

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



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The European Citizens' Initiative online?

Note



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS

CONSTITUTIONAL AFFAIRS

The European Citizens' Initiative online?

Some European and national experiences

NOTE

Abstract

The inclusion of the European Citizens' Initiative (ECI) in the Lisbon Treaty is a recognition of earlier developments in many parts of the democratic world. The implementation of its practical parameters will be a crucial element for the acceptance of the ECI by EU citizens and will send an important message to other regions and countries. The purpose of this study is to provide background information on the present situation in the Member States of the EU, and on the European level, as far as the use of modern technical equipment such as online registration of popular initiatives, referendums or petitions is concerned. Since there is no direct equivalent to the new ECI at Member State level any comparisons are necessarily limited but nevertheless instructive.

This document was requested by the European Parliament's Committee on Constitutional Affairs.

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Contents

| | |
|---|-----------|
| Introduction | 1 |
| Some remarks on the present state of e-democracy | 2 |
| First steps towards e-democracy at the European Parliament | 3 |
| Recommendation for e-voting by the Council of Europe (CoE) | 3 |
| The survey of Member States | 4 |
| Results of the survey | 5 |
| The ECI proposal: where does it stand? | 8 |
| The preliminary positions of the legislator | 9 |
| Conclusions | 10 |
| Table 1: Referendums | 12 |
| Table 2: Petitions | 14 |
| Table 3: Online initiatives | 16 |
| Table 4: Online signatures | 18 |

Introduction

In an ever-increasing number of European Union cities, regions and countries, people participate actively when it comes to adopting new laws, steering public expenditure, or even enacting constitutions. Direct democracy is proving to be an increasingly used instrument which enhances legitimacy at all levels of politics and administration. This trend towards participatory democracy is not restricted to the lower strata of public administration, as is demonstrated by the inclusion of the European Citizens' Initiative (ECI) in the Lisbon Treaty (Art. 11 TEU). For example, between 1993 and 2003, the number of national referenda world-wide was more than double that of the previous decade.¹

Two interrelated reasons for this are, firstly, the political regime changes in Eastern and South-eastern Europe, which led to the adoption of many new constitutions, the majority of which were approved by popular referendum; secondly, the accelerated integration process within the European Union has launched a direct-democratic wave with transnational consequences. Practically all the new constitutions of Central and Eastern Europe include elements of direct democracy. In Western Europe, referenda on accession to the EC/EU, or on greater integration, have almost become the norm. No other set of issues internationally has resulted in so many referenda as European integration, despite the predominantly parliamentary ratification of the Lisbon Treaty.

The inclusion of the ECI in the TEU is hence recognition of earlier developments in many parts of the democratic world. The definition of its practical parameters will be a crucial signal for other regions and countries. The purpose of this note is to provide the responsible committees of the European Parliament with background information on the present situation in the Member States, and on the EU level, as far as the use of modern technical equipment such as online registration of popular initiatives, referendums or petitions is concerned. Since there is no direct equivalent to the new ECI at Member State level the comparisons are necessarily incomplete. However, they hopefully provide the rapporteurs with some ideas in which direction the Commission proposal could be modified.

One basis of the paper is an information request carried out by the European Centre for Parliamentary Research and Documentation (ECPRD), whose participation is gratefully acknowledged. The questions addressed to the national correspondents were drawn up in close cooperation with the four rapporteurs of the Committee on Constitutional Affairs (AFCO) and the Committee on Petitions (Zita Gurmai, Alain Lamassoure, Gerald Häfner and Diana Wallis).

¹ Between 1981 and 1990 there were only 200, of which 76 were in Switzerland. Between 1991 and 2003, 497 recorded countrywide referenda took place: 83 in the Americas, 54 in Africa, 30 in Asia, and 30 in Oceania. The vast majority took place in Europe: 301, of which 135 were in Switzerland alone.

Some remarks on the present state of e-democracy

E-democracy has been an intensely debated topic for at least 15 years.² A great number of studies and proposals on this subject have been drawn up but, as the following survey will show, not very many innovative instruments of e-democracy have been introduced. Most examples of direct democracy still use traditional ways of collecting and voting.

E-government encompasses many different ideas and activities:

- presentation of political and administrative information on the Internet, replacing or supplementing traditional means of communication (press conferences, brochures, booklets, telephone ...)
- management of large-scale information technology projects in the public sector
- transformation of the way public authorities and citizens deal with each other (processing of electronic tax declarations, presentation of petitions via the Internet, job applications by email and many other)
- enhancement of public participation in political debate and (possibly) decision making.

From a parliamentary perspective the last category carries the greatest interest. Even within this type of e-government important distinctions should be made as to the purpose and guiding principles of e-democracy initiatives. The following table distinguishes between three models of e-democracy:

| Service model <i>(e-technologies are used to enhance the representative model of democracy)</i> | Consultative Model <i>(e-technologies are used to foster more direct democracy)</i> | Deliberative model <i>(e-technologies are used to foster more participatory modes of democracy)</i> |
|--|--|--|
| <ul style="list-style-type: none"> - Efficient delivery of government/state information to citizens and other groups of 'users'/information dissemination - Improving flows of information within and around the state - Importance of 'service delivery' - Speeding up of information provision is 'opening up' government - top down information flow | <ul style="list-style-type: none"> - Polling, access of voters and other interested parties to government, representation of views, advisory referenda - 'Push-button democracy', 'e-voting', instantaneous opinion polling - Direct and unmediated contact between citizen and state - Bottom up information flow | <ul style="list-style-type: none"> - Civil society exists from the state and (will be) mediated electronically - Organic emergence of democracy - Voluntary associations, spontaneous interactions within cyber-space - Discursive model of information flow |

Source: Alexander H. Trechsel, Fernando Mendez (European University Institute), Scoping paper on the evaluation of the use of new technologies in order to facilitate democracy in Europe, 2003.

² For a recent political statement see Ministerial Declaration on eGovernment of 18 November 2009, adopted in Malmö, Sweden, by the ministers responsible for eGovernment policy of the European Union, the Candidate Countries and the European Free Trade Area (EFTA).

E-democracy obviously includes the use of new Information and Communication Technologies (ICT), such as the Internet, voting machines or electronic identity cards, to increase and enhance citizens' engagement in democratic processes.³ Since the boom of the World Wide Web in the 1990's, e-democracy mainly refers to Internet-based citizen participation. Therefore the term internet democracy could almost be used alternatively.

First steps towards e-democracy at the European Parliament

The European Parliament of course modernises its website regularly, including new technologies such as video-streaming or social network communication. Most MEPs have weblogs in which they regularly inform constituencies and other citizens about their work in the Parliament. Parties also make use of the web as an interactive means of information, and sometimes more.

More specifically, Parliament has created some years ago a website facilitating the submission of petitions although any further correspondence concerning action taken on the petition is by post. Furthermore, the site is not currently equipped to receive large-scale or mass petitions. Associations or individuals organising such campaigns are requested to make such submissions of supporting signatures by post.⁴ Some Member States, like Germany, have also introduced internet platforms for petitioning their national parliaments. Other countries, such as Lithuania, created systems based on digital signatures, which unfortunately do not yet contribute to lively participation of its citizens. Furthermore, an overview in the Member States shows that online participation in referendums and civil society involvement in policy-making is not yet possible. However, the current most important aspect of implementing the ECI is deriving potentials for future development of e-democracy from the few exemplary ways that some of the Member States have already developed.

Recommendation for e-voting by the Council of Europe (CoE)

The Council of Europe has been interested in e-democracy for a long time. In 2004, the Committee of Ministers of the CoE adopted a political recommendation, which is not legally binding, on the legal, operational and technical standards for e-voting in its Member States.⁵ According to the recommendation, e-voting (meaning any kind of electronic democratic instruments, including internet voting) must be based on the fundamental principles of direct, universal, equal, free and anonymous suffrage. However, the document also indicates options to ensure Member States' different voting traditions whilst guaranteeing that the above mentioned principles are upheld at the national level, through different e-voting standards.

With regard to the ECI, the CoE confirms the position expressed by the EU Member States (see below) that the supervision of the verification and authentication of signatures should remain at the national level. In particular, the guidelines enumerated in the recommendation specify criteria enshrined in the European

³ UK Parliamentary Office of Science and Technology, E-democracy, Postnote no. 321, January 2009, <http://www.parliament.uk/documents/post/postpn321.pdf>.

⁴ <https://www.secure.europarl.europa.eu/parliament/public/petition/secured/submit.do?language=EN>

⁵ Committee of Ministers of the Council of Europe, Legal, operational and technical standards for e-voting, Recommendation Rec (2004) 11, 30 September 2004, [http://www.coe.int/t/dgap/democracy/activities/ggis/E-voting/Key_Documents/Rec\(2004\)11_Eng_Evoting_and_Expl_Memo_en.pdf](http://www.coe.int/t/dgap/democracy/activities/ggis/E-voting/Key_Documents/Rec(2004)11_Eng_Evoting_and_Expl_Memo_en.pdf).

Convention on Human Rights. Any legal framework that the EU may create to ensure ECI standards are upheld in all Member States will have to be based on those standards. The aforementioned differences in voting traditions tend to favour an EU framework that provides enough space for creating adaptable technical instruments.⁶

The survey of Member States⁷

In order to draw inspiration from examples of good practice in the Member States the following questions were put to the national correspondents of the ECPRD:

Legal aspects:

- e-voting: Are there constitutional provisions for national referendums ? If yes, which provisions exist for electronic or online collection and verification of votes ? [Additional question for federal Member States: Are there provisions for regional referendums ? If yes, which provisions exist for electronic or online collection and verification of votes ?]
- e-petitioning: Are there constitutional provisions to petition the national parliament ? If yes, which provisions exist for electronic or online collection and verification of group petitions ? [Additional question for federal Member States: Are there provisions to petition regional parliaments with legislative powers ? If yes, which provisions exist for electronic or online collection and verification of group petitions ?]
- e-collecting: Are there constitutional provisions to support online initiatives leading to legislative or other proposals involving civil society in policy-making, either at the national or the regional level ?

Technical aspects:

- Are there officially validated technical instruments (already in use or in preparation) to assure the personal identity of citizens entering into administrative relations with public authorities (e.g., filing tax statements, applying for passports, ...), notably techniques of "electronic signatures" ?
- Are there formal opinions or acts on the question whether the collection, verification and authentication of signatures in the context of the ECI should be handled by an EU body or by national authorities ? If not, are there opinions or positions on how Member States envisage to guarantee the respect of minimal common requirements for an equal treatment of citizens participating in an ECI across Member States, notably as concerns security, user-friendliness and protection of personal data?

⁶ A consortium of Belgian universities has drawn up a comprehensive study on electronic voting in 2007, comparing and evaluating European e-voting systems ("BeVoting - Geautomatiseerde Stemming Def. Vs 18122006" of 15 April 2007). The document analyses many technical questions related to e-voting.

⁷ ECPRD request 1454/2010; the individual replies can be obtained upon request.

Results of the survey

The results obtained from the Member States are summarised in the annexed tables. What follows is a synthesis of these results in view of the main political and technical questions raised during the debate in the Committee on Constitutional Affairs of the European Parliament.

E-voting in referendums: no legal provisions in the Member States

The majority of Member States' constitutions provide for referendums at the national level. In some states, national constitutions also provide for regional referendums, such as in Italy.⁸ In other Member States regional constitutional law provides for referendums separately, such as in Austria.⁹ Constitutional provisions are usually supplemented by secondary law, stating the procedure for carrying out referendums in detail. In the United Kingdom - which is known for not having a single written constitution - the Political Parties, Elections and Referendums Act of 2000 sets out the rules for the funding of referendums and the regulation of publicity whilst each separate referendum requires its own legislation to set out issues, for instance, the phrasing of the question and the franchise. In Germany there are no nation-wide direct democratic instruments, but each federal state provides for constitutional and legal regulations on referendums.¹⁰

However, it is remarkable that, although 21 Member States have constitutional provisions for referendums or plebiscites,¹¹ none has created the opportunity to participate in them *online*. Although in some countries general elections have already been held with the possibility of online voting,¹² Member States did not allow for plebiscites with internet-based participation. Concerns in most countries about the security of individual votes in direct elections insofar apply as well to online referendums. With regard to the ECI, the implementation of internet-based voting could be attractive from the Union's point of view. In many cases, the ECI could be constructed around a clear-cut alternative resembling the simplicity of yes-no-alternatives in traditional referendums.

E-petitioning: some positive examples and the question of digital signatures

The petitioning of Member States' parliaments is a democratic instrument with a history that dates back to the European middle ages.¹³ Almost all Member States have introduced petitioning by constitutional or secondary law and it is frequently used by citizens. At the European level petitions to the European Parliament have been introduced in 1992, when the Union obtained more powers through the Treaty of Maastricht.

The United Kingdom is one of the few EU countries with online petitioning systems. Although the House of Commons is still only preparing to introduce its own internet based petitioning system,¹⁴ the executive (Prime Minister's Office) has already set up

⁸ Art. 132 Constitution of the Italian Republic.

⁹ Constitutions of the nine Austrian "Bundesländer".

¹⁰ Constitutions of the 16 German "Bundesländer".

¹¹ Cf. S. Hölscheidt, S. Menzenbach (2009), Referenden in Deutschland und Europa; Zeitschrift für Öffentliches Recht und Verwaltungswissenschaften 62, Nr. 19, S. 777-785. See also EP Library Briefing 052/2010 for some examples of Citizens' Initiatives at national and regional level.

¹² E. g. in Estonia, BBC online, [Estonia claims new e-voting first](#), 01/03/2007.

¹³ House of Commons, Procedure Committee, e-Petitions, First Report of session 2007-08, HC 136, 6 April 2008, p. 5.

¹⁴ House of Commons, Procedure Committee: e-Petitions. First Report of Session 2007-08 of 19 March 2008.

such a wire to its citizens. The webpage of the British Prime Minister contains the probably most convincing e-petitioning system today.¹⁵ The structure of the website is highly user-friendly, the petitioner simply has to set up her/his own account and can even create her/his own petition website. The software behind this site is open source, and available under a software license. It is possible to download the source code and help to develop it. It can be used in own projects, although the source code of any such projects must be made available. The European Economic and Social Committee will probably recommend, too, that an open-source software be developed for the ECI in order to create a user-friendly online collection system, underlining that to this day there is no comparable system anywhere in the world for collecting signatures in an initiative process.¹⁶

In addition to the UK Prime Minister and the regional Parliaments of Scotland¹⁷ and Wales,¹⁸ Germany's parliament (plus six *Länder* parliaments) and the national parliament of Lithuania are offering the opportunity to e-petition. The online petitioning system of the German Bundestag¹⁹ follows the British example of requiring the user to set up an online account, while Lithuania uses a digital signature to ensure authenticity of users. Article 4 of the Lithuanian Law on Petitions states that a petition may be submitted either in writing or by electronic means. Petitions submitted by electronic means shall be signed with a digital signature. In practice, no e-petition had been submitted so far. One of the reasons seems to be the insufficient usage of digital signatures. In contrast, a click on the websites of the German Bundestag and the UK's Prime Minister shows the high level of activity of citizens resulting from their low barriers to access.

As mentioned above, EU citizens have the right to address petitions to the European Parliament since the entry into force of the Maastricht Treaty. Following several treaty amendments, the primary law, including an extension of the right to non-EU citizens residing in a Member state, can now be found in Art. 24 and 227 of the Treaty on the Functioning of the EU. The content of the petition itself must be of immediate interest to the person who submits it. Petitions can be submitted via post or a web form, which can be found on the website of the EP. In 2009, 62,2% of all petitions received were sent via e-mail.²⁰ The petition web form is quite user-friendly and requires only basic personal information, such as name, address and e-mail address. After users have sent their petition, there is no database accessible for other users. For instance it is not possible to support a proposal or make any further requests online. In this respect, the EP's online petitioning system does not utilise the wide technical potential that the internet provides in order to communicate with citizens in a reciprocal manner or provide them with a platform to communicate among each other. This has been mentioned in the annual report of the Petitions Committee, whose rapporteur has also pointed out the lack of information given to citizens about the competences of the EU.

The opportunity of signing the ECI online could create a larger potential participation rate. Although only few Member States are currently offering e-petitioning, the UK's and Germany's examples demonstrate that there are ways to create user-friendly e-democratic systems. One of the central challenges is ensuring that the level of security for verification and authentication is appropriate and acceptable for all Member States.

¹⁵ British Prime Minister's office, <http://petitions.number10.gov.uk/>.

¹⁶ Revised draft opinion 910 of 7 July 2010, p. 5

¹⁷ Scottish Parliament, <http://epetitions.scottish.parliament.uk/>.

¹⁸ National Assembly for Wales, <http://www.assemblywales.org/gethome/e-petitions.htm>.

¹⁹ Deutscher Bundestag, <https://epetitionen.bundestag.de/>.

²⁰ Annual report on the deliberations of the Committee on Petitions during the year 2009, 2009/2139(INI), 7 June 2010, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2010-0186+0+DOC+PDF+VO//EN&language=EN>.

E-collecting: few examples and some open-minded Member States

The question on the existence of e-collecting systems received a negative answer in all Member States: there are currently no constitutional or legal provisions to support online initiatives leading to legislative or other proposals involving civil society in policy-making, either at the national or the regional level.

However, in some Member States governments are either planning to implement schemes to give the public an opportunity to comment on proposed legislation online,²¹ or they are planning to officially initiate and support web environments where citizens can give opinions to legislative acts in motion.²² The British Prime Minister Cameron has recently opened a website where citizens can make proposals which legal provisions they think unnecessary and which could be repealed.²³

Despite the current lack of official e-collecting platforms in the Member States, governments seem to be open-minded about the idea of utilizing citizen's opinions which have been gathered online. In addition, the technical requirements of e-collecting are already partially in existence and continue to be explored. For instance, in Germany a political party has installed a computer-aided system of handling the collaborative formulation of political platforms and amendments.

Verification and authentication of signatures: a preference for national supervision

In some Member States, legislative and executive bodies have already stated their opinion as to whether the EU or the Member States should be responsible for verifying and authenticating signatures given to support initiatives. Member States clearly are unanimous in their intent to take charge of supervision themselves. One main reason is that national authorities have easier access to data in order to verify the validity of signatures and the eligibility of their citizens. In addition, already existing national mechanisms can be adapted to the ECI.

Most of the Member States have not yet produced any formal statement on this issue. But it is expected that the majority of governments and national parliaments will plead in favour of keeping supervision on verification and authentication of signatures under the umbrella of national authorities, as Latvia, Lithuania, Hungary, Romania and Finland have already done.

Nevertheless, Hungary, Romania and Finland emphasized the need for a European legal framework for the collection procedure concerning the ECI. From their point of view, an EU regulation has to provide a minimum common set of procedural requirements in the entire EU, which has to guarantee that there will be no discrimination between citizens. Furthermore, they ask for a regulation setting a common deadline on the control and verification of the initiatives and for adequate protection of personal information.

So far, some Member States have defined their general ideas on the separation of responsibilities between the EU and the national authorities concerning the ECI. The interest in a common legal framework in some Member States is the Union's opportunity to define not only minimum procedural standards but also increase the user-friendliness of the ECI, e.g. by setting up a framework for internet-based collection of signatures, based on good examples already existing in some Member States.

²¹ Program of the current coalition in the UK, May 2010, p. 27, http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf.

²² The Estonian government officially supported the private internet platform OSALE, <https://www.osale.ee/>.

²³ <http://yourfreedom.hmg.gov.uk/repealing-unnecessary-laws>

The ECI proposal: where does it stand?

As one of its major innovations, the Treaty of Lisbon has established the legal base for the ECI in Art. 11(4) TEU. It is now up to the European Parliament and Council, based on the Commission proposal, to define the provisions for the procedures and conditions for this new democratic instrument of the European Union. Given that the ECI is dependent upon citizens' participation, modern standards of user-friendliness will contribute to the success of future direct democracy on the Union level. Internet-based participation could be a key element of this.

In preparation of its legislative proposal, the European Commission carried out a public consultation on its Green Paper on the ECI, from 11 November 2009 to 31 January 2010, which culminated in a stakeholders meeting on 22 February 2010.

One of the questions addressed by the Commission to the public concerned the issue of electronic/online instruments of presenting such an initiative:

5. Requirements for the collection, verification and authentication of signatures

[1] Do you think that there should be a common set of procedural requirements for the collection, verification and authentication of signatures by Member States' authorities at EU level? [2] To what extent should Member States be able to put in place specific provisions at national level? [3] Are specific procedures needed in order to ensure that EU citizens can support a citizens' initiative regardless of their country of residence? [4] Should citizens be able to support a citizens' initiative online?

A few of the organisations which responded to the consultation commented with some detail on part 5.4 of the question. For the most part replies are quite general but overwhelmingly positive. A considerable number of contributions makes a link to the existence of reliable electronic signatures, for instance on chip cards such as the new models of identity cards being issued in most Member States now or in the near future. A few examples for typical answers are given in the annex.

On 31 March 2010 the Commission adopted its legislative proposal on the ECI. The text recognises that respondents to the public consultation have almost unanimously called for citizens to be allowed to support initiatives online and provides for a mandatory system of registration of proposed initiatives in an online register made available by the Commission. The proposal also provides for statements of support to be collected online. In order to ensure that statements of support collected online are genuine the proposal requires that the Member States should certify the conformity of online collection systems with up-to-date security requirements. The protection of personal data shall remain under the responsibility of the organisers of an ECI.

The Commission will lay down within one year technical specifications by means of implementing measures. Online collection should nevertheless be allowed from the moment of the entry into force of the regulation.

It should be mentioned that technical questions are probably not the most important ones with respect to the risks and opportunities provided by the ECI.²⁴ It has become

²⁴ The EP Library Briefing 052/2010 ("The European Citizens' Initiative") as well as a European Policy Centre Policy Brief (Janis A. Emmanouilidis and Corina Stratulat, Implementing Lisbon: a critical appraisal of the Citizens' Initiative; June 2010) provide an account of the main issues involved (published on 12 May 2010). See also a recent study commissioned by the S&D Group (Legislating after Lisbon: New Opportunities for the European Parliament; European Union

evident during several debates of the AFCO Committee that issues such as the process and criteria of examining the admissibility of initiatives are essential. The same applies for questions of how to deal with the required procedural steps of registration and admissibility check. Finally, the fixing of a minimum number of signatures and/or Member States is of obvious political salience. These issues have also been at the centre of the first positions taken by the Council and the Parliament.

The preliminary positions of the legislator

On 14 June 2010 the General Affairs Council obtained a "general orientation" on the proposal for a regulation from the Commission for implementing the Citizens' Initiative. The objective is to reach an agreement with the European Parliament in the first reading. The political agreement from the Council, which was also supported by the Commission, amends the Commission's initial proposal on several points, particularly with regard to the registration and admissibility of an initiative.

According to the orientation, the first phase of launching an initiative will consist of registering the project on a Commission created internet site. Initiative organisers (who must be EU citizens old enough to vote in European elections) have to provide clear identification of who they are and reveal financing sources behind the initiative in question. Proposed citizens' initiatives, which are clearly outside the field of application of the Treaties and/or which can reasonably be considered as damaging or not serious, will not be registered. The final decision on admissibility will be taken by the Commission once the organisers have collected 100,000 signatures in at least three Member States (the proposal from the Commission stipulated 300,000 signatures but the Council lowered this to 100,000).

Once an initiative has been judged as admissible, it will have to have at least 1 million signatures from at least a third of all Member States (nine countries) in order to be launched. The Council agreement also maintains "progressive degressivity" (already used to calculate the number of MEPs from each member state) to be applied in order to establish the minimum number of signatories coming from each of the Member States.

The two AFCO rapporteurs have addressed similar concerns in a Working Paper distributed to the committee in early July. The positions expressed are usually in the form of questions asked to the committee and will need to be answered over the next few months, in close collaboration with the Committee on Petitions and opinion-giving committees. One clear trend is to underline the importance of lowering all sorts of barriers for citizens to be able to mount an initiative. This includes, of course, technical aspects. A draft report is expected for early November.

Democracy Observatory (EUDO), under the direction of Professor Alexander H. Trechsel and Professor Bruno de Witte, European University Institute), notably section 1.7, for a critical assessment of the Commission's proposal. The study suggests that the ECI should be complemented by a consultative EU-wide referendum to be requested by the EP with a simple majority.

Conclusions

At the end of 2003, an extensive study on e-democracy drew a sober conclusion: "We may eventually arrive at something that could be recognised as electronic democracy, but we are still a long way from it. Moreover, we Europeans do not seem to be following the same trails – especially with regard to the combination of e-government and e-democracy."²⁵ Even though this was before the advent of social networks, widespread blogging, and video-streaming the observation seems to hold true still today.

The European Citizens' Initiative enshrines, for the first time, a direct cross-border, trans-national democratic procedure. The specific implementing provisions that need to be put in place during 2010 must ensure that:

- the public does not face any unnecessary obstacles when exercising opportunities to participate, as the Citizens' Initiative is only an "agenda initiative";
- clear rules and provisions make it easy for initiators to organise initiatives across 27 Member States, without coming up against unexpected national obstacles;
- where appropriate, initiators are given financial support once a given threshold has been reached.²⁶

The above overview of different online tools has shown that the Member States are still hesitating to introduce such instruments at the national level. Whilst referendums are only held in the traditional way, some examples of civil society participation platforms, as well as internet petitioning instruments, can be found in a few countries. Petitioning websites could be seen as examples of good information and communication technology (ICT) practice. However, even a cursory review discloses blatant qualitative differences in ensuring user friendliness. If the Member States or the European Commission set up online tools in order to make the ECI practicable, user friendliness should be at the top of the priority list. The idea of enabling the development of an open-source system, as envisaged by an upcoming EESC opinion, should be pursued.

In addition to obvious technical questions one of the basic issues appearing in the national replies is the relative weight to be given to the national or EU-level regulation of registration and verification. Unsurprisingly, NGOs and special interest groups tend to favour homogenous regulation at the European level, while national or regional authorities make pleas to keep a wide band open for national rules and traditions.

In the survey it became clear that the preference for national rules for the collection, verification and authentication of signatures predominates. The question remains how important common requirements at the EU level will be respected. Both the Commission and the Parliament have already taken the stance that no EU body would be in a position to verify signatures in the context of an ECI. The challenge will be to flesh out (1) the common elements that can be found in Member States' systems for referendums or petitions and (2) the necessary common features of the national procedures to organise an ECI. To a certain extent, only a review of ECI practice after some years of experience will clarify these issues. As to the question of the verification of signatures and the identification of supporters there are certainly technologies available today for ensuring that each person signs only once without intrusively demanding personal data.²⁷

There is certainly a great interest among Members of the European Parliament in the new technologies, together with a widespread desire that the Internet and all its

²⁵ Alexander H. Trechsel et.al., Evaluation of the use of new technologies in order to facilitate democracy in Europe. E-democratizing the Parliaments and parties of Europe; EUI, Florence, and University of Geneva 2003. Accessible at www.erepresentative.org.

²⁶ Opinion CES 465 of 17 March 2010 of the European Economic and Social Committee

²⁷ Many websites use instruments such as confirmation emails or protection against automated computer-controlled access such as typing a sequence of letters only readable by persons.

technical possibilities (email forums, interactive presentation of and team work on policy documents, timely information of those interested) should be used to create more political interest and involvement. Use of ICT for Parliaments fosters efficiency, responsiveness, transparency, and accountability. It enables to engage citizens in an interactive way to develop policies, programs and services. However, such technologies also entail certain risks: there will always be the need to analyse and synthesize a large number of very different ideas and contributions. As was already experienced with the Internet site of the Charter of Fundamental Rights, the European Convention and other "participatory" initiatives, simple collation of individual contributions cannot possibly lead to a coherent political strategy; on the contrary, it can create problems of weighing and prioritising citizens' contributions. When designing initiatives such as the ECI the issues involved in defining their democratic purpose (along the lines of the consultative vs deliberative models described above) must be carefully considered.

The ECI proposal as it stands at present has received some quite mordant criticism. It has notably been suspected to be a cynical exercise in *faux* involvement of EU citizens.²⁸ The main innovative leap forward brought about by the ECI could well be to enable a streamlined involvement of citizens and civil society in EU policy-making, with strong support from the European Parliament as an essential element. As was already underlined in the last annual report of the Petitions Committee, a clear and proactive information of potential ECI initiators on the limits of the European Union's powers will be a decisive condition for making sure that the ECI will become a success story. If this is the case, the ECI will be considered as a model in other regions of the world, not only with respect to the online techniques which will be part of it.

²⁸ Cf. A.H. Trechsel, B. de Witte, *op.cit.*, p. 27 ff.

Table 1: Referendums

| | | Constitutional or legal provisions for national referendums? | Officially validated technical instruments for e-voting? | | Constitutional or legal provisions for regional referendums? | Officially validated technical instruments for e-voting? |
|----|----------------|--|--|--|--|--|
| 1 | Belgium | No. | — | | No. | — |
| 2 | Bulgaria | Yes (Art. 42 Constitution, Law for the direct participation of the citizens in the state and local authority). | No. | | — | — |
| 3 | Czech Republic | No Constitutional Act has been adopted up to now but referendums can be held on the topic of transferring power to international organisations, based on Art. 10 a Constitution. | No. | | — | — |
| 4 | Denmark | Yes (Constitutional Act of Denmark, The Standing Orders of the Folketing, The Parliamentary Elections Act (Chapter 12), Ministerial Order number 933 of 17/09/2008 about ballots used in referendums). | | | — | — |
| 5 | Germany | No. | — | | Yes (16 regional constitutional and legal provisions). | No information. |
| 6 | Estonia | Yes (§ 105, 106 Constitution, Referendum Act RT I 2002, 30, 176). | No. | | — | — |
| 7 | Greece | Yes (Art. 44 II Constitution, statute law 350/1976). | No. | | — | — |
| 8 | Spain | Yes (Art. 92, 151 I, 151 II 5, 152 II, 167 III, 168 III Constitution, Referendum Act of 1981, Representation of People Act of 1995). | No. | | — | — |
| 9 | France | Yes (Art. 11, 88-5, 89 Constitution, Decree 2005-238). | No. | | — | — |
| 10 | Ireland | No information. | | | | |
| 11 | Italy | Yes (Art. 75, 138 Constitution, Law N. 352/1970). | No. | | Yes (Art. 132 Constitution) | — |
| 12 | Cyprus | Yes (The Referendum Act of 206/1989). | No. | | — | — |
| 13 | Latvia | Yes (Art. 48, 50, 68, 72, 73, 75, 77, 78, 79, 80 | No. | | — | — |

| | | | | | |
|----|-----------------|---|-----|---|-----------------|
| | | Constitution, Law on National Referendum and Initiation of Legislation). | | | |
| 14 | Lithuania | Yes (Art. 9 Constitution, Law on Referendum, Law on funding political parties and political campaigns, and control of funding). | No. | — | — |
| 15 | Luxembourg | No information. | | | |
| 16 | Hungary | Yes (Art. 28 Constitution). | No. | — | — |
| 17 | Malta | No information. | | | |
| 18 | The Netherlands | No. | — | — | — |
| 19 | Austria | Yes (Art. 43-48, 60 Constitution, Referendum Act of 1972). | No. | Yes, varies between the federal states. | No information. |
| 20 | Poland | Yes (Art. 90 III, 125 I-V, 235 VI Constitution). | No. | — | — |
| 21 | Portugal | Yes (Art. 115, 240 Constitution, Organic Law of Procedures of Referendum from 1998). | No. | — | — |
| 22 | Romania | Yes (Art. 2 I, 73 II d, 90, 95 III, 146 I, 151 III, 153 Constitution, Law 3/2000). | No. | — | — |
| 23 | Slovenia | Yes (Art. 3 a, 90, 170 Constitution, Referendum and People's Initiative Act). | No. | — | — |
| 24 | Slovakia | Yes (Art. 93-100 Constitution) | No. | — | — |
| 25 | Finland | Yes (Section 53 Constitution, Act of Parliament 571/1987). | No. | — | — |
| 26 | Sweden | Yes (Instrument of Government 8:4, Instrument of Government 8:15). | No. | — | — |
| 27 | United Kingdom | Yes (Political Parties, Elections and Referendums Act 2000). even regional level | No. | — | — |

Table 2: Petitions

| | | Constitutional or legal provisions to petition the national parliament? | Officially validated technical instruments for e-petitioning? | Constitutional or legal provisions to petition regional parliaments (with legislative powers)? | Officially validated technical instruments for e-petitioning? |
|----|------------------------|---|--|--|---|
| 1 | Belgium | Yes (Art. 28 Constitution). | No. | Yes (Art. 28 Constitution). | No. |
| 2 | Bulgaria | No information. | No. | — | — |
| 3 | Czech Republic | No information. | No. | — | — |
| 4 | Denmark | No information. | No. | — | — |
| 5 | Germany | Yes (Art. 17 Constitution). | Yes, e-petitioning system, personal account with plausibility check. | Yes (Art. 17 Constitution, 10 regional constitutional provisions, 9 regional laws on petitioning). | Yes, varies between the federal states, 6 states with on-line petitioning). |
| 6 | Estonia | No. | — | — | — |
| 7 | Greece | Yes (Art. 125 Constitution). | No. | — | — |
| 8 | Spain | Yes (Organic Act 4/2001). | No. | No. | No. |
| 9 | France | Yes (Art. 147, 148, 149, 150, 151 Constitution). | No. | — | — |
| 10 | Ireland | No information. | No. | — | — |
| 11 | Italy | Yes (Rules of Procedure of the Chamber of Deputies). | No. | — | — |
| 12 | Cyprus | No. | No. | — | — |
| 13 | Latvia | Yes. | No. | — | — |
| 14 | Lithuania | Yes (Law on Petitions from 2008). | Yes, XAdES standard (digital signature). | — | — |
| 15 | Luxembourg | No information. | | | |
| 16 | Hungary | Yes. | No. | — | — |
| 17 | Malta | No information. | | | |
| 18 | The Netherlands | No information. | No. | — | — |

| 19 | Austria | Yes. | No. | Yes. | No. |
|----|----------------|--|--|------|--|
| 20 | Poland | Yes (Art. 63 Constitution, Art. 221 Code of Administrative Procedure). | Yes, only communication via e-mail to the Senate, no system of verification, no electronic signature required. | — | — |
| 21 | Portugal | Yes. | Yes, e-petitioning system, personal account. | — | — |
| 22 | Romania | Yes. | Yes, Oracle database and Oracle Application Server. | — | — |
| 23 | Slovenia | Yes. | No. | — | — |
| 24 | Slovakia | Yes. | No. | — | — |
| 25 | Finland | Yes (no legal base). | No. | — | — |
| 26 | Sweden | No. | — | — | — |
| 27 | United Kingdom | Yes (House of Commons, Prime Minister). | No, (but Prime Minister's office). | Yes. | Yes, e-petitioning system, personal account with plausibility check (in Wales and Scotland). |

Table 3: Online initiatives

| | | Constitutional or legal provisions to support online initiatives leading to legislative or other proposals involving civil society in policy-making (national level)? | Officially validated technical instruments for e-collecting? | | Constitutional or legal provisions to support online initiatives leading to legislative or other proposals involving civil society in policy-making (regional level)? | Officially validated technical instruments for e-collecting? |
|----|-----------------------|--|--|--|---|--|
| 1 | Belgium | No. | — | | No. | — |
| 2 | Bulgaria | No information. | — | | — | — |
| 3 | Czech Republic | No information. | | | | |
| 4 | Denmark | No information. | | | | |
| 5 | Germany | No. | — | | No. | — |
| 6 | Estonia | No, but the government has officially supported and initiated the web environment www.osale.ee where all registered users (via email and verification) can send their ideas directly to the government, start collecting signatures for initiative, and also give opinions to legislative acts in motion. This is a private web environment. | No. | | — | — |
| 7 | Greece | No. | — | | — | — |
| 8 | Spain | No. | — | | No. | — |
| 9 | France | No information. | — | | — | — |
| 10 | Ireland | No information. | | | | |
| 11 | Italy | No. | — | | — | — |
| 12 | Cyprus | No. | — | | | |
| 13 | Latvia | No. | — | | — | — |
| 14 | Lithuania | No, but citizens may submit their proposals online to the parliament (in the framework of e-participation) but in this case procedures established in the Law on Legislative Initiative by Citizens is not applicable. | No. | | — | — |
| 15 | Luxembourg | No information. | | | | |

| | | | | | |
|----|-----------------|---|---|-----|---|
| 16 | Hungary | No. | — | — | — |
| 17 | Malta | No information. | | | |
| 18 | The Netherlands | No. | — | — | — |
| 19 | Austria | No. | — | No. | — |
| 20 | Poland | No. | — | — | — |
| 21 | Portugal | Yes, Law no. 17/2003, of 4 July, sets the terms and conditions in which groups of citizens exercise the right of legislative initiative in the Assembly. | No. | — | — |
| 22 | Romania | No. | — | — | — |
| 23 | Slovenia | No. | — | — | — |
| 24 | Slovakia | Yes, the Office of the Government established the National Agency for Network and Electronic Services (NANES). Its primary tasks are to administer, manage and develop governmental data network GOVNET and to administer and develop services of the Central Public Administration Portal which are the basic tools of the introduction of ICT in public administration. | Yes, "qualified submission" requires electronic signature ("common submission" does not). | — | — |
| 25 | Finland | No. | — | — | — |
| 26 | Sweden | No information. | — | — | — |
| 27 | United Kingdom | No. | — | No. | — |

Table 4: Online signatures

| | | Are there formal opinions about either the collection, verification and authentication of signatures in the context of the ECI should be handled by an EU body or by national authorities? | Are there common European projects or projects supported by an EU institution on e-voting, e-petitioning or electronic signatures? |
|----|------------------------|---|--|
| 1 | Belgium | National authorities (experts). | No information. |
| 2 | Bulgaria | No. | No. |
| 3 | Czech Republic | No information. | |
| 4 | Denmark | No information. | |
| 5 | Germany | No. | No. |
| 6 | Estonia | No. | No. |
| 7 | Greece | No. | No. |
| 8 | Spain | No. | No. |
| 9 | France | No. | No information. |
| 10 | Ireland | No information. | |
| 11 | Italy | No. | No. |
| 12 | Cyprus | National authorities. | No. |
| 13 | Latvia | National authorities. | No. |
| 14 | Lithuania | National authorities. | Yes, there is a project on the development of e-democracy in the Parliament. One of the aims of the project is development of e-petitioning in order to make it possible to submit and accept e-petition signed with e-signature by using XAdES. |
| 15 | Luxembourg | No information. | |
| 16 | Hungary | National authorities within a European legal framework of minimum standards. | |
| 17 | Malta | No information. | |
| 18 | The Netherlands | No. | No. |
| 19 | Austria | No. | No information. |
| 20 | Poland | National authorities. | No. |
| 21 | Portugal | No. | No. |
| 22 | Romania | National authorities within a European legal framework of | No. |

| | | | |
|-----------|-----------------------|--|---|
| | | minimum standards. | |
| 23 | Slovenia | No. | No information. |
| 24 | Slovakia | No. | Yes, there was a project on e-voting where the Kosice Regional Unit was participating. The aim of this project was to develop and verify internet voting system in the regional unit. There has been a project called "Webocracy" as well, where the Faculty of Electrical Engineering and Informatics of the Kosice University of Technology participated in. The aim was to develop a web system that would provide people innovative tools to communicate with public administration, enhance participation in democratic processes and increase transparency of public administration. |
| 25 | Finland | National authorities within a European legal framework of minimum standards. | No. |
| 26 | Sweden | No. | No information. |
| 27 | United Kingdom | No. | No information. |

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