European Citizens' Initiative

The European Citizens' Initiative (ECI) was introduced as a major innovation in the 2009 Lisbon Treaty. It is a key element of participatory democracy, allowing citizens to play an active role in the EU's democratic life through addressing requests for legislative proposals to the European Commission. Notwithstanding the Commission's right of initiative, the European Parliament and the Council, under Articles 225 and 241 of the Treaty on the Functioning of the European Union (TFEU) respectively, also have the ability to request the Commission submit a legislative proposal. The procedure and conditions for ECIs are governed by Regulation (EU) No 211/2011, in force since April 2012. This was the subject of a first three-yearly review by the Commission in 2015, leading to a debate on the ECI's effectiveness and some suggestions for improvement.

ECI – legal framework and procedure

Article 11(4) of the Treaty on European Union (TEU) grants 1 million or more EU citizens the right to invite the European Commission, through a European Citizens' Initiative (ECI), to present, within the scope of its competences, a legislative proposal on matters where they consider a legal act is necessary for implementing the Treaties. The procedures and conditions for exercising this right are set out in Regulation (EU) No 211/2011 (the 'ECI Regulation'), adopted on the basis of Article 24 TFEU.

Under the ECI Regulation, the organisers of an ECI must first set up a citizens' committee (consisting of at least seven persons, all residing in different Member States) and request the Commission to register their initiative. The Commission has two months to act on this request, provided it reaches the conclusion that the proposed initiative does not 'manifestly fall' outside its powers and complies with other formal conditions listed in Article 4(2) of the ECI Regulation. Following the registration, it is up to the organisers to collect at least 1 million signatures in at least a quarter of the Member States (that is, seven out of the 28 Member States) within a maximum period of 12 months. Following the collection of statements of support on paper or in electronic form (after initial collection system certification by the individual Member States), these are forwarded to the Member States' authorities for verification and then to the Commission. At the final stage, the Commission examines the initiative, meets the organisers and, within three months, issues a communication stating its decision to act or not to act, and giving the grounds for doing so. The organisers of a successful initiative can present their initiative at a public hearing organised by the European Parliament with the participation of other relevant EU institutions.

Developments since 2012

Since April 2012, the Commission has received a total of 60 ECI proposals. According to its official register, two ECIs are currently open for signature: 'More than education – Shaping active and responsible citizens' and 'People4Soil'. Two more have recently closed to signature, but their results are not yet known: 'Mum, Dad & Kids – to protect Marriage and Family' and 'Stop plastic in the sea'. The Commission has formally replied to three initiatives which gained 1 million signatures ('Stop Vivisection', 'One of Us' and 'Water is a public good, not a commodity') by adopting communications, and for the third of these, a new legislative proposal was included in the Commission's 2017 work programme as a follow-up to the ECI. The Commission has rejected 20 ECI registration requests (among others 'Stop TIPP'), mostly because they fall outside its powers. In addition, 14 ECIs have been withdrawn by their organisers and 18 have not gathered sufficient support over the 12-month period for collecting signatures (five of these were allowed an extended deadline as a response to issues faced by their organisers during the ECI's start-up phase.) On 21 December 2016, the Commission announced it had registered an ECI calling for a European 'free movement instrument'.
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ECI organisers can resort to a number of judicial and extrajudicial remedies, such as the Ombudsman. The Commission’s decisions to reject seven ECIs have been challenged before the Court of Justice of the European Union (CJEU). The Court has yet to complete four of these cases — Stop TTIP, Minority Safe Pack – for diversity in Europe, Ethics for Animals and Kids, and One of Us — while for the remaining three — Cohesion policy for the equality of the regions and the preservation of regional cultures, Right to Lifelong Care, One Million Signatures for a Europe of solidarity — the organisers’ applications have been dismissed.

Debate on the ECI

The discussion on the ECI’s function

Since its introduction in 2012 and during its first triennial review in 2015, the ECI has been the subject of lively debate on its functions and impact. While there is general consensus on the value of the ECI as a tool for political dialogue between citizens and EU institutions, stakeholders’ views diverge considerably on whether the discussion generated is sufficient to bridge the gap between citizens and decision-makers. Here civil society and Parliament point out that the ECI should mainly be seen as an instrument spurring the creation of new EU-level legislation. On the other hand, the Council and the Commission also stress the ECI’s important political value in launching a political debate even if it does not result in a change of legislation.

Procedural issues affecting the ECI’s implementation

Stakeholders, in particular NGOs, have pointed out a number of hurdles to ECI implementation. These involve the level of compatibility between ECI proposals and the Commission’s powers, and the scope of application of the Commission’s legal admissibility test, which entails ascertaining, inter alia, whether an ECI ‘does not manifestly fall’ outside the Commission’s powers. As a result, in nearly 40 % of cases the reason given by the Commission for refusing to register an ECI has been its incompatibility with the Commission’s powers; at the same time, Regulation No 211/2011 does not provide a clear definition of ‘incompatibility’. Other procedural issues include barriers to gathering signatures resulting from complex online collection systems (OCS) requirements, and citizens committees’ lack of legal entity status, leading to funding problems and concerns regarding the personal liability of their members. Additional difficulties highlighted concerning support campaigns for ECI initiatives include high staff and equipment costs, as well as complex national personal data protection requirements.

Stakeholders’ suggestions for changes in the ECI Regulation

Proposed suggestions for improvement involve abolishing citizens’ committee members’ personal liability and providing them with legal status. Proposals for reforming the admissibility check procedure include a neutral entity acting in the place of the Commission; removing it entirely; or registering part of an ECI. Concerning electronic signature collection, ideas include a European citizen’s ID number (to be used in a secure website in the Member States); qualified electronic signatures (QES); open software; and an EU-wide single collection point. In broader political terms, EU institutions have proposed to look for ways to continue and deepen EU-level political discussions beyond the formal ECI process.

The Ombudsman’s suggestions for improvements and changes

In an own-initiative enquiry on the ECI, the European Ombudsman urged the Commission to present new ideas on translation assistance and funding of ECIs, along with suggestions for improving OCS systems and making them accessible to people with disabilities. The Ombudsman further asked the Commission to draft simpler EU-wide personal data protection requirements for the statements of support issued by citizens regardless of their country of residence, and to give its position on successful ECIs clearly and transparently.

European Parliament’s position

In its resolution of October 2015, Parliament urged the Commission to provide assistance to ECI organisers through early legal guidance, exploring the possibilities of EU financial support and explaining in detail its grounds for rejecting an ECI, and to consider the possibility to register parts of an ECI if it is not admissible as a whole. It asked the Commission to allow ECI organisers to decide when to start collecting signatures after registration, to improve the signature collection software and to offer its servers for signatures. Concerning personal data, it proposed scrapping national personal identification number requirements and limiting the ECI organisers’ personal liability. On the follow-up regarding successful ECIs, Parliament urged the Commission to ensure that it would prepare a legal act within a year of issuing a positive opinion. The Commission was also called on to propose revision of the ECI Regulation and Implementing Regulation (EU) No 1179/2011 concerning the technical specifications for online collection systems.