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Revising the European Citizens' Initiative

The ECI enables European citizens to invite the Commission to table a proposal for a legal act. The detailed rules for such initiatives are laid down in a 2011 regulation, whose main stated aim is encouraging citizens' participation in the political life of the European Union (EU). However, since the regulation became applicable in April 2012, numerous actors have raised concerns regarding the instrument's functioning and have called for reform, aiming to simplify the existing procedures and increasing the tool's usability. On 13 September 2017, the Commission presented a legislative proposal which would update the tool and replace the existing regulation on the European Citizens' Initiative.

Following interinstitutional negotiations between September and December 2018, the co-legislators reached provisional agreement on the proposal for revision of the ECI. The agreed text now needs to be approved by the Parliament and Council.

Proposal for a Regulation of the European Parliament and of the Council on the European Citizens' Initiative

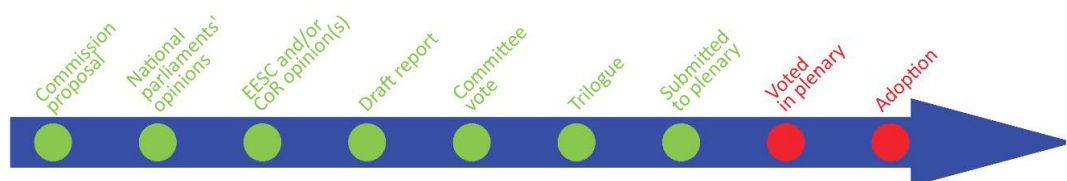
COM(2017) 482 13.9.2017 2017/0220(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')

Committee responsible: Constitutional Affairs (AFCD)

Rapporteur: György Schöpflin (EPP, Hungary)

Shadow rapporteurs: Sylvia-Yvonne Kaufmann (S&D, Germany)
Morten Messerschmidt (ECR, Denmark)
Charles Goerens (ALDE, Luxembourg)
Barbara Spinelli (GUE/NGL, Italy)
Josep-Maria Terricabras (Greens/EFA, Spain)
Fabio-Massimo Castaldo (EFDD, Italy)
Gerolf Annemans (ENF, Belgium)

Next steps expected: First-reading vote in plenary



1 March 2019

Third edition

The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.

Please note this document has been designed for on-line viewing.



Introduction

The right of EU citizens to invite action from the Commission originated in the Convention on the Future of Europe (2002-2003), and was incorporated in the [Treaty establishing a Constitution for Europe](#) (2004) which was not ratified. It was however taken over in the Lisbon Treaty (2007), aimed at, inter alia, improving the democratic functioning of the EU. The European Citizens' Initiative (ECI) allows not less than 1 million EU citizens to invite the European Commission, within the framework of its powers, to submit a proposal on a matter where they consider that 'a legal act of the Union is required for the purpose of implementing the Tre

aties' (Article 11(4) of the Treaty on European Union (TEU)). The detailed rules for an ECI are laid down in Regulation [211/2011](#) (ECI Regulation), adopted under the ordinary legislative procedure. Among its main stated aims is encouraging citizens' participation at EU level, by establishing a user-friendly instrument of participatory democracy with simple and proportionate procedures.

However, since the regulation became applicable in April 2012, numerous voices (including the European Parliament, European Ombudsman, the Committee of the Regions, the European Economic and Social Committee, ECI organisers, and scholars) have raised concerns regarding the functioning of the ECI and called for reform. The Commission had initially resisted such calls, taking the view that the ECI Regulation remains too young an instrument for legislative revision.¹ Yet, it has implemented several practical measures to improve its functioning (e.g. better support for organisers, improved software for online collection of signatures, and a commitment to register part(s) of initiatives). On 13 September 2017, albeit not in its annual work programme for 2017, the Commission adopted a [proposal](#) which would replace the existing ECI Regulation.

Existing situation

Procedural requirements

The ECI procedure consists of five steps, set out in Regulation 211/2011. First, it requires ECI organisers to set up a minimum organised structure in the form of a **citizens' committee**, consisting of at least seven natural persons residing in at least seven different Member States. Citizens' committees lack legal personality, which implies potential personal liability of the organisers.

As a second step, ECI organisers are required to **register** the initiative with the Commission. The latter has two months for registration from the receipt of information, provided the proposed initiative: (a) does not manifestly fall outside the framework of its powers to submit a proposal for a legal act, (b) is not manifestly abusive, frivolous or vexatious, and (c) is not manifestly contrary to the values of the EU. Where the Commission refuses to register an ECI, it has to provide the reasons for such a decision.

Third, upon registration, ECI organisers have a period of 12 months to collect, in paper form or electronically, **statements of support**. The form for such statements as well as personal information to be provided with

¹ As expressed in, for example, the meeting of the expert group on the ECI on 19 January 2016 (summary report of the meeting can be accessed via Commission's ECI register [website](#)).



them depend on the Member State responsible (i.e. Member State of nationality or residence) and is not uniform across the EU. According to the Commission, as many as [13 different forms](#) for statements of support are currently in use, depending on what is required by different Member States.² Where such statements are collected electronically, the online collection systems (OCS) used for this purpose have to have adequate security and technical features, to be certified by the Member State in which the data collected will be stored (the Commission offers organisers open source software, complying with these requirements).

Organisers and signatories of an ECI must be Union citizens, old enough to vote in EP elections (18 years, but 16 years in Austria). Third-country nationals and legal entities are thereby excluded from organising and signing an ECI. To be successful (in procedural terms), an ECI must not only reach the threshold of 1 million signatures. To be sufficiently representative, such signatures must come from at least one quarter of Member States, in each of which national minimum thresholds need to be fulfilled.

The fourth step towards a successful ECI entails the **verification** of the statements of support by the responsible national authorities. For this purpose, the latter is to carry out 'appropriate checks' and certify the number of valid statements of support.

As a final step, provided the necessary thresholds are reached, the organisers may submit the ECI to the Commission. The Commission has three months to set out in a communication its legal and political **conclusions**, and to give reasons for taking – or not taking – action. Within the same time limit, the organisers have the opportunity to present their initiative in a public hearing at the Parliament.

The ECI in practice: statistics and issues of concern

Since the ECI Regulation became applicable in April 2012, more than 70 initiatives have been submitted to the Commission. Immediately after the ECI's introduction, citizens used it with great enthusiasm, but the numbers of initiatives submitted have significantly declined in recent years. While in 2012 (from April to December 2012), citizens submitted 27 ECIs, this number dropped to 8 in 2014 and to 6 in 2017. Various stakeholders have described this as a worrying trend, signalling that the current ECI process is too demanding, and called for reform.³ In 2018, there was a slight increase in the number of initiatives submitted.

A significant number of initiatives, in particular those submitted during the initial years of the ECI's existence, failed at the first hurdle: the 'legal admissibility check' at the stage of registration. The European Commission refused about one third of the initiatives submitted as 'manifestly falling outside' its powers to propose a legal act for implementing the Treaties. Critical observers have in this context suggested that the Commission approach to the legal admissibility test has been overly 'restrictive' and 'formalistic'.⁴ However, the last three years have seen a significant increase in positive registration decisions: since mid 2015, only three initiatives ('Stop Brexit', 'British Friends – Stay with us in EU' and an EU-wide referendum

2 The most extensive forms ask the signatories to indicate their name, residence address, date and place of birth, nationality and personal identification document number (Austria, France and Italy) and the name of the issuing authority of the document (Italy). See [SWD\(2017\) 294 final](#), pp. 64-65.

3 Among many others, Berg, C. and Glogowski, P., Heavy stones in the Road: The ECI in Practice, in: Conrad, M., Knaut A. and Böttger, K. (eds), *Bridging the Gap? Opportunities and Constraints of the European Citizens' Initiative*, Nomos, 2016, p. 206.

4 Organ, J., [Decommissioning Direct Democracy? A Critical Analysis of Commission Decision-Making on the Legal Admissibility of European Citizens' Initiative Proposals](#), *European Constitutional Law Review*, 2014, Vol. 10 No. 3, p. 442.



on UK withdrawal) were refused registration, due to manifestly falling outside the Commission's powers. In March 2018, the Commission [reported](#) that an estimated 9 million citizens from all 28 Member States have supported an ECI.

The Commission's initial approach to the legal admissibility test has resulted in, first, calls to provide better (legal) advice and guidance to ECI organisers, as the latter often find it difficult to bring their ECIs into line with what is permitted/required by the EU Treaties. Second, a number of the Commission's decisions to refuse registration led to complaints to the European Ombudsman, as well as legal challenges before the General Court, resulting in a growing body of case law addressing different aspects of the ECI procedure.

Legal challenges

The ECI Regulation obliges the Commission to give reasons when refusing to register an initiative. According to the General Court in, inter alia, the [Anagnostakis](#) and [Minority SafePack](#) judgments, this obligation is a specific expression of the duty to state the reasons established in the EU Treaties (Article 296 of the Treaty on the Functioning of the European Union (TFEU)). Besides enabling Union courts to carry out their judicial review function, this duty aims at providing 'the person concerned with sufficient information to make it possible to determine whether the decision is well founded ...'. According to the Court, a statement of reasons under Article 296 TFEU must be appropriate to the nature of the measure in question, but it is not necessary for such statement 'to go into all the relevant facts and points of law'⁵. However, a citizen who has proposed an initiative 'must be put in a position to be able to understand the reasons' for its refusal by the Commission, given that such refusal has an impact on the 'effective exercise of the right enshrined in the Treaty'⁶.

Minority SafePack judgment

In the *Minority SafePack* judgment of 3 February 2017, the General Court for the first time annulled a Commission decision to refuse registration of an ECI, due to the Commission's failure to comply with its duty to state the reasons. The initiative aimed at improved protection of persons belonging to national and linguistic minorities, and proposed 11 legal acts in different areas (language, education, regional policy, etc.). While the Commission acknowledged that some of the requested acts, if taken individually, could fall within the framework of its powers, it took the view that the ECI Regulation does not provide for registration of only a part of the initiative, and concluded that the initiative manifestly falls outside its powers.

According to the Court, the Commission manifestly failed to provide the applicant with 'sufficient elements to enable the applicant to ascertain the reasons for the refusal ...' (paragraph 33). By not indicating those of the proposed measures that are outside its competence, nor the reasons for such conclusion, the Commission has failed to comply with the duty to do so, resulting in the annulment of the decision. While the Court did not explicitly rule on the admissibility of the partial registration of an initiative, in the ECI Day speech on 11 April 2017, European Commission First Vice-President, Frans Timmermans, [announced](#) that the Commission will now register the **part of an initiative** that is compliant with the rules, instead of dismissing an ECI in its entirety. The new Commission proposal for a revised ECI explicitly envisages the possibility of partial registration, where 'a substantial part of the initiative' is not manifestly outside the Commission's powers.

⁵ Case [T-450/12](#), *Alexios Anagnostakis v European Commission*, paragraph 24.

⁶ Case [T-450/12](#), *Alexios Anagnostakis v European Commission* (appeal pending), paragraphs 22-26; case [T-646/13](#), *Minority SafePack v European Commission*, paragraphs 15-18.



Article 11(4) TEU allows citizens to invite the Commission to submit ‘any appropriate proposal’ within the Commission’s powers on matters where they consider that a legal act is required *for the purpose of implementing the Treaties*. First, it is widely argued that this excludes proposals for Treaty change (albeit some have challenged this position⁷). Second, while the term ‘legal act’ has often been (mistakenly) interpreted as referring to a ‘legislative act’, it is in fact broader and may include legal acts not adopted following a legislative procedure. The scope of the term has been addressed in, inter alia, the General Court’s [judgment](#) regarding the ‘Stop TTIP’ initiative.

Michael Efler (request entitled Stop TTIP) v European Commission judgment

The ‘Stop TTIP’ initiative requested the Commission to recommend to the Council to withdraw the mandate to negotiate the TTIP (Transatlantic trade and investment partnership). With reference to being manifestly outside its powers, the Commission had refused to register the initiative as it took the view that the decision withdrawing an authorisation to open negotiations does not come within the concept of ‘legal act’ as it is preparatory and does not produce effects vis-à-vis third parties.

Referring to the principle of democracy as one of the fundamental values of the EU, the Court disagreed with this interpretation. It held that the ECI mechanism aims at improving the democratic functioning of the European Union, by granting every citizen a right to participate in its democratic life. Therefore, it ‘requires an interpretation of the concept of legal act which **covers legal acts such as a decision to open negotiations** with a view to concluding an international agreement, which manifestly seeks to modify the legal order of the European Union’ (paragraph 37). Following the annulment of its original decision, the Commission has now registered the initiative, which is currently in the process of signature collection.

Signature collection

ECI organisers have reported several challenges regarding the phase of gathering support, including issues regarding **data requirements** and **online collection systems** (OCS). In particular, observers and ECI organisers bemoan the numerous and complex data requirements that citizens need to provide when supporting an initiative. Reportedly, it not only creates a high administrative burden on organisers but may also operate as a disincentive for citizens to support initiatives, given that some of the required data is considered sensitive (e.g. personal identification numbers)⁸. Already in his 2010 [opinion](#) on the proposal for the ECI Regulation, the European Data Protection Supervisor (EDPS) noted that ‘the EDPS does not see the added value of the personal identification for the purpose of verifying the authenticity of the statements of support’ (paragraph 10).

Initially, organisers had also pointed to the (technical) difficulties regarding the Commission’s online collection system, which impede signature collection (e.g. incompatibility with mobile devices and impossibility to link to social media). These problems have been progressively improved and/or (partially) resolved by the Commission; further improvements are set out in the current proposal.

⁷ Dougan, M., What are we to make of the Citizens’ Initiative?, *Common Market Law Review*, Vol. 48, 2011, p. 1836.

⁸ Berg, C. and Glogowski, P., op. cit.. See also Commission [SWD](#) accompanying the proposal for the ECI Regulation



Finally, under the current ECI Regulation, the time period for signature collection starts immediately upon successful registration of an initiative. However, in many cases organisers have not yet obtained certificates from national authorities regarding their online collection systems, which effectively leaves them with less than 12 months for gathering support.

Successful initiatives and their follow up

Since the ECI's launch in April 2012, of the more than 70 initiatives proposed to date, four ECIs have been successful in collecting 1 million signatures: 'Right2Water', 'One of us', 'Stop vivisection' and 'Ban Glyphosate'. The Commission has taken follow-up actions regarding three of these. A fifth initiative, '[Minority Safepack](#)', has collected the required number of signatures but has not yet been submitted to the Commission.

On 1 February 2018, as a long-awaited legislative follow-up of the ECI 'Right2Water', the Commission adopted a proposal for a revised Drinking Water Directive, which at least partially responds to the organisers' objectives. In response to the fourth initiative successful in gathering sufficient support ('Ban Glyphosate'), the Commission, in a communication of 12 December 2017, committed to making legislative proposals aimed at increasing the transparency and quality of scientific assessments – which was one of the initiative's aims. On 11 April 2018, the Commission published a [proposal](#) to this end. Regarding the 'Stop Vivisection' initiative, the Commission has committed to non-legislative follow-up action.

European Citizens' Initiative One of Us and others v European Commission

The fourth successful initiative, 'One of us', aimed at ending EU financing for research, development aid and public health activities involving the destruction of human embryos, including direct and indirect funding of abortion. In its [communication](#) in response to the initiative, the Commission took the view that the existing legal framework was adequate and did not commit to actions required by the organisers. The organisers challenged the Commission's response before the General Court, which dismissed the action in its [judgment](#) of 23 April 2018.

First, regarding admissibility, the Court held the action against the Commission communication admissible, suggesting that the contested communication represented the Commission's final position, and produced 'binding legal effects such as to affect the interests of the applicants by bringing about a distinct legal change in their position' (para. 77). According to the Court, the non-submission of the Commission's refusal to propose a legal act to judicial review would compromise the objectives of Regulation 211/2011, which ultimately aims at encouraging participation of citizens in democratic life and making the EU more accessible (para. 93).

Second, regarding substance, the Court recalled that the EU Treaties confer upon the Commission a near-monopoly of legislative initiative, which 'is not affected by the right to the ECI provided for in Article 11(4) TEU'. Referring to the ECI as an 'invitation' to the Commission, the Court held that the terms of Article 11(4) TEU 'do not support an interpretation according to which the Commission is required to submit a proposal for a legal act following an ECI' (para. 111). According to the Court, an interpretation to the contrary as proposed by the applicants would essentially result in the 'Commission being stripped of all discretion in exercising its powers of legislative initiative following an ECI.' (para. 115). The Court, moreover, took the view that Commission's communication was 'sufficiently reasoned' (para. 153), and that the Commission did not commit a manifest error of assessment (para. 183).



Stakeholders have often regarded the follow-up of successful (in procedural terms) initiatives as insufficient, raising questions of when an ECI can be regarded as ‘successful’ and, more generally, what the role of the ECI is and should be. Here, different actors hold contradictory visions regarding the very nature and purpose of the ECI. Some ([Parliament](#), ECI activists) maintain that ECIs that succeed in collecting 1 million of signatures must eventually have legislative impact and call for a stronger commitment of the Commission to submit a proposal following successful initiatives. Others suggest that ECIs – regardless of whether or not they reach the 1 million threshold and/or result in legislative outcomes – may (and already do) produce other, political, benefits such as raising awareness, fostering public debate, aiding a European public sphere emerging, mobilising civil society organisations and others⁹. In this context, for example, the European Ombudsman [called](#) for articulating ‘the value of the ECI as a platform for public debate’. Yet, it is broadly agreed that the ECI has not (yet) achieved its full potential, mostly with reference to the declining numbers of proposed initiatives, high refusal rate, low number of successful (in procedural terms) initiatives, high administrative burdens for organisers and low (legislative) impact¹⁰. The more optimistic observers, however, conclude that the ECI may ‘just be starting to show its potential’¹¹.
Parliament’s starting position

The Parliament has been an active supporter of the ECI since the latter’s inception, and has repeatedly called for improvements in order to fully exploit its potential. On 28 October 2015, it adopted a [resolution](#) on the ECI, in which it made a number of concrete proposals to improve its effectiveness and user-friendliness. It called for, inter alia:

- > providing comprehensive (legal) guidance to organisers early in the process;
- > raising public and media awareness about the ECI;
- > explaining in detail the reasons for rejecting an ECI;
- > considering the possibility of registering only part of an initiative;
- > allowing the organisers of an ECI to decide when they wish to start to collect signatures (i.e. abolishing the automatic link between registration and the start of this period);
- > introducing a uniform procedure for making statements of support, reducing the number of data requirements and removing the requirement for personal identification numbers. In this context, the resolution also suggested considering the establishment of ‘EU digital citizenship’ and called upon the Commission ‘to explore this issue in its digital agenda as a matter of urgency’;
- > lowering the age for supporting an ECI from 18 to 16; and
- > exploring the possibility of providing financial support for ECIs from existing EU budgets.

9 For example, Bouza Garcia, L. and Greenwood, J., What is a successful ECI?, in: Conrad, M., Knaut A. and Böttger, K. (eds), op. cit. and other contributions in this volume.

10 For example the various contributions in Conrad, M., Knaut A. and Böttger, K. (eds), op.cit.

11 Ibid., p. 222



Regarding the follow-up of successful initiatives, the Parliament expressed '**differences of opinion**' with the Commission (paragraph 29), regretting the lack of legislative impact of initiatives, and urged the Commission to prepare a legal act within 12 months after issuing a positive opinion. In response to this suggestion, the Commission has emphasised that the current rules 'already ensure an efficient and proportionate mechanism which fully reflects and respects the Commission's right of initiative'.¹²

Parliament's Rules of Procedure ([Rule 218](#)) also provide for the possibility of the Committee on Petitions examining registered ECIs that fail to gather sufficient support, if it considers a follow-up appropriate.

To press for a revision of the ECI Regulation, in 2017, the Committee on Constitutional Affairs (AFCO) had been working on a [legislative own-initiative report](#) under Article 225 TFEU (rapporteur: György Schöpflin, EPP, Hungary). After the Commission tabled its proposal, it was announced in the AFCO meeting on 28 September that the own-initiative report procedure would be stopped. The [draft report](#) had in particular called for stronger follow-up of successful initiatives, including a 'presumption' that the Commission, 'in the normal run of events', would submit a legislative proposal. To emphasise the political, debate-enhancing dimension of ECIs, the draft report had proposed to hold a plenary debate on successful initiatives.

12 Follow up to the European Parliament Resolution on the European Citizens' Initiative, adopted by the Commission on 2 February 2016, p. 9.



Proposal

Preparation of the proposal

In addition to considering the views already expressed (notably by Parliament, the advisory committees and the European Ombudsman), in preparing its proposal, the Commission has conducted several external studies¹³, carried out a public stakeholder consultation, and obtained an opinion of the REFIT platform.

The four external studies concerned technical issues, in particular information and communication technology (ICT) aspects of the ECI, the use of electronic identification, data requirements and online collection systems. During the 12-week public stakeholder consultation, the Commission has received 5 323 responses from citizens (signatories), organisers, civil society organisations, national authorities, researchers and others. According to the Commission's [synopsis report](#), most stakeholders agreed on the need to make the ECI easier to use and more proportionate to the aims it pursues. Echoing the issues already raised by various stakeholders, the main concerns as well as resulting suggestions focused on, inter alia, the need to limit personal liability of organisers, the possibility of partial registration of an initiative, the possibility to resubmit a modified initiative, strengthened assistance to organisers, and the need to simplify data requirements.

The REFIT Platform [opinion](#) of June 2016 essentially called for reducing the burdens associated with organising and signing an ECI, suggesting, in particular:

- > clarifying the concepts of 'legal act' and 'manifestly outside' the Commission powers, within the context of the legal admissibility test;
- > providing adequate legal advice for ECI organisers;
- > establishing a simplified single statement of support form (preferred option) or facilitating simplification of Member States' requirements;
- > providing for the possibility of a legal entity status for initiative organisers; and
- > providing one simple centralised online collection system to reduce organisers' costs.

Detailed suggestions on how to improve the functioning of the ECI have also been made in the 2015 [European Implementation Assessment](#) prepared by EPRS. Another EPRS [study](#) on the added value of the ECI and its revision was published in April 2018.

¹³ The studies can be accessed on the Commission's [ECI website](#).



The changes the proposal would bring

The Commission proposal echoes many of the suggestions from various actors mentioned above, and includes, in particular, the following main changes:

Initiative organisers and liability:

- > Introducing the possibility for organisers to create a **legal entity** in accordance with national law for the purpose of managing an initiative;
- > clarifying the conditions of the liability of the group of organisers (unlawful acts committed intentionally, or at least with serious negligence), without prejudice to the General Data Protection Regulation.

Information and advice

- > Enhancing information and assistance measures for organisers, including an online **collaborative platform** and points of contact in the Member States. The [European Citizens' Initiative Forum](#), aimed at those seeking practical information and advice regarding the ECI is already online, since 22 May 2018.

Registration phase

- > While the registration criteria remain unchanged, organisers would have the possibility to resubmit a revised initiative, when the initial version falls outside the Commission's powers;
- > Setting out the possibility of **partial registration** of initiatives, where 'a substantial part of the initiative', including its main objectives, is not manifestly outside the Commission's powers.

Minimum age to support initiatives

- > Lowering the minimum **age** to support an initiative, to 16.

Signature collection phase

- > Simplifying personal **data requirements**: support can be provided based on signatories' nationality and on the basis of one of two available options for support forms covering all Member States (instead of the 13 forms currently in use), including the possibility for signatories to provide only the last four digits of the personal identification number;
- > Leaving to the organisers the choice of the starting date for the 12-month collection period, up to three months after the registration date;



Preparation of the proposal

The changes the proposal would bring

- > having the **central online collection system** operated by the Commission (although organisers remain free to build their own system). The processing of personal data through this system will be the responsibility of the Commission, which is expected to further unburden organisers and limit their liability. In line with the European Ombudsman's recommendations, the online collection system 'shall be accessible for persons with disabilities', allowing the latter to support initiatives.

Review provisions

- > Setting periodical review of the functioning of the ECI Regulation every five years (instead of the current three).

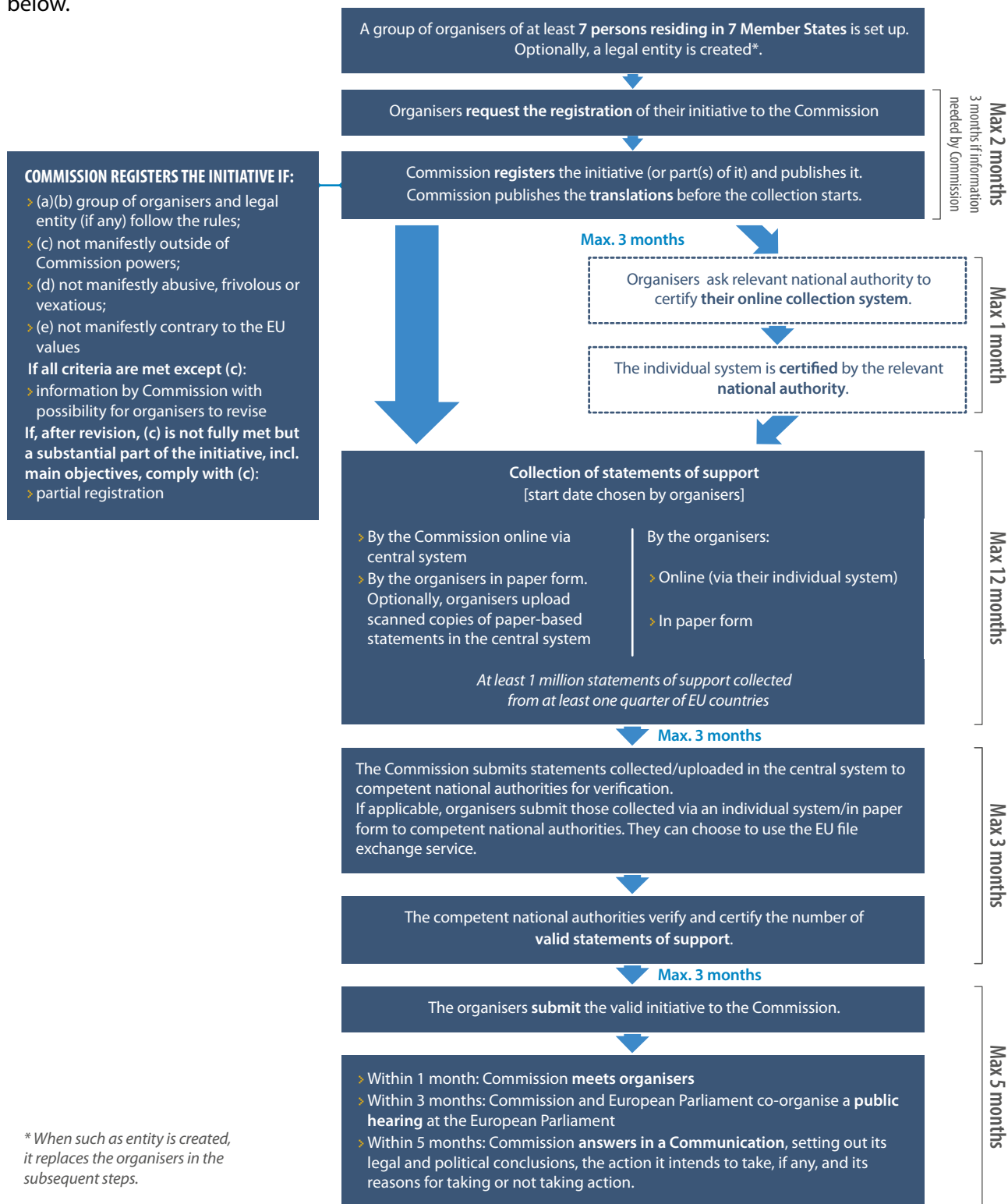
Examination phase and follow-up

Regarding the follow-up of initiatives that reach the necessary thresholds, contrary to what has been suggested by Parliament and other stakeholders, the proposal does not envisage any major changes in terms of an ensuing proposal for a legal act. With reference to the ECI as an 'invitation' to take action (Article 11(4) TEU), the Commission [stresses](#) that the appropriate follow-up may vary across individual ECIs, and may or may not entail a proposal, as now explicitly confirmed by the General Court. In an exchange of views in the AFCO committee on 28 November 2017, Commission First Vice-President Frans Timmermans emphasised that any obligation for the Commission to submit a proposal would go beyond the current EU Treaties. However, the Commission has repeatedly signalled willingness to boost the political dimension of the ECI by, for example, embracing the idea of having plenary debates on successful initiatives in Parliament. Regarding the public hearing at the European Parliament, an explicit provision is added to ensure broader participation of stakeholders and representatives of other EU institutions and bodies in such a hearing, and a balanced representation of public and private interests. The First Vice-President also cautioned against 'overselling' the ECI as a panacea to all problems, and stressed that it remains one of the many building blocks of EU democracy.



Preparation of the proposal
The changes the proposal would bring

For a graphical representation of the revised procedure under the Commission’s proposal, see the diagram below.



* When such as entity is created, it replaces the organisers in the subsequent steps.

Source: European Commission staff working document accompanying the proposal, [SWD\(2017\) 294](#)



Views

Advisory committees

The Commission proposal partially incorporates the opinions of the Committee of the Regions (CoR) and European Economic and Social Committee (EESC), of [2015](#) and [2016](#) respectively. In their opinions on the new proposal (EESC, [14 March 2018](#), and CoR, [23 March 2018](#)), both committees welcomed the improvements proposed in the new proposal, in particular limiting the personal liability of organisers, freedom to choose the starting date for collection of signatures, and simplification of data requirements. However, the committees also called for stronger political follow-up of successful initiatives, proposed the European Parliament as the sole organiser of the public hearings following successful ECIs, raised doubts regarding the Commission's role at the registration stage, and suggested extending the collection period to 18 months (CoR).

National parliaments

In its explanatory memorandum accompanying the proposal, the Commission notes that the adoption of rules and procedures governing the ECI falls under exclusive EU competence, to which the subsidiarity principle does not apply. Therefore, no subsidiarity check by national parliaments is envisaged, although a number of [national parliaments](#) have looked at the proposal and submitted contributions, generally welcoming the efforts to simplify the ECI and make it less burdensome.

Stakeholders' views¹⁴

A number of stakeholders have provided their views on how to improve the functioning of the current ECI Regulation, which are discussed above. The Commission proposal does address many – albeit not all – of their recommendations (e.g. improved assistance to organisers by means of a collaborative platform, limiting organisers' liability, the availability of the legal entity status, a central Commission-run online collection system, including its accessibility for disabled persons, the possibility to modify and resubmit initiatives, partial registration, and efforts to simplify the data requirements).

The [ECI campaign](#) has welcomed the Commission proposal, which it called an '[overdue step](#)' containing a number of positive changes, yet also pointed to several aspects that fall short of expectations. A [preliminary response](#) to the Commission proposal notes that the ECI (Regulation) would benefit from, inter alia, an explicit reference to a broad understanding of a 'legal act', a stronger duty of the Commission to provide extensive explanations when refusing initiatives, and more powerful provisions regarding an adequate response to successful initiatives. The latter seems to remain one of the main sources of 'frustration' for ECI organisers, who continue to call for increasing the impact of successful initiatives.

¹⁴ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'



Legislative process

The Commission adopted the [proposal](#) for the ECI Regulation on 13 September 2017. The joint declaration on the EU's legislative priorities for 2018-2019 identifies the revision of the ECI Regulation as a priority file to be finalised before the European elections in 2019.

On 20 June 2018, the Parliament's Committee on Constitutional Affairs (AFCO) adopted its [report](#) on the Commission proposal (rapporteur: György Schöpflin, EPP, Hungary) and decided to enter into interinstitutional negotiations. This decision was confirmed by plenary on 5 July 2018. Among other things, the report called for providing better information and (legal) assistance to ECI organisers, strengthening the follow-up of successful initiatives, and embraced lowering the minimum age for supporting an initiative to 16 years.

The Council examined the proposal between December 2017 and June 2018. In its [general approach](#), the Council declared that it backed most of the suggestions put forward by the Commission but expressed reservations regarding the proposal to reduce the minimum age to support an ECI to 16 years. It also suggested discontinuing the use by organisers of individual collection systems, given the availability of a central collection system made available by the Commission as well as the administrative burden arising from having several online collection systems.

On 12 December 2018, Parliament and Council [reached](#) a [provisional agreement](#) following a number of trilogue meetings. The agreement provides for, inter alia, enhanced support for ECI organisers through contact points in each Member State and an online collaborative platform offering practical and legal advice. It introduces the possibility for organisers to revise their initiatives before the Commission's registration decision and codifies the practice of partial registration of initiatives. It commits the Commission to operating a central online collection system, and phasing out individual collection systems after 2022. The agreed text would enable EU citizens to support an ECI regardless of where they live, and grant organisers more flexibility in choosing the start date of the period for collecting signatures, thereby breaking the current automatic link between the Commission's registration decision and the start of this period. The agreement simplifies the personal data requirements for ECI signatories, but allows Member States to continue requiring signatories to provide their full ID numbers. Regarding initiatives which gather sufficient support, the agreement extends the time period within which the Commission needs to respond to them from 3 to 6 months. To strengthen the political impact of successful initiatives, the recent [changes](#) to the EP's Rules of Procedure provide that Parliament 'shall hold a debate' on such initiatives. Contrary to the Commission's and Parliament's proposals, the agreement does not lower the minimum age to support an ECI to 16 years, but Member States are explicitly allowed to set the minimum age at 16 if they choose to do so.

The AFCO committee approved the provisional agreement on 22 January 2019. A plenary debate and vote is scheduled for the March I plenary session.



References

EP supporting analysis

Salm, C., [The added value of the European Citizens' Initiative \(ECI\) and its revision](#), EPRS study, April 2018.

Anglmayer, I., [The European Citizens' Initiative: the experience of the first three years](#), European Implementation Assessment, EPRS, European Parliament, April 2015.

Policy Department for Citizens' rights and constitutional affairs, [European Citizens' Initiative – First lessons of implementation](#), European Parliament, 2014.

Policy Department for Citizens' rights and constitutional affairs, [Towards a Revision of the European Citizens' Initiative?](#), European Parliament, 2015.

Other sources

Conrad, M., Knaut A. and Böttger, K. (eds), *Bridging the Gap? Opportunities and Constraints of the European Citizens' Initiative*, Nomos, 2016.

Special issue of *Perspectives of European Politics and Society*, Volume 13, 2012: [The European Citizens' Initiative: a First for Participatory Democracy?](#)

[European Citizens' Initiative](#), European Parliament Legislative Observatory (OEIL).

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