

Public Hearing on the European Citizens' Initiative (ECI)
AFCO Committee in association with the PETI Committee
IMPLEMENTATION OF REGULATION 211/2011 OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL OF 16 FEBRUARY 2011
26 February 2015 - Room ASP 3G2 - 9H00-12h30

SUMMARY
BY THE AFCO SECRETARIAT*

INSTITUTIONAL AND ORGANIZATIONAL PERSPECTIVE

- **AFCO Chair Danuta Hübner** stressed the extreme importance of the discussion and the utility of the ECI as an instrument that facilitates the union of all different kinds of expectations across Europe.
- **PETI Chair Cecilia Wilkström** hinted at the fading away of enthusiasm of citizens towards this instrument and its need of improvement.
- **1st vice-President of the Commission Frans Timmermans, in charge of Better Regulation, Interinstitutional Relations, the Rule of Law and the Charter of Fundamental Rights**, expressed his feeling of responsibility to improve the ECI and announced a report by the Commission concerning the ECI by 1 April.
- **Pablo Sánchez Centellas, Spokesperson for the organizers of the successful ECI on the Right to Water**, pointed out the imperfection of the ECI. He called for a harmonized system of collecting signatures, a user-friendlier online collection system and a more social media-based system as possible improvements for the ECI, but stressed that the main problem concerning his Initiative was the lack of a binding legal document coming from the Commission. He also stressed that the ECI is unfortunately only a consultative tool with a very narrow mandate.
- **Ms Prisca Merz, director of the ECI End Ecocide in Europe (ECI that did not reach 1 million signatures)**, spoke her mind regarding the improvements that are needed for the ECI: it has to become more user-friendly and accessible for persons with disabilities, and have a harmonized collection system with only one form for all Member States. She also asked for a period of six months between the registration of the initiative and the beginning of the collection time. She complained about personal liability for personal data and warned that potentially controversial Initiatives must receive the same treatment by the Commission.
- **Mr Ernst Johansson, Lawyer representing the rejected ECI - the Minority SafePack case**, complained about the rejection of this Initiative that - according to the Commission - would have requested something that is beyond the EU's competence. He thus proposed that all initiatives must be registered, if not in their entirety, at least as part of them, and asked that the reasons for rejections of ECIs be fully plain and understandable for citizens. He declared himself unsatisfied with

the typical answer by the Commission in such cases: "rejected because it is out of competence".

- **Vice-President of the Commission Timmermans** recalled that the Commission has to stay in the limits of law and its competences.
- **Speech by Mr Ian Harden, Secretary-General, European Ombudsman:** Mr Harden pointed out that participative and representative democracy have to complete each other and support each other. He also encouraged the Commission to be very clear when rejecting initiatives and to provide better information to organizers of initiatives about the admissibility of their initiative.
- **Ms Anne-Marie Sigmund, from the Economic and Social Committee,** offered practical support from the EESC in the phase of the setting up of an initiative. They could give advice on the basis of the criteria that they established, through their helpdesk, and provide free translations of the initiatives.

1st PANEL: LEGAL PERSPECTIVE

- **Prof. Jean-Luc Sauron, associate professor of International law at the Paris-Dauphine University**
 - Negative conclusion on the ECIs: only three initiatives were successful so far
 - The ECI is part of a legislative work which is in a slow-down phase, where parliamentary representation in Member States is decreasing and (legislative) requests from citizens are increasing
 - A clash of legitimacies between Member States and the EU must be avoided. The legitimacy of the ECI has to be stepped up without creating a conflict of legitimacy between European and national institutions.
 - Proposals: an Interinstitutional Agreement between EP, Council and Commission could deal with successful and unsuccessful initiatives; the ECIs could be mentored by universities or other institutions, like trade unions; ECIs should be accompanied by a proposal for an act (switching from an initiative, to an initiative to act); once per year, the European Council could deal with ECIs in its agenda.
- **Dr Tamás Molnár, adjunct professor, Corvinus University of Budapest, Institute of International Studies**
 - The ECI has a constitutional importance enshrined in the very first principles of the TEU
 - If the ECI continues to be used and treated as it is currently, with the existing obstacles, the aim of participative democracy will be missed
 - The ECI could well be a "hard legal instrument", with the objective to produce legislation, but in practice it is only a "soft instrument", a communication tool (agenda setting) highlighting citizens' concerns without legal effects
 - Drafters of ECIs are not legal experts and they need legal advice
 - The EU's input of legitimacy could be enhanced by the ECI

- The ECI should be open to new topics, falling under the scope of the treaties but not yet taken up by the Union legislators
- The ECI should complement Article 265 TFEU and Article 352 TFEU.
- **Prof. Philippe Poirier, holder of the Chair in parliamentary studies at the University of Luxembourg**
 - The participative and representative democracies are complementary
 - There is constant diminishing of democratic legitimacy of the European Union in general and a collapse of confidence in political parties
 - National parliaments could consider at the beginning of the legislature what subjects the EU could take action on and ECIs could be better associated to their initiatives
 - The European Parliament should have a central role in the process of ECI registration
 - Political parties should be obliged to support initiatives during their political term (at least one ECI per year)
 - ECIs should be binding in their effect, or they lose their legitimacy
 - Foundations, think-tanks and trade unions should be associated in the process of organising ECIs.

Debate (AFCO/PETI members)

- **Mr. Ujazdowski** pointed out, with the example of the Oneofus initiative, the risk of ECIs being rejected without sufficient justification, in an arbitrary way.
- **Mr Leinen:** the ECIs should not be limited to the spectrum of competences of the Commission, but cover the competences of the EU in general.
- **Mr Csäky** stressed that the legal climate has to be improved, the red tape cut and the system changed to make sure that it is not the Commission which has the final word on ECIs.
- **Ms Kaufmann** pointed out that the ECI has to be reprocessed to avoid much bureaucracy and have Member States' support.
- **Mr Schöpflin** recalled the clash of legitimacies hinted at by Mr Sauron
- **Mr Corbett** also called for more flexibility with the ECI and less red tape (be flexible about the number of signatures).
- **Mr Terricabras** stated that ECIs should be provided with support and legal advice, and data requirements should be standardised, while eliminating ID requirements.

2nd panel: TECHNICAL PERSPECTIVE

● **Mr Carsten Berg, General Coordinator of "The ECI Campaign"**, underlined that the European Citizens' Initiative has still a lot of deficits which need to be tackled and solved in order to make the ECI an effective and useful instrument for more citizen participation on the European scale. Berg presented, in his opinion, the most important criterion, i.e. the use of the initiative as a tool that must be "clear, simple and user-friendly in order to encourage participation". ECI as it stands now is not direct democracy; it only invites the European Commission to set an initiative.

- Registration must be less restrictive

- ID numbers should be eliminated
- The European Commission must take successful initiatives seriously
- The Commission rejects nearly 50% of the initiatives, which is too high
- Unfortunately, ECIs do not produce any legal change. Instead, this should be the result
- The online collection system must be reorganised
- The possible age to sign an ECI must be lowered at 16
- In its current form, the ECI will not survive, but the ECI has great potential, if it is changed.

● **Mr Francisco Polo**, Country Director, Spain and Director of Global Expansion, Madrid, Spain), International petitioning platform **Change.org**, pointed out the importance of the Internet regarding civic participation. Mr Polo argued that citizens participate in a petition when it is simple to use, when it proves to be useful and if citizens get to know what impact the petition has after their signature.

● **Dr. Susana del Río Villar**, PhD, author and director of the EU project: Upgrading Europe, referred to the achievements of the European Union and to the Treaty of Lisbon, which increased civic participation in European affairs. She pointed out that failed initiatives (not reaching 1 million signatures) could have a second possibility. Besides all the technical aspects of the ECI, Dr. del Río Villar underlined the ECI's communicative power.

The debate focused on the legitimacy of ECIs and the need to use them in different ways, for instance as recommendations to governments, when/if they do not propose to draft legislation

- **Concluding remarks of the experts**
 - So far no ECI has led to any proposal, the ECIs have to be taken more seriously
 - Data requirements have to be reduced

3rd panel: EP RAPPORTEURS

- **Ms Diana Wallis, former PETI rapporteur on the ECI Regulation**
 - A dialogue should be created with ECIs signers
 - The ECI needs to become a European instrument that is "simple, clear and user-friendly"
 - Citizens need more information and better education if the aim is to propose legislation
- **Mr Carlo Casini, former AFCO Chair**
 - He refers to the Oneofus initiative to illustrate the obstacles that currently exist for initiatives. The idea of the ECI is to bring citizens closer to the EU, but in the Oneofus initiative the result was the exact opposite, because of the arbitrary rejection by the Commission
 - Articles 10 and 11 of Regulation 211/2011 have to be amended in order to have, as a result of each successful ECI, a reasoned opinion by the Commission and a debate and vote in the Plenary of the European Parliament
- **Mr György Schöpflin, EP rapporteur on the implementation of Regulation 211/2011**
 - The ECI is not a failure, neither is it a success

- There should be technical and legal advice to the initiators
- The verification of signatures in MS should be simplified
- The ECI has to be evaluated both on the legal and on the political ground
- The legal climate should be favourable to the ECI
- A neutral committee should have the responsibility of organising the hearing on ECIs, such as AFCO or PETI, but not the committee competent for the subject-matter
- **Ms Beatriz Becerra, PETI rapporteur on the implementation of Regulation 211/2011**
 - The different identification systems in each Member State are an obstacle, as well as the differences in the registration systems
 - ECIs must be easy to organise and useful, to change legislation
 - ECIs must express the European identity and must be felt as a tool providing European identification

The final debate focused on the need to have a legal admissibility check of ECIs carried out by a neutral company, to avoid a conflict of interest within the Commission