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## **Working Document**

Position Paper concerning the Draft Regulation on the European Citizens' Initiative

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The European Citizens' Initiative (ECI) is the first instrument of transnational citizen participation in EU politics. It allows citizens to intervene in European politics by proposing new legal acts, and makes the EU institutions aware of their wishes and concerns.

This new instrument, which was originally proposed by civil society organisations and was adopted by the European Convention and later enshrined in the Lisbon Treaty, gives European citizens the means to raise issues directly at the European level. When one million Europeans support such an ECI, the Commission is obliged to respond seriously to the extent, of where appropriate bringing forward legislative proposals.

The ECI is therefore an agenda-setting tool put directly in the hands of all Europeans, which can both initiate trans-European debate and inspire and instigate EU level legislation or regulation. If the ECI is designed in a citizen-friendly way and in an accessible manner, then it should contribute to raising the awareness of citizens about European issues as well as raising the institutions' awareness of the wishes and concerns of the people of Europe. It can and should further contribute to bringing the EU institutions closer to the citizen and thus strengthen the dialogue between them.

In order to become a really positive agenda-setting tool, which should be clearly differentiated from the existing right to petition, the ECI must be implemented in a way that is simple, accessible and not bureaucratic. While equipped to prevent possible misuse, it should also aim to avoid creating frustration. In achieving this, and whilst maintaining the clear distinction, much can be learned from the experience of the petitions process in the European Parliament notably as regards best practice, transparency, questions of admissibility and active involvement of citizens. The implementing rules of this new instrument, unlike the petition must clearly oblige the Commission to enter into direct and serious dialogue with citizens.

*The objective of this working Document is therefore to set out the co-rapporteurs' views on the ECI angled towards achieving a working instrument that accords as fully as possible with the aspirations of Europe's citizens for real direct involvement in European affairs. It is a document which is open for discussion with the shadow rapporteurs and all members involved in this process. It proceeds by outlining the main characteristics of the new instrument in a step-by step approach following the various stages of an ECI.*

## **I. Setting up an initiative: the pre-registration stage and requirements for organisers**

### **1. Original supporters an ECI**

Your co-rapporteurs suggest that for practical organisational reasons an ECI should name a minimum of 7 persons as 'original supporters', coming from a minimum of 3 Member States, who should have the authority to speak and decide on behalf of the supporters of the initiative. There should be a single address in one of the Member States, plus a single electronic address, to facilitate all official communication between the ECI spokespersons and the institutions, which will be necessary at different stages in the procedure. This basic provision requires those instigating an ECI to put some effort and thought into the process before it can be registered. In this way it would help to avoid possibly immature or unreasoned initiatives from being submitted.

## **II. Registration and Admissibility**

### **2. Registration**

The Commission must provide the facilities for the official registration of a Citizens' Initiative which should cover the possibility of either electronic or manual submission. For registration of electronic submissions, a dedicated multi-lingual web portal should be established to facilitate the procedure. This should include a section providing a clear explanation of the procedures and requirements for the correct submission of a Citizens' Initiative, an FAQ section, acknowledgement of receipt and a section itemising Citizens' Initiatives which have been registered and declared admissible, for information. The same information should be available in offline paper form.

In addition to the obligatory sections covering the names of the original supporters and contact details the form should include a declaration in relation to any sponsors who provide financial support for the ECI above the level of 2000 euros. The text of the initiative itself should be clearly written in one of the official languages and there should be a maximum length restriction. An explanatory statement may also be given, setting out the aims and objectives of the proposal. Overall, it is suggested that the registration form should not go beyond 3 sides.

Given the importance of the layout and requirements of the registration form to the ECI process it is submitted that it should in annex form an integral part of the Regulation for approval by the co-legislators.

### **3. Admissibility**

The co-rapporteurs agree that there indeed should be a mechanism for excluding citizens' initiatives, which are not in the competence of the EU or violate fundamental rights respected by the EU.

The admissibility of an ECI should be verified once by the Commission, directly following registration.

Upon such verification an ECI should be rejected if it does not meet the requirements as to form and content, is not within the competence of the EU, or if it is in breach of Art. 6 TEU or the general principles of the Charter of Fundamental Rights and the European Convention of the Protection of Human Rights and Fundamental Freedoms.

There should also be appropriate certain legal criteria that allows for the rejection of initiatives which are completely lacking in serious intent or manifestly vexatious.

Decisions on admissibility may be subject to appeal only to the European Court of Justice, and or to the European Ombudsman if there appear to be justifiable grounds on which a case of maladministration can be made.

If, as proposed, a decision on admissibility by the Commission is taken swiftly following registration, this will mean that the organisers have the certainty from the outset that if they are able to fulfil the one million signatures from several Member States that their initiative will be ultimately be properly considered by the Commission.

### **III. Collecting signatures and verification.**

#### **4. Who can sign?**

Your co-rapporteurs suggest that in line with the right of petition, any citizen of the Union and any natural residing in a Member State, regardless of age, should have the right to sign a Citizens' Initiative. This suggestion is made taking account of the number of signatures required and the fundamental wish to stimulate debate and participation. Against this background it would be inconceivable that this right should be available to fewer citizens than the right to petition; the objective is to increase participation not restrict it and young people especially have a huge role to play in that process. Again, the experience of petitions has not shown such permissive criteria to be problematic.

#### **5. How many Member States?**

In order to guarantee European character of the initiative, instead of national issues, and at the same time in order to ensure the right to initiative is accessible for ordinary citizens and not just for powerful lobbyists, there should be a stipulation that supporters must come from a minimum of one fifth of the Member States. Currently that would imply six Member States.

#### **6. How many signatures from each Member State?**

A threshold that is digressively proportional to the population of each state as proposed by the EC makes sense. This is an equitable approach which takes account of the widely divergent population numbers in the twenty-seven member States. A table in the annex to the regulation will make this clear and the necessary numerical requirements should figure prominently in the information available at registration.

#### **7. What is required from the signatory?**

For the signature collection, only the following data should be necessary:

Name, Address, Nationality, Signature

This is sufficient to ensure that a person who has signed exists and has not signed twice.

#### **8. How should signatures be collected?**

All possible legal and technical ways to collect signatures should be allowed. This includes the collection of signatures on paper as well as online. For the online collection, as indicated above, the Commission should provide a suitable web-portal that:

- allows easy access to sign the initiative
- ensures that only existing and legitimated persons sign,
- ensures that those who signed did this only once
- guarantees protection for the personal data given by citizens.

Furthermore, organisers could also have the possibility to collect signatures on paper and on their own website, which must however be subject to verification by the verifying authorities - see below.

#### **9. What time limits should be established?**

The time limit for the collection of signatures should be 18 months following the official registration date. Transnational initiatives need enough time for communication, meetings,

travelling, translation and mobilizing support in a significant number of states - especially if they are not initiated by large and established NGOs. Therefore one year is probably insufficient. The deadline does not mean that citizen initiatives could not be handed in earlier if they have already gained the necessary support. It cannot be excluded that at the time of registration, one million signatures may already have been collected. However, normally, following registration, the collection of signatures should begin within a six month period and the Commission informed accordingly, otherwise the technical decision on admissibility should become void. The 18 month period is to run from the commencement of signature collection, that is up to 6 months from the date of successful registration or earlier depending upon the effective start date advised by the original supporters to the Commission.

#### **10. How should signatures be verified?**

Verification of signatures should be dealt with by the designated authorities of the Member States within 3 months of final submission. The Commission will set down the criteria to ensure that these authorities all adhere to the same standards (objectivity, data protection and so on) but the decision as to which authority carries out the checks will be left to the Member States.

A verification of every single signature is not necessary. Random examination is sufficient to prove whether a sufficient amount of valid signatures has been reached.

The decision will be subject to appeal to the ECJ, as for other provisions of the Regulation.

#### **IV. Follow-up: the role of the European Institution.**

In contrast to the detailed rules and provisions that ECI-organisers have to follow, the Commission in its draft regulation is very short on its own obligations in dealing with a successful ECI. In Article 11 of the draft it only stipulates that it will "examine the citizens' initiative and, within 4 months, set out in a communication its conclusions on the initiative, the action it intends to take, if any, and its reasons for doing so.

However, this stage of the procedure is extremely important for effectively designating the ECI as a legitimate debate provoking instrument which leads to the formulation of policy and possibly to European regulation or legislation. Thus there must be clear provisions on what happens after an ECI has successfully collected one million signatures.

The co-rapporteurs consider that organisers of Citizens' Initiatives should, when the whole procedure has been completed, be entitled to be heard and make their case in public. In particular there should be a right to be heard by the Commission in a public hearing. The Commission shall be obliged to discuss the proposal made by the ECI and consider the ways in which it could act to achieve those aims.

In addition to that, and bearing in mind the ECI's direct right of response from the Commission, at the discretion of the organisers of the ECI and of the European Parliament, a public hearing may also be conducted in the forum of the Petitions Committee of the European Parliament with Commission and Council present and fully involved.

The Commission should be obliged to formally communicate the conclusions of the public hearing or hearings to the organisers of the ECI, the European Parliament and the Council

setting out the type of legislative or regulatory action to be taken and in the event of no action being proposed to give clear reasons why not.

The grounds for suggesting a possible additional hearing before the Petitions Committee of the European Parliament, is because the experience of this committee makes it ideally suited for such an activity. Due to the fact that it would not be involved in any subsequent legislative procedure it could provide a useful representative and democratic forum for ECIs to be heard and debated in the presence of, and indeed with the participation of the Commission, Member States representatives and other interested parties.

Such an additional parliamentary hearing need not necessarily form part of the Regulation as Parliament's Rules of Procedure could be amended to provide for such a possibility, especially if there was to be an inter-institutional consensus on this point.

It would however be unreasonable to make this an obligation on either the organisers of the initiative itself, or the institution concerned. The primary addressee of the ECI is and must remain the Commission, as it is the Commission that is obliged to engage and respond, and in this respect the Regulation must lay down clear and definitive timescales and procedures

It could also be possible for Parliament, at an earlier stage in the process to champion an ECI which could result in the delivery of a Parliamentary initiative to the Commission in the same or similar terms. This may require a minor modification to the existing Rule 41 in Parliament's Rules of Procedure.

Another issue relates to what happens with unsuccessful Citizens' Initiatives. The EP, its committee on petitions and other parliamentary committees, are at any time free to put the issue on its agenda, to invite organisers, stakeholders, commission, council and ombudsman for a hearing. This would especially make sense with ECIs that did not completely reach the 1 Mil. signatures in the set timeframe but cover an important issue. Furthermore, if an ECI has been found not admissible the organisers could bring it to the notion of the Parliament in the form of a Petition, where it would be acted according to the established procedures for petitions.

The intention of all institutions should be to encourage citizens to take a greater interest and also participate where possible in the activity of the Union and its institutions. Consequently, care must be taken throughout the process covered by the Citizens' Initiative not to demotivate citizens from acting responsibly.

## **V. Further considerations:**

Initiatives also must have the right to receive professional help especially for translation purposes and for advice on the legal design and the admissibility of an initiative.

Therefore the Commission could provide a help desk for ECIs in order to support organisers and to enter into a dialogue with them at an early stage of the process. Also the Commission and Parliament offices in the Member States should be obliged and equipped to offer help and advice.

Knowing that many initiators who want to force the commission to take up their proposal will not see the commission itself as the best (and independent!) advisor and that it might be difficult if the same institution that helped with advice and formulations will later on be the

one to decide on the same proposal your rapporteurs would like to discuss the creation of an independent body for advice and support of initiatives. This could lead to a very useful focal point for citizens' engagement and citizens' participation. It could be led by an authorized EU-appointed for citizens' participation that will be funded by the European Union, elected by the EP and controlled by a board with representatives not only of the council, the commission and the parliament but, in majority, of the civil society.

Furthermore, due to its specific role and composition as a representation of civil society, the European Economic and Social Committee (EESC) could play an important role when it comes to the necessary support for Citizens' Initiatives.

There should be a facility for the Petitions Committee to champion an ECI and offer help and advice to the organisers, should it decide to do so. It can act as a forum to offer organisers feedback and guidance.

The functioning of the ECI should be reviewed by the Commission, in consultation with the Parliament and Council after two years.