its implementation in the EU Member States, in order to make this agenda-setting tool more effective and accessible to ordinary citizens.

In response to complaints, Emily O'Reilly, the European Ombudsman, opened an own-initiative enquiry into the effective functioning of the ECI in December 2013. Based on a stakeholder consultation, she identified a number of concrete problematic points, on which she asked the Commission to "take appropriate action".<sup>2</sup>

Pursuant to Article 22 of the Regulation, the Commission is required to issue its first report on the application of the Regulation by 1 April 2015. This forthcoming review will reportedly take the form of a stock-taking exercise<sup>3</sup>. It is widely expected that this review will prompt a revision of the ECI Regulation.

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<sup>2</sup> Letter to the European Commission requesting an opinion in the European Ombudsman's own-initiative inquiry OI/9/2013/TN into the functioning of the European citizens' initiative (ECI), 15 July 2014.

<http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/54609/html.bookmark>

<sup>3</sup> Summary report of the Meeting of the Expert Group on the Citizens' Initiative, 2 December 2014, point 4.

<http://ec.europa.eu/citizens-initiative/files/summary-report-december-2014.doc>

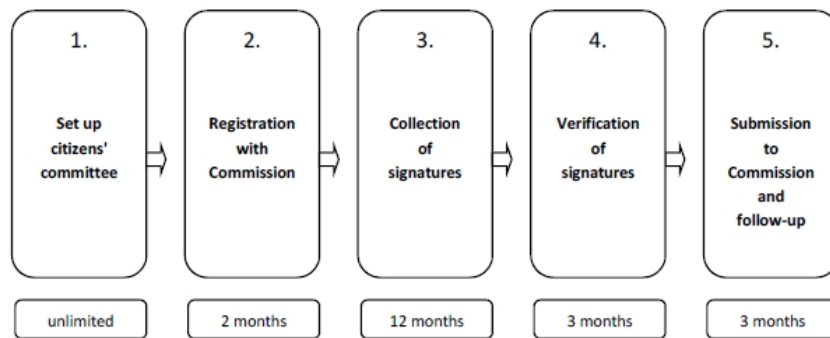


## 1. The ECI's legal framework

The legal framework of the ECI is constituted by Treaty Article 11(4) TEU and Article 24 (1) TFEU in primary law, and in secondary law by Regulation 211/2011 on the European Citizens' Initiative (basic Regulation) as well as Commission Implementing Regulation 1179/2011 laying down the technical specifications for the online collection of statements of support.

The basic Regulation sets out the detailed requirements and conditions as well as the concrete procedures for the entire process, from the registering and running of an ECI up to its submission to the European Commission and the mandatory follow-up (see Figure 1). It stipulates *inter alia* that prior to initiating the collection of statements of support from signatories, the organisers of an ECI are required to register their initiative with the Commission, providing information on the subject matter and the objectives of the proposed citizens' initiative. Any amendment to the basic Regulation is subject to the ordinary legislative procedure.

Figure 1: The different steps of the ECI procedure with timeline



The Regulation includes seven technical annexes, which – as non-essential elements of a legal act – can be amended by means of Commission delegated acts.<sup>4</sup>

<sup>4</sup> Some of these have been amended in the past: Annex I by Commission Delegated Regulations 268/2012 and 531/2014, to take the changes in the composition of the European Parliament into account, and by Council Regulation 517/2013 pursuant to Croatia's EU accession; Commission Delegated Regulation 887/2013 amended Annex II and III, the latter upon request from national authorities to change specific personal data requirements on the statement of support form. Moreover, a new procedure to modify through delegated acts Annexes III, V and VII has been announced by the Commission for early 2015. See summary report of the Meeting of the Expert Group on the Citizens' Initiative, 2 December 2014, point 3.

<http://ec.europa.eu/citizens-initiative/files/summary-report-december-2014.doc>

**Annexes to the ECI regulation**

- I. Minimum number of signatories per Member State
- II. Required information for registering a proposed citizens' initiative
- III. Statement of support form for all Member States
- IV. Certificate for the conformity of an online collection system
- V. Form for the submission of statements of support to the Member States' competent authorities
- VI. Certificate by the national authority confirming the number of valid signatures
- VII. Form for the submission of an ECI to the Commission

As a Regulation, the ECI has, in principle, general application: it is binding in its entirety and directly applicable in all Member States. However, some significant provisions of the Regulation are not self-applicable and therefore require implementation measures at Member State level in accordance with national law and practice. These are notably provisions required in respect of personal data for the collection of signatures (art. 5), the online collection (art. 6) and the verification of these statements of support by national authorities (art. 8).

The ECI Regulation was adopted on 15 December 2010 by the European Parliament by an overwhelming majority<sup>5</sup>, which illustrates the broad consensus for this instrument amongst its Members. The final act was signed on 16 February 2011. The Regulation became applicable on 1 April 2012, following the Member States' transposition of the above-mentioned provisions into national law.

## 2. Statistical data

By 15 February 2015 a total of 51 ECIs were proposed to the Commission.<sup>6</sup> Strictly speaking, these different initiatives numbered in fact 46, since five had been either withdrawn or rejected and were subsequently resubmitted to the Commission for registration.<sup>7</sup>

In 2012, citizens were keen to try out this brand new instrument: during the first nine months (April to December) of its existence as many as 23 ECIs were tabled, nine of which during April and May. This initial momentum was subsequently lost and the overall number of ECI applications has steadily declined ever since, to ten in the course of 2014. At the same time, the proportion of ECIs to which the Commission refused registration has grown from 30 per cent in 2012 to 50 per cent in 2014. The high rejection rate may also explain the current ECI fatigue. At present, only three ECIs are open for signature.<sup>8</sup>

<sup>5</sup> 628 in favour, 15 against, 24 abstentions.

<sup>6</sup> For a comprehensive list of all ECIs to date see Annex I.

<sup>7</sup> The ECI *Unconditional basic income* was declared inadmissible, while *Single Communications Tariff Act*; *Let me vote*; *End Ecocide in Europe: A citizens' initiative to give the Earth rights* and *European Initiative for Media Pluralism* were withdrawn and re-registered, to gain more time.

<sup>8</sup> These are: *An end to front companies in order to secure a fairer Europe* (opened in October 2014); *For a socially fair Europe! Encouraging a stronger cooperation between the Member States to fight poverty in Europe* (opened in December 2014); and *À l'écoute* (opened in February 2015).

Proposed ECIs per year		Registered	Rejected
2012 (April - Dec)	23	16	7 (30 %)
2013	17	9	8 (47 %)
2014	10	5	5 (50 %)
2015 (by 15 Feb)	1	1	0 (0 %)
<b>total</b>	<b>51</b>	<b>31</b>	<b>20 (39 %)</b>

Source: European Commission

Out of the 31 successfully registered initiatives, 15 were closed because they received insufficient support, with the span of collected signatures ranging between just a few hundred and several hundred thousand. Ten ECIs were withdrawn by their organisers before the end of the 12-month timespan for collecting signatures. From a *procedural* point of view, two ECIs have been successful. However *politically* the Commission's follow-up did not meet the organisers' expectations (see chapter 4).<sup>9</sup> The initiators of one ECI even filed a lawsuit before the European Court of Justice, requesting an annulment of the Commission's official response (i.e. the communication following the ECI submission).<sup>10</sup> A third initiative has apparently also gained the necessary support, though its submission to the Commission has been pending for over a year.<sup>11</sup>

### 3. Issues of concern in the various stages of the ECI process

This chapter examines the main flaws and shortcomings throughout the ECI process, as identified by ECI organisers, NGOs, academia and other stakeholders, including EU actors. It is essentially based on the findings and recommendations of the following recent reports and analyses on the implementation and functioning of the ECI:

- **European Citizens' Initiative – first lessons of implementation** (May 2014). This detailed study examines how well the ECI instrument worked in practice during its first two years. It was commissioned by the European Parliament's Policy Department C on citizens' rights and constitutional affairs, upon request by the AFCO and PETI committees. The study identifies a number of weaknesses in the current ECI setting and provides a series of recommendations for a possible future revision of the ECI framework that aim at making the ECI a more straightforward and effective tool for citizens.

<sup>9</sup> These are: *Right2Water* and *One of us*.

<sup>10</sup> Case T-561/14 – *One of Us and Others v. European Parliament and others* (action brought on 25 July 2014).

<sup>11</sup> *Stop vivisection*, an ECI calling for ending animal testing, collected 1,170,326 certified signatures and will be submitted to the Commission soon, according to a summary of a press conference from 26 November 2014. It had lodged a complaint with the Ombudsman in December 2013, after the Commission had refused to further extend the deadline for collecting signatures. This case was turned down in December 2014.

<http://www.citizens-initiative.eu/eci-stop-vivisection/>

<http://www.ombudsman.europa.eu/en/cases/decision.faces/en/58564/html.bookmark>

- **The European Citizens' Initiative registration: falling at the first hurdle?** (December 2014).  
This analysis, published by the *European Citizen Action Service (ECAS)*, an international civil society NGO, scrutinises the Commission's application of Article 4 (2) of the basic Regulation, namely the admissibility checks that the European Commission carries out.
- James Organ (December 2014). **Decommissioning direct democracy? A critical analysis of Commission decision-making on the legal admissibility of European Citizens Initiative proposals.** In *European Constitutional Law Review*, 10, pp 422-443. This journal article is the first to provide an academic assessment of the Commission's decisions regarding the legal admissibility of ECIs proposed between April 2012 and November 2013. It also critically analyses the degree of institutional control that the Commission exerts over the ECI process.
- **An ECI that works! Learning from the first two years of the Citizens Initiative** (March 2014), edited by Carsten Berg and Janice Thomson for the civil society platform *The ECI Campaign*.  
Based on broad stakeholder consultation, this publication gathers the experiences of 16 ECI campaigners as well as contributions by democracy advocates, researchers and representatives of national administrations and the EU institutions, including MEPs.
- **The European Ombudsman's own-initiative enquiry (OI/9/2013/TN) into the functioning of the European Citizens' Initiative (ECI)** (December 2013-November 2014).  
Following complaints by ECI organisers, the European Ombudsman launched an own-initiative enquiry in December 2013. Based on the collected feedback from 18 ECI organisers and other civil society representatives the Ombudsman confronted the Commission with a set of questions. These were answered in autumn 2014.

### 3.1. Findings: general issues

#### 3.1.1. Public awareness of the ECI instrument

ECI organisers point out that the general public's awareness of the ECI is low. During their campaigns, many organisers were confronted with a lack of knowledge among citizens, but also among media professionals, about the instrument. In the feedback reports and analyses, NGOs and ECI practitioners consistently call on EU institutions and the media to better promote the ECI as a tool for a stronger direct involvement of citizens. They recommend a communications and awareness campaign in all EU Member States (involving EU offices and representations as well as national authorities) to spread the concept of the ECI, and furthermore to provide information about individual ongoing ECIs through press releases. Concrete suggestions include TV spots, web commercials or explanatory leaflets sent to every EU household to inform citizens about their new bottom-up right to influence the EU agenda.

A recent *Eurobarometer* survey confirms this high degree of ignorance about the ECI.<sup>12</sup> Furthermore, the European Ombudsman picked up on this issue in her enquiry, asking the Commission for concrete measures to raise awareness of the ECI.

### 3.1.2. Information and advice for ECI organisers

The Commission is the main contact point for ECI organisers if they need advice. They generally acknowledge the Commission's efforts and tailored advice, including its designated ECI website, which guides potential initiators through the ECI process and provides information about all past and ongoing ECIs in a transparent manner. The Commission recently issued a revised version of its *Guide to the European Citizens Initiative*, and furthermore also offers information and advice via its Europe Direct Contact Centre.

The European Economic and Social Committee (EESC), which considers its role as a link between the EU institutions and civil society organisations well suited for the ECI, also provides information and support. For example, it organises an annual 'ECI Day' to facilitate networking amongst ECI campaigners and other stakeholders. The EESC is also pro-active in offering support infrastructure for free, such as meeting rooms.

Apart from the EU institutions, civil society organisations, which are also active in the field, maintain a support structure for campaigners. Examples includes *The ECI Campaign* or *The ECI Support Centre*, the latter being a joint initiative of the *European Citizen Action Service (ECAS)*, *Democracy International* and the think-tank *Initiative and Referendum Institute Europe*.

However, ECI activists claim that more support is needed in terms of launching and running an initiative, if the ECI is to remain an instrument for citizens as opposed to organisations and interest groups. Activists often struggle with drafting their ECI proposal, identifying a legal basis for it, respecting the strict IT requirements or national data protection rules, to cite a few examples. The consultancy Milieu Ltd., to whom the European Parliament commissioned the study on the implementation of the ECI, proposes in this regard to establish a 'Citizen's Initiative Centre', designed as a one-stop-shop for any kind of ECI-related enquiry.

### 3.1.3. Translation and funding

In order to ensure that outreach activities are successful in cross-border campaigning, providing information in national languages is a pre-condition. In this context, Europe's multilingualism causes a practical challenge for ECI organisers. Under the current Regulation, the translation of the ECI proposal is the sole responsibility of the organisers (Art. 4(1)). Nonetheless, the Commission checks every linguistic version for its consistency with the original version. Organisers argue that instead of just verifying the translations *ex-post*, the Commission should provide them. Alternative proposals point to engaging the linguistic services of the European Parliament or the EESC to help ensuring ECI campaigns are multilingual. Already in 2010, the Commission's public consultation

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<sup>12</sup> The promise of the EU: aggregate report, September 2014, *Eurobarometer* qualitative study, p. 51.

following the Green Paper highlighted a call by several respondents to provide translations of ECI texts into all official languages.<sup>13</sup>

In general, running an ECI is a costly process. It entails staff costs (unless the ECI is entirely run by volunteers), IT-infrastructure (e.g. website), printing, postage, translation, and telecommunication costs, and in some cases, costs linked to advice from lawyers and media/communications and IT professionals. Typically, no substantial financial resources are available in the case of grassroots-initiated ECIs, unless the campaign is preceded by or conducted at the same time as a fundraising exercise. Accordingly, stakeholders are calling for a centralised basic EU funding pot for ECIs.

### **3.1.4. Conflict of interest at the Commission?**

When launching an ECI, various organisers recognised the Commission's support and advice as very valuable and effective. However, some stakeholders see a conflict of interest in the Commission's double role in the ECI process, as it acts as an information support service and is in parallel responsible for the decision on the registration of an ECI and the follow-up of initiatives.

## **3.2. Forming a Citizens' committee (Stage 1)**

Before an ECI can be launched, an organising committee (referred to as 'citizens' committee') first needs to be set up, and composed by at least seven EU citizens residing in different Member States<sup>14</sup>. This committee prepares and runs the ECI, and it also acts as a contact point for the Commission. Pursuant to Article 2(3) of the Regulation, the Members of a citizens' committee must be *natural* persons, although organisations are entitled to promote or sponsor an ECI, if they do so with full transparency. MEPs may be part of a citizens' committee, but they are not taken into account for reaching the threshold of seven.

### **3.2.1. Legal status and liability**

Stakeholders argue that the current lack of a legal status for the citizens' committee impacts negatively on the practical aspects of running an ECI, such as fundraising or opening a bank account. More importantly, the committee's individual members can be held *personally* liable for "any damage they cause in the organisation" of an ECI (Art. 13), related to breach of data protection rules or other.

The ECI Regulation stipulates that organisers must comply with the EU Directive on data protection<sup>15</sup> and they are responsible for processing personal data (Art. 12). This is an issue of concern for ECI organisers, as ECIs usually operate with numerous volunteers throughout the European Union, whose potential wrongdoing (e.g. when handling and

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<sup>13</sup> SEC(2010) 370, p. 4.

<sup>14</sup> They do not necessarily need to be of different nationality.

<sup>15</sup> Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

processing personal data) is possibly outside the control of the members of the citizens' committee. Stakeholders fear that the risks linked to personal liability may deter potential ECI organisers from engaging in the process.

In this context the organiser of the ECI *End Ecocide in Europe* suggests to establish an EU-wide NGO status.<sup>16</sup> The above-mentioned study commissioned by the European Parliament acknowledges the calls for a legal entity, but advocates that it should be *optional*, since establishing a legal status may involve considerable red tape. It moreover proposes to mitigate the risks for members of citizens' committees in a number of concrete measures, including simplified rules on personal data gathered, a clear definition of the data protection obligations, and a civil liability insurance.<sup>17</sup>

### 3.3. Registration (Stage 2)

#### 3.3.1. Legal admissibility

Prior to collecting support among EU citizens, ECI organisers are required to register their initiative with the Commission through an online register, whereby the Commission has two months to assess the legal admissibility of the proposed initiative. As set out in Article 4(2), a favourable decision of this *ex-ante* check is subject to one formal and three substantive conditions:

- the citizens' committee must have been formed;
- the proposed ECI must not "manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties";
- it must not be "manifestly abusive, frivolous or vexatious";
- it must not be "manifestly contrary to the values of the Union as set out in Article 2 TEU".

Furthermore, Annex II to the Regulation sets out the required elements for registration: in addition to the organisers' contact details, they need to indicate the title and objectives of the proposed ECI, as well as the legal basis (Treaty provision) they consider relevant. Providing further details or even a draft legal act is permitted, though not mandatory.

Placing an admissibility test at this early stage in the ECI process is driven by the logic that campaigning is costly and resource-intensive. This is meant to avoid situations whereby the Commission rejects an ECI *after* significant efforts have been invested into it and *after* it has gained the support of at least one million citizens. Such late rejection would lead to considerable frustration, and it could also have substantial negative repercussions for the public image of EU democracy.

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<sup>16</sup> An ECI that works!, p. 39.

<sup>17</sup> European Citizens' Initiative – first lessons of implementation: study / European Parliament, Policy Department, 2014, p 16.

However, in cases of refusal, a side effect of the current early registration mechanism is to undermine a cross-border public debate on the issue at stake before it even had a chance to kick off. Having led to an effective drop-out rate of 40 per cent, the Commission's legal admissibility check proved to be a real obstacle to the success of the ECI as a civic agenda-setting instrument. Up until now, all 20 dismissed initiatives have been refused registration on the grounds of "falling manifestly outside" the remit of the Commission's powers.

The fact that the Regulation fails to provide a definition of the concrete meaning of "manifestly falling outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties", leaves some discretion to the Commission in its interpretation and application of this provision. Case-by-case examinations of the justifications the Commission provides in its refusal letters to ECI organisers have been carried out.<sup>18</sup> These Commission decisions are disclosed on the Commission's ECI website for transparency reasons. The examinations suggest that the Commission applies a rather restrictive interpretation, which appears broadly guided by the system of Commission competences set out in the Treaties.

In fact the Commission's competence to propose a legal act depends on the type of competence conferred on the EU in each specific policy area – it can be exclusive or shared competence, competence to take action of support only, or to coordinate Member States' actions, or no competence at all. With regard to the system of competences, the policy area an ECI relates to is key, as it will impact on whether the Commission will register a proposed ECI or not. The same applies to the identification of the correct legal basis for the legal act proposed through the ECI. In some cases, the Commission reportedly<sup>19</sup> rejected ECIs because their organisers failed to identify a suitable Treaty basis.

The above-mentioned requirements can put a significant strain on ECI organisers if they have no legal background. To mitigate the risk of failure at the registration stage, the Commission offers non-binding advice (including legal advice on the drafting of an ECI proposal) to ECI organisers via its Europe Direct Contact Centre, prior to registration. Moreover, it provides some guidance on its ECI website by listing policy areas in which the EU is competent to act, plus the relevant Treaty provisions.<sup>20</sup>

Yet organisers and other stakeholders<sup>21</sup> claim that without professional legal advice it is difficult for citizens to identify a valid legal basis and to phrase their ECI in a way that it passes the registration hurdle. For instance the organiser of an education-related ECI (*High Quality European Education for All*) admits that she would have preferred to invite the Commission to propose a concrete legislative act or policy change, but in order to address her issue of concern within the Commission's competences, she was compelled to limit the scope of her ECI to "start[ing] a discussion at EU level and set[ing] up a multi-

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<sup>18</sup> See: The European Citizens' Initiative registration: falling at the first hurdle? Analysis of the registration requirements and the "subject matters" of the rejected ECIs. ECAS, December 2014; and James Organ: Reform ECI registration and expand public debate: reconsidering legal admissibility, In: *An ECI that works!*, p. 97-100.

<sup>19</sup> See: The European Citizens' Initiative registration, p. 8; and Organ, p. 99.

<sup>20</sup> See <http://ec.europa.eu/citizens-initiative/public/competences>.

<sup>21</sup> See e.g., The European Citizens' Initiative registration: falling at the first hurdle?, p. 11.



stakeholder platform on European education".<sup>22</sup> This wording made her initiative much less suited for campaigning, as the core message was harder to sell.

The case of the ***ECI Unconditional Basic Income (UBI)*** illustrates the challenges citizens are facing when tabling an ECI.

The initial proposal, a call for an Unconditional Basic Income, did not pass the admissibility test, as falling "manifestly outside the framework of the Commission's powers".<sup>23</sup> The organisers decided subsequently on making a second attempt, rephrasing the ECI's wording and narrowing down its scope following discussion with the Commission about its objectives. As a result, the Commission approved the second ECI. It no longer requested the introduction of an UBI by a legal act – for which the EU has no competence –, but limited itself to calling for "exploring a pathway towards emancipatory welfare conditions in the EU". Eventually this ECI collected almost 300,000 signatures EU-wide, and even though this score was far below the one million signatures threshold, the organisers expressed satisfaction that the ECI had been successful in stimulating the political discussion on the UBI.<sup>24</sup>

ECI organisers generally describe the Commission as supportive and helpful throughout the ECI process. Nonetheless, at the registration stage, the Commission takes a rather legalistic and passive approach. James Organ, an expert in the field of direct democracy, maintains that the Commission could take a more facilitative stance to the registration process and assist organisers in identifying a legal basis and in framing their proposal.<sup>25</sup> He argues that the admissibility test at the beginning of the ECI process puts the legal burden on the organisers, whereas if applied at the end it would more likely fall on the Commission.<sup>26</sup>

The Commission's decisions on registration or refusal of individual ECIs have in some cases prompted doubts about their consistency.<sup>27</sup> In its recent ECAS analysis of the registration requirements, the NGO ECAS blames the Commission of having, at least in some cases, "erred in its decision to refuse registration".<sup>28</sup> The European Court of Justice will help to clarify whether the Commission applies the admissibility check too rigidly. So far, organisers of five ECIs have appealed against the Commission's decision to refuse them registration, seeking annulment before the Court of Justice. All cases are pending:

- Anagnostakis v. Commission – Case T-450/12  
*One Million Signatures for "A Europe of Solidarity"*; date of application: 11/10/2012

<sup>22</sup> An ECI that works!, p. 55.

<sup>23</sup> Commission's refusal letter at <http://ec.europa.eu/citizens-initiative/public/documents/559>.

<sup>24</sup> An ECI that works!, p. 44.

<sup>25</sup> James Organ (2014). Decommissioning direct democracy? A critical analysis of Commission decision-making on the legal admissibility of European Citizens Initiative proposals. In *European Constitutional Law Review*, 10, p. 434.

<sup>26</sup> Organ, p. 435.

<sup>27</sup> See e.g., Organ, p. 432-435, a comparison of the ECI cases *No legalised prostitution, End Ecocide in Europe* and the anti-incinerator initiative *Pour une gestion responsable des déchets, contre les incinérateurs*.

<sup>28</sup> E.g., The European Citizens' Initiative registration: falling at the first hurdle?, p. 17.

- Izsák and Dabis v. Commission – Case T-529/13  
*Cohesion policy for the equality of the regions and sustainability of the regional cultures*; date of application: 27/09/2013
- *Minority SafePack – one million signatures for diversity in Europe* and Others v. Commission – Case T-646/13; date of application: 25/11/2013
- Costantini and Others v. Commission – Case T-44/14  
*Right to Lifelong Care: Leading a life in dignity and independence is a fundamental right!*; date of application: 15/01/2014
- Efler and Others v. Commission – Case T-754/14  
*STOP TTIP*; date of application: 10/11/2014

### 3.3.2. The specific case of proposals entailing amendments of the Treaties

The question of whether the scope of an ECI could entail a Treaty amendment was already the subject of a debate among scholars before the ECI entered into force.<sup>29</sup> The Commission has so far applied a rigid interpretation of Article 4(2), letter b, of the ECI Regulation of "manifestly fall[ing] outside the framework of the Commission's powers" and notably on the significance of "**for the purpose of implementing the Treaties**". A number of ECI cases were refused registration because their implementation would have required a Treaty amendment.

The Commission's stance on this is unambiguous, as evidenced in its FAQs on the ECI.<sup>30</sup> In an answer to a parliamentary written question from 2012, then Commission Vice-President Maroš Šefčovič confirmed this standpoint: "Indeed, the Commission cannot register an ECI which would propose amendments to the EU treaties. This is a direct consequence of the wording of Article 11(4) of TUE, which provides that a proposed ECI should fit (...) within the framework of [the Commission's] powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties."<sup>31</sup>

*The ECI Campaign* NGO counters<sup>32</sup> that the Commission's competence to propose Treaty amendments pursuant to article 48(2) TEU could also be extended to ECIs as a legal basis. The Commission explicitly objects to this view, as evidenced in its refusal letter<sup>33</sup> of

<sup>29</sup> See Michael Dougan: What are we to make of the Citizens' Initiative?, In *Common Market Law Review*, 2011, 48: 1807-1848, here p. 1835-1837;

Dorota Szeligowska and Elitsa Mincheva: The European Citizens' Initiative – Empowering European citizens within the institutional triangle: a political and legal analysis, In: Luis Bouza García et al. (eds.), *The European Citizens' Initiative - a first assessment*, 2012, Bruges Political Research Papers, 24: 52-81, here p. 69.

With some reservations, Dougan argues in favour, whereas Szeligowska/Mincheva tend to exclude Treaty amendments through ECIs, as the focus of the ECI is on implementing the Treaties.

<sup>30</sup> See <http://ec.europa.eu/citizens-initiative/public/faq#q3>

<sup>31</sup> Answer to written question E-007589/2012.

<http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2012-007589&language=EN>

<sup>32</sup> The ECI Campaign's position on Treaty amendments.

<http://www.citizens-initiative.eu/position-on-treaty-amendments/>

<sup>33</sup> Commission's refusal letter at <http://ec.europa.eu/citizens-initiative/public/documents/1236>.

January 2013 relating to the ECI on *Enforcing selfdetermination Human Right in the EU*: "In particular, amending the Treaties, as implicitly suggested by your reference to Article 48(2) TEU (ordinary revision procedure), falls outside the scope of the citizens' initiative."

However, the Commission set a precedent against its own principles by granting registration to the ECI on *Let me vote*, which invites the Commission to propose that EU citizens can vote in all elections in the Member State they reside, which would also entail a Treaty change. In this case, the ECI put forward Article 25 TFEU as a legal basis.<sup>34</sup>

### 3.4. Collection of signatures (Stage 3)

#### 3.4.1. Statements of support: a confusing set of national rules and personal data requirements

The ECI is designed as a transnational tool, requiring the EU-wide support of EU citizens. Many activists described the collection of signatures in the different EU Member States as a particularly challenging experience, since the personal data requirements for signatories differ largely from Member State to Member State. The Commission's initial legislative proposal<sup>35</sup> had set out *uniform* personal data requirements for the statements of support. However, during the negotiations in the Council, Member States could not agree on one EU-wide form, and according to their national law and practices, they came up with a wide range of requirements -- some of which included **personal ID numbers**, and others not, some using nationality, and others residence as the decisive criterion. The complexity of Annex III of the Regulation, determining the data requirements on a case-by-case basis, i.e. according to Member State, is the result of these national variations.<sup>36</sup>

Furthermore, the forms used for statements of support must comply with the models set out in Annex III of the Regulation, according to the Member States. Examples from across the spectrum highlight significant differences: Finland has the simplest form of all EU countries, asking signatories only to provide their name, country of permanent residence, nationality and date of birth. Conversely, Italy's requirements comprise name, place of residence (with full address details), date and place of birth, nationality, and personal ID number, including the issuing authority. Greece, which applies a similar complex system as Italy's, does not ask for the full address nor the issuing authority of ID cards, but it requires the signatories' name at birth as well as their fathers' name.

Many ECI activists are concerned that excessive and unnecessarily burdensome personal data requirements have a deterring effect on potential signatories, as they raise privacy concerns. They report about citizens' reluctance to provide their ID numbers for the purpose of an ECI, a problem which has been exacerbated in the wake of the *Snowdon* data leaks case. In that context, the initiators of the ECI *Right2Water* confirmed the ID card requirement as a major obstacle for their campaigning in France, Italy, Austria, the

<sup>34</sup> For an in-depth discussion of this case see Organ, p. 436-437.

<sup>35</sup> COM(2010) 0119.

<sup>36</sup> Reportedly one ECI organiser made use of 43 different forms for one and the same campaign, see: European Citizens' Initiative – first lessons of implementation, p. 38.

Czech Republic, Greece, Hungary, Romania and Bulgaria – all countries that provide for mandatory detailed personal identification. They argue that without this legal requirement, they could have doubled signatory support in these countries.<sup>37</sup>

At present 18 Member States require the provision of a personal ID number (Austria, Bulgaria, Croatia, Cyprus, Czech Republic, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovenia, Spain and Sweden), despite the fact that the European Data Protection Supervisor (EDPS) had advised against it. He had stated: "Differences exist between the Member States as to how the use of such unique identification numbers, where they exist, is regulated. In any event, the EDPS does not see the added value of the personal identification for the purpose of verifying the authenticity of the statements of support. The other requested information can already be considered as sufficient for reaching that purpose."<sup>38</sup>

Moreover, the complexity of the data requirements leads to a higher rate of invalid statements of support, as signatories often fail to complete all essential fields.<sup>39</sup> And it increases the liability risk for organisers in case of damages. This may discourage citizens from getting involved in a citizens' committee. However, from a Member State's point of view, too loose data requirements render the verification process by national authorities difficult, if not impossible, and open doors to fraud.

Another particular worrying effect of the complex national personal data requirements is the exclusion of specific groups of EU citizens living abroad, which runs clearly counter the original objective of the ECI Regulation "that every citizen has the right to participate in the democratic life of the Union by way of a European citizens' initiative" (Recital 1). This problem, also known as **disenfranchisement**, is due to the fact that some countries use nationality and others use residence as a determining factor of who can sign, which in specific cases of citizens living abroad leaves a gap. Notably the national British and Irish rules disenfranchise some of their citizens living abroad, either in another EU Member State that does not allow for foreign residents to sign (notably Bulgaria, the Czech Republic, France, Austria and Portugal), or in a third country. This problem had also affected non-Dutch EU residents in the Netherlands and some EU officials residing in Luxembourg, until their governments requested amendments to Annex III of the Regulation in October 2013.

The issue of disenfranchisement is of particular relevance for ECIs whose core target group are expatriates, e.g. *Let me vote* (which called for the EU citizens' right to vote in all political elections in their country of residence) or *High quality education for all* (which aimed at a higher awareness of the need for a multi-lingual and multi-cultural European schooling model, including the European Schools and the European Baccalaureate). The Commission, aware of the problem, has stressed that its original intention was to create one uniform set of rules for the entire EU, and has called on the British and Irish governments to amend their rules.

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<sup>37</sup> An ECI that works!, p. 21.

<sup>38</sup> Opinion of the European Data Protection Supervisor on the proposal for a Regulation of the European Parliament and of the Council on the citizens' initiative, point 10. OJ 2010/C 323/01.

<sup>39</sup> The above-mentioned European Parliament study cites an invalidity rate of 10% provided by Austrian national authorities, see p. 39.

Strict national regulations also exclude other groups of citizens from taking part, e.g. the homeless in countries where a detailed address is required on the statement of support,<sup>40</sup> or EU citizens without a (valid) passport or identity card in countries that require the provision of a personal ID number to sign an ECI, but which do not foresee a general duty to provide evidence of identity, e.g. Austria.<sup>41</sup>

To sum up, the current situation with regard to the collection of signatures is the result of unsatisfactory implementation of the ECI rules. It has led to a bureaucratic and confusing set of 28 different national personal data requirements, which in some cases even exclude EU citizens living abroad from exercising their right.

If one of the objectives of the Regulation was "clear, simple, user-friendly and proportionate" procedures and conditions, to "encourage participation by citizens" (Recital 2), this objective cannot be achieved under the current set of rules, which are to a large extent in the hands of Member States. This is why the Commission, the European Parliament, the European Ombudsman, ECI activists and researchers jointly call for a harmonisation and simplification of statement of support forms. This reform should also effectively empower all EU citizens, regardless where they live, to support an ECI.

### 3.4.2. Minimum age to support an ECI

The minimum age for signing an ECI has been defined as "the age to be entitled to vote in elections to the European Parliament." (Art. 3(1)) An EU-wide age limit of 18 is applied, with the notable exception of Austria, where the minimum age for active voting is 16. The current ECI system, operating with two different age limits, is hence perceived as confusing (e.g., when a young Austrian signs an ECI abroad).

There are calls for uniformly lowering the age limit to 16, to encourage the civic participation of the younger generation in EU affairs. This argument was already brought forward in 2010 by the European Parliament Committee on Petitions in its Opinion on the report by the lead committee<sup>42</sup>, and subsequently backed by scholar Victor Cuesta-López.<sup>43</sup> Most recently German MEP Sylvia-Yvonne Kaufmann also advocated for this change, arguing that a uniform EU-wide minimum age of 16 in the context of the ECI would send a strong signal of trust towards young people.<sup>44</sup>

<sup>40</sup> See parliamentary question E-005673-14 from 8 July 2014 by MEP Sylvie Guillaume to the Commission.

<sup>41</sup> Austria requires either the number of the passport or the identity card (*Personalausweis*), which excludes Austrian citizens from the ECI tool if they do not possess either document (or if this ID card has expired). Moreover, as there is no general duty to provide evidence of identity, even if most citizens do possess a passport or identity card, they usually do not have either of them with them, which prevents them from spontaneous signing an ECI on paper in a street campaign. It is common practice that citizens carry only their driving license with them.

<sup>42</sup> Report on the proposal for a regulation of the European Parliament and of the Council on the European Citizens' Initiative, rapporteurs Zita Gurmai and Alain Lamassoure, A7-0350/2010.

<sup>43</sup> Victor Cuesta-López: A preliminary approach to the Regulation on European Citizens' Initiative from comparative constitutional law, In: Luis Bouza García et al. (eds.), *The European Citizens' Initiative - a first assessment*, 2012, Bruges Political Research Papers, 24: 52-81, here p. 10.

<sup>44</sup> Sylvia-Yvonne Kaufmann: Trust young people, In: *An ECI that works!*, p. 111.

This argument is supported by NGOs ECAS<sup>45</sup> and *The ECI Campaign*<sup>46</sup>. The latter recalls in this context that many ECIs have touched on topics of direct concern to young people, such as jobs, education or the environment. It believes that engaging young people in EU affairs while they are still in high school helps foster a European identity.

### 3.4.3. Online versus paper collection of signatures

The ECI Regulation provides for both online and paper collection of signatures. Carsten Berg, coordinator of *The ECI Campaign*, statistically analysed the application of the ECIs during the first two years of application.<sup>47</sup> He concluded that while the ECI was often perceived as an e-participation tool, empirical data highlight that paper forms played an important role in some campaigns. According to his findings, an average of 37% of all signatures was collected on paper.

ECI	% of signatures on paper	Total of signatures collected
<i>One of us</i>	65%	1.9 Mio.
<i>Right2Water</i>	18%	1.8 Mio.
<i>Stop Vivisection</i>	44%	1.3 Mio.

Source: Berg/Głogowski

Activists claim that the paper signature collection forms are not user-friendly, since too many data inputs are requested. They argue that the paper collection would greatly benefit from a reduction and simplification of the personal data requirements. Challenges faced include issues of legibility or missing data on forms (e.g. ID numbers), both of which result in a significantly higher dropout rate than online signatures. According to a national verification officer, up to 20 per cent of the collected signatures run the risk of being invalidated by national authorities in the verification process due to incomplete or inaccurate information.<sup>48</sup> Moreover, paper signature collection requires more human resources (volunteers) and bears greater risks with regard to data protection liability.

### 3.4.4. Online Collection Systems

Articles 6 and 12 of the ECI Regulation and Commission Implementing Regulation 1179/2011 set out the conditions and the technical specifications for the online collection of signatures. According to Article 12(1) of the ECI Regulation, ECI organisers and the competent national authorities must comply with the EU data protection directive<sup>49</sup> and its national implementation provisions in processing personal data.

<sup>45</sup> ECAS: 10 Recommendations to make a success of European Citizens' Initiatives, point 10. [http://ecas.issuelab.org/resource/10\\_recommendations\\_to\\_make\\_a\\_success\\_of\\_european\\_citizens\\_initiatives](http://ecas.issuelab.org/resource/10_recommendations_to_make_a_success_of_european_citizens_initiatives)

<sup>46</sup> The ECI Campaign: An ECI that works, point 4. <http://www.citizens-initiative.eu/an-eci-that-works/>

<sup>47</sup> Carsten Berg and Paweł Głogowski: An overview of the first two years of the European Citizens' Initiative, In: *An ECI that works!*, p. 17.

<sup>48</sup> National authorities in the ECI process: first verification experiences of the German signature verification office. Interview with Axel Minrath and Ulrich Schmitz, In: *An ECI that works!*, p. 94.

<sup>49</sup> Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

To collect signatures online, ECI organisers need to avail of: 1) a server to store the data of signatories, and 2) a software that allows for online signing. The Commission *temporarily* provided a server of its own in Luxembourg, at no charge, and which most ECIs used. Indeed stakeholders would welcome such free hosting of ECIs on a Commission's server as a *permanent* solution. With regard to the Online Collection System (OCS), ECI organisers are free to use any system, either their own or the one the Commission developed pursuant to Article 6(2) of the ECI Regulation. However, before they can start to collect signatures online, they need to have the OCS certified by the competent national authority of the Member State in which the data will be stored. This certification process, which can take up to one month, ensures that the OCS meets the security and technical requirements set out in the above-mentioned regulations.

Given the resources and costs involved in developing OCS software that would meet these strict requirements independently, most ECI organisers so far refrained from using their own OCS and have opted instead to use the Commission's software. In doing so, most of them encountered numerous difficulties. In fact, the way the online collection of signatures is designed appears to be one of the biggest hurdles in the current ECI set-up, according to statements of ECI organisers.

Organisers experienced substantial flaws and glitches, resulting in a significant loss of time – up to several months of the signature collection time. They consider the system as "cumbersome"<sup>50</sup> or "unnecessarily complex"<sup>51</sup>. Carsten Berg goes as far as to call it a "dysfunctional" system.<sup>52</sup> Adriana Varica, organiser of the ECI *Stop Vivisection*, has pleaded for simplification: "Since most signatures were collected online, the OCS is a crucial aspect for the future development of this new democracy instrument. The official ECI regulation promises that the OCS will be easily accessible and user-friendly. However, in its current version, it is neither and thus needs to be simplified."<sup>53</sup>

Frustration about the malfunctioning system actually prompted a group of IT experts to launch a specific ECI in 2012, the purpose of which was to call on the Commission to create a *Central public online collection platform for the European Citizens' Initiative*. It aimed at the creation of a single centralised, user-friendly and transparent online ECI platform to make the OCS better work. However, this ECI ended at an early stage, as it lacked the necessary financial resources.

The first release of the Commission's OCS caused so many difficulties that the Commission decided to grant the organisers of the first few ECIs a considerable extension to the 12-month support collection period. Since then, it has constantly improved the software; so far seven releases have been issued. The Commission keeps stressing that it puts a lot of effort in the OCS' functionality. It has commissioned an external study on the ECI's online signature collection system, which is currently ongoing.

Apart from the general criticism that addressed the basic requirement of getting the OCS up and running for a specific ECI, organisers also cited specific features as problematic,

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<sup>50</sup> An ECI that works!, p. 37.

<sup>51</sup> An ECI that works!, p. 49.

<sup>52</sup> An ECI that works!, p. 15.

<sup>53</sup> An ECI that works!, p. 30.

notably the application of a strong "captcha"<sup>54</sup> verification mechanism for signing, which is reportedly hard to decipher.

Overall, ECI organisers consider the OCS, as an administrative tool, unsuitable for effective campaigning, since it does not allow for sufficient customisation, linking to social media, use on mobile devices (smartphones or tablets) or collecting the email addresses of signatories. To include such features, which are basic requirements for campaigning, organisers need to find a workaround and implement it on the ECI's specific websites, a linking to which the Commission's OCS allows for. Apparently, the Commission is willing to include social media features in a future release, but objects to the inclusion of email address in the statement of support form as being contrary to its data protection policy, given the intended use for campaigning.

From their own experience, ECI organisers recommend that the Commission should provide a pre-certified and "low barrier online ECI tool which works instantly and without technical expertise"<sup>55</sup> for every registered ECI.

### **3.4.5. Timing and timespan to collect signatures**

The moment an ECI is registered with the Commission, the clock starts ticking for a 12-month period to collect support. However, organisers have often not finalised their preparations, as they can only start collecting online signatures once the authorities in the Member States have certified the Online Collection System (OCS). There is significant risk in investing effort and resources towards the OCS if the Commission ultimately rejects the registration of an ECI.

By defining a 12-month limit in respect of the collection time, the co-legislators aimed to ensure that the subject of the ECI remained relevant as long as it was running (recital 17 of the Regulation). However, Europe-wide campaigning requires time, due to language barriers, different cultures, the physical distance, and the cross-border dimension of the project. Hence many ECI organisers, supported by NGOs, recommend revising the current rules, to let the citizens' committee decide on the start of the collection time, within a specified margin of a few months, and/or by extending the collection time to 18 months. This argument was backed by the European Ombudsman, who included the request for extension in her letter to the Commission.

As stated above, many ECIs lost time because they were not ready when the EC approved the initiative for registration. Prisca Merz, organiser of the ECI *End Ecocide in Europe*, admitted that the reason for withdrawing and re-registering her initiative was to secure more time to prepare.<sup>56</sup> Three other ECI organisers acted in the same manner.

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<sup>54</sup> "Captcha", an acronym from Completely Automated Public Turing test to tell Computers and Humans Apart, is a challenge-response type technique aimed to ensure that human beings rather than automated programmes ("bots") are responding in an online transaction. Captcha uses distorted images of characters or numbers as a challenge; it is common in e-commerce or for online registrations.

<sup>55</sup> An ECI that works!, p. 67.

<sup>56</sup> An ECI that works!, p. 39.



### 3.5. Verification of signatures (Stage 4)

Before submitting an ECI to the Commission, the organisers need to send the collected statements of support – be they in electronic format or on paper – to the competent national authorities for verification and certification. They have three months to validate the signatures (Article 8). The checks may be based on random sampling.

The experience acquired to date with regard to the verification of signatures is limited, as only three ECIs passed the threshold of one million signatures. However, from the few successful ECIs, it has emerged that a high proportion of signatures are declared invalid at the verification stage. Following this logic, *The ECI Campaign* suggests in their "practitioner's checklist"<sup>57</sup> to strive instead for a safety margin of 20-25 per cent.

The ECI *Stop Vivisection*, which aims at phasing out animal testing, reported problems in the verification stage in so far as some Member States failed to certify the statements of support.<sup>58</sup> With a total of 1.170,326 signatures certified by other Member States, it nonetheless surpassed the threshold.

### 3.6. Submitting the ECI to the Commission and follow-up (Stage 5)

Once compliance with all ECI conditions set out in the Regulation has been ensured, the organisers of successful initiatives can submit their ECI to the Commission, who will then evaluate the objective. The Commission is required to reply within three months in the form of a Commission communication (COM document) explaining its legal and political conclusions on the ECI, including the action it intends to take (or the reasons for not taking action). Within three months following submission, the organisers also have the right to be received by the Commission "at an appropriate level" to explain their objectives in detail (art. 10), and to present their ECI at a public hearing of the European Parliament, at which the Commission is also represented (art. 11).

As stated above, and pursuant to the legal framework of the ECI, the Commission is not obliged to give a legal follow-up to a successful ECI. In such cases, no redress mechanism is foreseen. Therefore the way the Commission is dealing with the first successful ECIs will pave the way for future acceptance of this new instrument of participatory democracy amongst citizens. Potential organisers of future ECIs may be more inclined to take on the burden of an initiative if they see that its outcome is worthwhile.

Dougan stresses that the Commission's discretion over how to respond to an ECI does not preclude the final outcome. Even if it decides to table a legislative proposal in the spirit of the ECI, this may be substantially amended or even fail in the course of the negotiations with Council and the European Parliament. Conversely, if the Commission decides not to act on an ECI, the co-legislators could still take the initiative to call upon the Commission to do so. This is what Dougan calls "combining the pressure of participatory with that of representative democracy".<sup>59</sup>

<sup>57</sup>The ECI Campaign, Practitioner's checklist.

<http://www.citizens-initiative.eu/helpdesk/practitioners-checklist/>

<sup>58</sup> See their signatures report at <http://www.stopvivisection.eu/en/content/signatures>.

<sup>59</sup> Dougan, p. 1844.

So far, two ECIs have been submitted to the Commission: *Right2Water* and *One of Us*.<sup>60</sup> A third one, *Stop Vivisection*, as recently announced,<sup>61</sup> will be submitted shortly. **So far neither of the two successful initiatives were followed-up by a concrete legislative proposal.**

## 4. Follow-up to the two successful ECIs *Right2Water* and *One of Us*

### 4.1. *Right2Water*

The *Right2Water* ECI was one of the first initiatives ever, launched on 10 May 2012. Its objective was to invite the Commission to "propose legislation implementing the human right to water and sanitation, as recognised by the United Nations, and promoting the provision of water and sanitation as essential public services for all". The initiative called for 1) EU institutions and Member States to be obliged to ensure that all inhabitants enjoy the right to water and sanitation; 2) water supply and management of water resources not to be subject to internal market rules and that water services be excluded from liberalisation; 3) the EU to increase its efforts to achieve universal access to water and sanitation.

This is one of the very few ECIs to be strongly supported and promoted by trade unions, in particular by the EU umbrella organisation European Federation of Public Service Unions (EPSU), which invested €140,000 in this ECI. The initiative benefitted in particular from an extensive campaign in Germany, where a TV broadcast on water liberalisation - which was only one aspect of the ECI - led to massive support for this ECI.<sup>62</sup>

The ECI *Right2Water* was officially submitted to the Commission on 20 December 2013, after having obtained the support of 1.840,486 citizens<sup>63</sup> and having passed the national thresholds in 13 Member States. As foreseen in the Regulation, its organisers were received by the Commission at high level, and the European Parliament organised a public hearing on 17 February 2014.

The Commission put forward its legal and political conclusions on 19 March 2014.<sup>64</sup> This Communication describes first the existing *acquis* on water and sanitation, as a basis to identify potential gaps, and lists a series of specific measures envisaged by the Commission. Although these are all related to the subject of the ECI, none has the character of a legislative initiative. The Commission committed itself, *inter alia*, to reinforce the implementation of its water quality legislation by the Member States; to launch an EU-wide public consultation on the Drinking Water Directive, notably in view of improving access to quality water in the EU; to continue to ensure EU neutrality as

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<sup>60</sup> *Right2Water* submitted its ECI on 20 December 2013, *One of us* on 27 February 2014.

<sup>61</sup> See <http://www.citizens-initiative.eu/eci-stop-vivisection/>.

<sup>62</sup> An ECI that works!, p. 15.

<sup>63</sup> Out of this 1.680,172 signatures were declared valid in the verification process.

<sup>64</sup> Communication from the Commission on the European Citizens' Initiative "Water and sanitation are a human right! Water is a public good, not a commodity!" COM(2014) 177.

regards national, regional and local choices for the provision of water services; and to advocate universal access to safe drinking water and sanitation as a priority area in the post-2015 development framework.

This Communication was criticized by the ECI organisers as lacking ambition.<sup>65</sup> For instance, the Commission did not make any legal commitment to block EU initiatives aiming at liberalising water and sanitation services, as the ECI had called for. Observers also expressed dissatisfaction, by calling the communication "remarkably vague and unsatisfactory in terms of potential changes in EU law".<sup>66</sup>

In its opinion<sup>67</sup>, the EESC acknowledged the Commission's recognition of the specificity and importance of water services and its decision to exclude water supply services from the proposal for a Directive on Public Procurement Concessions, however it also concludes that the Commission's Communication has "lacked any real ambition in its response to the expectations of more than 1.6 million people".

The European Parliament's ENVI Committee has launched an own-initiative report on the follow-up of the *Right2Water* ECI (Rapporteur Lynn Boylan, GUE/IE). In the meantime, the envisaged evaluation of the Drinking Water Directive has been included into the Commission Work Programme 2015.<sup>68</sup>

## 4.2. One of us

The ECI *One of us* was launched on 11 May 2012. This pro-life campaign aimed at phasing out EU funding of research involving human embryos. It met with considerable support in predominantly Catholic countries such as Italy, Poland, Spain and France. Even though the general level of media attention was limited, both Pope Francis and Pope Benedict publicly supported this ECI,<sup>69</sup> which eventually scored the highest number of signatories: 1.897,588 EU citizens signed this ECI,<sup>70</sup> whereby the threshold was passed in 20 Member States.

The organisers presented their cause in a public hearing in the European Parliament on 10 April 2014, and the Commission reacted with a Communication on 28 May 2014<sup>71</sup>. However, as was already apparent at the public hearing, the organisers felt fundamentally misunderstood and are seeking annulment of the Communication before the European Court of Justice.<sup>72</sup>

<sup>65</sup> ECI Right2Water press release "Commission lacks ambition in replying to first European Citizens' Initiative", 19 March, 2014.

<http://www.right2water.eu/news/press-release-commission-lacks-ambition-replying-first-european-citizens%E2%80%99-initiative>

<sup>66</sup> MEP Sandrine Bélier, in: *An ECI that works!*, p. 81. See also Sarah Schadendorf: *Verwässerte direkte Demokratie*, a critical assessment of the Communication published on the German law blog [juwiss.de](http://www.juwiss.de).

<http://www.juwiss.de/tag/sarah-schadendorf/>

<sup>67</sup> EESC own-initiative opinion, adopted 15 October 2014. OJ C 12/33 of 15 January 2015.

<sup>68</sup> See Commission Work Programme 2015, Annex III (REFIT actions).

<sup>69</sup> *An ECI that works!*, p. 16.

<sup>70</sup> Out of these 1.721,626 were declared valid during the verification process.

<sup>71</sup> COM(2014) 355.

<sup>72</sup> *One of Us and Others v. Parliament and Others* – Case T-561/14; date of application: 25/07/2014.

## 5. The European Parliament's role and position

Since the origins of the debate on the establishment of a citizens' initiative in the framework of the European Convention, the European Parliament has been a strong supporter of the ECI. The amendments it put forward during the negotiations on the ECI Regulation aimed at increasing the tool's citizen-friendliness. Some amendments were rejected by the Council, e.g. lowering the threshold to one fifth of Member States (the original Commission proposal stipulated one third, whereas the compromise in force stipulates one quarter); obliging the Commission to set up a user-friendly helpdesk; or that the Regulation makes explicit reference in its Recitals to proactively promoting and raising awareness of the new instrument.

Conversely, Parliament successfully pushed for an open-source software solution for the online collection of signatures, which the Commission had to provide free of charge, and for altering the review clause to three years (instead of five in the Commission proposal), allowing for the identification and correction of shortcomings of the new instrument at an earlier stage. Furthermore, Parliament insisted on enshrining an appropriate follow-up to successful ECIs into the Regulation, notably that organisers should be received by the Commission and that a public hearing should be organised in the European Parliament.

Since 2010, the committee on Constitutional affairs (AFCO) has consistently put forward amendments to the general draft budget of the European Union, aiming at allocating resources to set up a proper system of tools for a successful implementation of the ECI Regulation, or aiming at using the resources of other EU citizenship programmes to provide exhaustive communication and adequate support.

The European Parliament's most visible role in the ECI process today is the organisation of public hearings for successful initiatives. The Parliament serves as a platform for the organisers to publicly present their initiative, in order to stimulate a public debate. As mentioned above, so far, two hearings were held, on the *Right2Water* ECI on 17 February 2014, and on the *One of Us* ECI on 10 April 2014. Neither the ECI Regulation nor the Parliament's Rules of Procedure stipulate details about the hearing, whether the subject should be discussed in a balanced manner (pros and cons), nor do the rules cover whom to invite. In procedural terms, the hearing is organised by the competent committee, according to the subject of the ECI, with the petitions committee (PETI) always associated. PETI, which is in general actively monitoring the application of the ECI, is in principle also open to organising hearings for unsuccessful ECIs: according to Rule 218 of the Parliament's rules of procedure, these "may be examined by the committee responsible for petitions if it considers that follow-up appropriate".

Following a public hearing, parliamentary committees can decide to support ECIs by means of own-initiative reports or motions for resolutions, as a way to pressure the Commission into taking action. This is indeed the case concerning the *Right2Water* ECI.<sup>73</sup>

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<sup>73</sup> Follow-up to the European citizens' initiative *Right2Water*, Rapporteur Lynn Boylan (GUE, IE), 2014/2239(INI).

## 5.1. EP resolutions

In a number of resolutions, the European Parliament voiced its concerns about the unsatisfactory implementation of the ECI and called for improvements:

- European Parliament resolution of 12 March 2014 on the EU Citizenship Report 2013. EU citizens: your rights, your future; TA(2014)0233.  
With regard to ECIs, Parliament called on EU governments to implement the ECI Regulation in such a way as to ensure their citizens living abroad can support an initiative.
- European Parliament resolution of 11 March 2014 on the activities of the Committee on Petitions 2013; TA(2014)0204.  
Parliament stressed the need for a regular review of the ECI's state of implementation, criticising the "many weaknesses and the rather cumbersome nature of the existing legal framework which does not fully translate the spirit of the Treaty provision".
- European Parliament resolution of 10 October 2013 on the activities of the Committee on Petitions 2012; TA(2013)042.  
Parliament criticised the bureaucratic burdens in the practical running of the ECI due to a lack of IT support and disparate use in the national administrations.
- European Parliament resolution of 4 July 2013 on the European Parliament's priorities for the Commission Work Programme 2014; TA(2013)0332.  
Parliament called on the Commission to assess the implementation of the regulation on the European Citizens' Initiative and to amend it, where appropriate.

Based on two oral questions<sup>74</sup>, on 18 April 2013, the European Parliament held a plenary debate on the first experiences with the practical implementation of the ECI, following a Commission statement. Members' main concern was the badly functioning Commission software for the ECI, and the estimated 11 million citizens deprived of their right to support an ECI, due to disenfranchisement. No resolution was adopted. Moreover, the ECI was the subject of numerous parliamentary questions in the framework of MEPs' right of interpellation. In the current legislative term (since July 2014) individual Members have already addressed five written questions to the Commission. Many MEPs have actively supported individual ECIs.

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<sup>74</sup> O-000032/2013 to the Council and O-000033/2013 to the Commission.

## 6. Recommendations for a better functioning ECI

As described in this paper, some observers have closely monitored the early years of the ECI and identified a number of shortcomings in its implementation, which impact negatively on the effectiveness and acceptance of this relatively new instrument of transnational participatory democracy. They expect the Commission's upcoming review to be the first step towards an overhaul of the ECI Regulation. For that purpose and based on broad stakeholder consultations as well as case-by-case scrutiny of past citizens' initiatives, some actors have started to issue their recommendations for a possible future ECI reform. Their common aim is to urge the Commission and the Member States to draw on the lessons learned and to transform the European Citizens' Initiative into a citizen-friendly tool.

This chapter lists the sets of recommendations as put forward in the externally commissioned study of the European Parliament, and by NGOs active in the field.

### 6.1. Milieu Ltd. study for the European Parliament

This externally commissioned study (*The European Citizens' Initiative – first lessons of implementation*) does not reflect the position of the European Parliament, even if it was positively received by Members of the AFCO and PETI committees.<sup>75</sup>

1. A "Citizens' Initiative Centre" should be set up as a one-stop-shop for support and information to ECI organisers.
2. The Commission should provide more information and more detailed evidence and motivated arguments in their refusal or acceptance letters for registration of the ECIs.
3. The Commission should provide their servers for the OCS on a permanent basis.
4. The Commission should improve its OCS.
5. The EU institutions (EESC, European Parliament or other) should provide the organisers with free translation services for the texts of their ECIs.
6. In light of the upcoming Court judgments, the Commission should clarify if ECIs can propose Treaty amendments.
7. The ECI citizens' committee should receive reimbursement to participate in the EP hearings for all of its members (i.e. seven instead of currently three).
8. The European Parliament should clarify in its rules of procedure the aim and structure of the hearing, including the role of the other EU institutions.
9. The Commission should proceed to regular random checks on the transparency obligations of the ECI organisers regarding financial support.
10. The Commission should clarify the position of EU officials so that potential signatories/campaigners can exercise their rights while respecting their obligations.
11. Revise Article 6 and Annex III and IV of the Regulation to establish a simplified single statement of support form.
12. Revise Article 11(4) TEU to clarify a) if the ECI can propose EU primary law amendments and b) if the ECI is a citizens' right of initiative requesting the proposal of a specific legal act or an agenda-setting tool to raise issues of concerns for citizens.

<sup>75</sup> The study was presented on 24 September 2014 before PETI, and on 6 November 2014 in the AFCO committee, in the framework of the workshop *Challenges in constitutional affairs in the new term: taking stock and looking forward*.

## 6.2. The ECI Campaign<sup>76</sup>

1. Reduce and harmonise personal data requirements across Member States.
2. Eliminate ID number requirements.
3. Ensure that all EU citizens can support an ECI – wherever they live.
4. Lower the age of ECI support to 16.
5. Redesign the online signature collection system (OCS).
6. Allow to collect e-mail address within the main ECI support form.
7. Lengthen the signature collection time to 18 months.
8. Give ECI campaigns time to prepare: let them choose their launch date.
9. Provide a support infrastructure for ECIs with legal advice, translation and funding.
10. Provide an EU legal status for ECI citizens' committees.
11. Modify the first legal admissibility check.
12. Increase public and media awareness of the ECI.

## 6.3. ECI Support Centre<sup>77</sup>

1. Every household should receive a leaflet about ECIs and a regulation should oblige the EU institutions and national governments to inform EU citizens of their new agenda-setting right.
2. A reliable and user-friendly system for online signature collection should be maintained permanently by the European Commission and offered to organisers who may also benefit from support from the EU for translation and meeting facilities.
3. An independent civil society help desk should provide more personalised assistance with legal issues, campaigning and communication strategies.
4. A start-up fund should allow ECI organisers to test their ideas, pilot signature collection and design the necessary tools before registration, provided they stand a reasonable chance of success.
5. A major simplification of the regulation should be carried out in the revision of the regulation, in particular to reduce the multiplicity of the different national requirements for signature collection and, in particular, the use of ID or passport numbers, which is a real deterrent.
6. Experience shows that 1 year is insufficient for organisers of initiatives to have a fair chance of collecting 1 million signatures: as many civil society organisations warned before the regulation was adopted, 18-24 months would be preferable.
7. For the ECI to become part of a European civic and democratic culture, multilingual websites and tips for organisers should be supplemented by training programmes and educational material.
8. The new regulation should clarify that citizens' committees are only subject to the data protection law of the Member State where their representative or headquarters organisation is established and not to different regimes across other Member States.
9. Organisers and the general public should know the state of play with ECIs at all stages, as well as the reasons for decisions affecting individual initiatives. Transparency is proving to be important to build knowledge and trust that ECIs are fairly treated, so that basic practice established should be codified.
10. In the new regulation, there should be a commitment to enlarge access to ECIs. There should be a guarantee that European citizens resident in other Member States can sign an ECI. There should also be a debate about lowering the age of eligibility to participate to and extending this collective right for European citizens to legally resident third country nationals in the Union

<sup>76</sup> <http://www.citizens-initiative.eu/an-eci-that-works/>

<sup>77</sup> [http://ecas.issuelab.org/resource/10\\_recommendations\\_to\\_make\\_a\\_success\\_of\\_european\\_citizens\\_initiatives](http://ecas.issuelab.org/resource/10_recommendations_to_make_a_success_of_european_citizens_initiatives)

#### 6.4. ECAS

1. Clarify through public debate the nature of the ECIs as an agenda setting instrument.
2. Define the remit of the "legal act" and/or of the political actions that the European Commission can initiate or undertake.
3. Provide a definition of "manifestly outside" that is clear, easy to understand and is not subject to arbitrary interpretation.
4. Clarify the procedure for the legal admissibility test and ensure transparency of the decision-making process.
5. Establish an ECI officer, similar to the Hearing Officer in competition law.

### 7. Main references

Carsten Berg and Janice Thomson (eds.) (2014), *An ECI that works! Learning from the first two years of the European Citizens' Initiative / The ECI Campaign*. 122 p.

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James Organ (2014), *Decommissioning direct democracy? A critical analysis of Commission decision-making on the legal admissibility of European Citizens' Initiative proposals*, In *European constitutional law review*, 10, pp 422-443.

European Citizens Action Service - ECAS (2014), *The European Citizens' Initiative registration: falling at the first hurdle? Analysis of the registration requirements and the "subject matters" of the rejected ECIs*. December 2014, 26 p.



## 8. Annex: List of all ECIs to date

	Subject	Current status	Registered	Refused	Withdrawn	Closed	Answered by Commission
1	Fraternité 2020 - Mobility. Progress. Europe.	Closed (insufficient support)	09/05/2012			01/11/2013	
2	Single Communication Tariff Act (I)	Withdrawn	10/05/2012		03/12/2012		
3	Water and sanitation are a human right! Water is a public good, not a commodity! (also known as "Right2Water")	Answered by the Commission	10/05/2012				Communication <a href="#">COM (2014) 177</a> and <a href="#">follow-up</a>
4	EU Directive on Dairy Cow Welfare	Withdrawn	10/05/2012		20/07/2012		
5	One of us **	Answered by Commission	11/05/2012				Communication <a href="#">COM (2014) 355</a> and <a href="#">follow-up</a>
6	Let me vote (I)	Withdrawn	11/05/2012		29/01/2013		
7	Recommend singing the European Anthem in Esperanto	Refused		30/05/2012			
8	Fortalecimiento de la participación ciudadana en la toma de decisiones sobre la soberanía colectiva	Refused		30/05/2012			
9	My voice against nuclear power	Refused		30/05/2012			
10	Stop vivisection	Signatures verified	22/06/2012			01/11/2013	
11	High Quality European Education for All	Closed (insufficient support)	16/07/2012			01/11/2013	
12	Pour une gestion responsable des déchets, contre les incinérateurs	Closed (insufficient support)	16/07/2012			01/11/2013	
13	Abolición en Europa de la tauromaquia y la utilización de toros en fiestas de crueldad y tortura por diversión	Refused		19/07/2012			
14	Suspension of the EU Climate & Energy Package	Closed (insufficient support)	08/08/2012			01/11/2013	
15	Central public online collection platform for the European Citizen Initiative	Closed (insufficient support)	27/08/2012			01/11/2013	
16	One Million Signatures for "A Europe of Solidarity" **	Refused		06/09/2012			
17	Création d'une Banque publique européenne axée sur le développement social, écologique et solidaire	Refused		06/09/2012			
18	Unconditional Basic Income (I)	Refused		06/09/2012			
19	End Ecocide in Europe: A Citizens' Initiative to give the Earth Rights (I)	Withdrawn	01/10/2012		21/01/2013		
20	European Initiative for Media Pluralism (I)	Withdrawn	05/10/2012		20/08/2013		
21	30 km/h - making the streets liveable!	Closed (insufficient support)	13/11/2012			13/11/2013	
22	Kündigung Personenfreizügigkeit Schweiz	Withdrawn	19/11/2012		04/02/2013		
23	Single Communication Tariff Act (II)	Closed (insufficient support)	03/12/2012			03/12/2013	
24	Unconditional Basic Income (UBI) - Exploring a pathway towards emancipatory welfare conditions in the EU (II)	Closed (insufficient support)	14/01/2013			14/01/2014	
25	End Ecocide in Europe: A Citizens' Initiative to give the Earth Rights (II)	Closed (insufficient support)	21/01/2013			21/01/2014	
26	Enforcing selfdetermination Human Right in the EU	Refused		21/01/2013			

	Subject	Current status	Registered	Refused	Withdrawn	Closed	Answered by Commission
27	Let me vote (II)	Closed*	28/01/2013			28/01/2014	
28	ACT 4 Growth	Closed*	10/06/2013			10/06/2014	
29	Teach for Youth -- Upgrade to Erasmus 2.0	Withdrawn	17/06/2013		15/06/2014		
30	Ensemble pour une Europe sans prostitution légalisée	Refused		18/07/2013			
31	Cohesion policy for the equality of the regions and sustainability of the regional cultures **	Refused		25/07/2013			
32	Stop cruelty for animals	Refused		25/07/2013			
33	Do not count education spending as part of the deficit! Education is an investment!	Closed (insufficient support)	06/08/2013			06/08/2014	
34	European Initiative for Media Pluralism (II)	Closed*	19/08/2013			19/08/2014	
35	Minority SafePack – one million signatures for diversity in Europe	Refused		13/09/2013			
36	To hold an immediate EU Referendum on public confidence in European Government's (EG) competence	Refused		29/10/2013			
37	Right to Lifelong Care: Leading a life of dignity and independence is a fundamental right! **	Refused		05/11/2013			
38	Our concern for insufficient help to pet and stray animals in the European Union	Refused		06/11/2013			
39	Weed Like to Talk	Closed*	20/11/2013			20/11/2014	
40	European Free Vaping Initiative	Closed (insufficient support)	25/11/2013			25/11/2014	
41	The Supreme Legislative & Executive Power in the EU must be the EU Referendum as an expression of direct democracy	Refused		23/01/2014			
42	A new EU legal norm, self-abolition of the European Parliament and its structures, must be immediately adopted.	Refused		23/01/2014			
43	Turn me Off!	Withdrawn	03/02/2014		22/04/2014		
44	New Deal 4 Europe - for a European special plan for sustainable development and employment	Withdrawn	07/03/2014		31/01/2015		
45	MOVEUROPE	Withdrawn	24/03/2014		26/06/2014		
46	Ethics for animals & kids	Refused		26/03/2014			
47	Vite l'Europe sociale ! Pour un nouveau critère européen contre la pauvreté	Refused		05/08/2014			
48	STOP TTIP **	Refused		10/09/2014			
49	An end to front companies in order to secure a fairer Europe	Open	01/10/2014				
50	For a socially fair Europe! Encouraging a stronger cooperation between EU Member States to fight poverty in Europe	Open	19/12/2014				
51	Á l'écoute	Open	09/02/2015				

\* ECIs for which the collection of signatures has closed, but they have not been submitted. The Commission states not to avail of information whether these initiatives have gained sufficient support.

\*\* Cases pending before the ECJ.



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The European Citizens' Initiative (ECI) has been in operation for three years now. By 1 April 2015, the Commission is required to issue its first report on the application of the ECI Regulation. It is widely expected that this review will prompt a revision of that regulation. Observers have identified a number of shortcomings in its implementation, which impact negatively on the effectiveness and acceptance of this relatively new instrument of transnational participatory democracy. Against this background, stakeholders are calling for simplification and a substantial revision of the current ECI framework and its application, including its implementation in the EU Member States.

This paper seeks to provide a systematic overview of the current weaknesses in the ECI process and summarises concrete recommendations actors have put forward for a better functioning ECI.

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