

EUROPEAN UNION



Committee of the Regions

CIVEX-VI/005

114th plenary session, 12, 13 and 14 October 2015

OPINION

European Citizens' Initiative

THE EUROPEAN COMMITTEE OF THE REGIONS

- stresses that citizens must be at the heart of the European project and therefore European participatory democracy should be considered as the right of European citizens;
- notes that ECI has the prospects of a "legal act";
- notes that the ECI should be used to give an answer to the European democratic deficit and the confidence crisis, and as a way to increase the legitimacy and accountability of European policy making;
- is of the opinion that we should strengthen our legal and political participatory instruments to come to a renewed governance architecture based on the principle of multilevel governance;
- stresses that the European Commission should adopt clear, simple and user-friendly procedures in order to achieve the initial objectives of the ECI, namely to give every citizen the right to participate in European democracy;
- is of the opinion that a revision of the Regulation is imperative and that some problems which do not require changes in the Regulation should be addressed as quickly as possible to prevent deterrence of potential organisers;
- points out that extremely few Europeans know about the ECI;
- asks the Commission to also develop appropriate forms of response to those ECIs which receive significant support, but do not meet all the formal criteria or do not reach the full 1 million signatures, so that any substantial political message of such ECI and the mobilisation which they have created, are not completely ignored;
- reiterates its commitment to support ECIs which fall into the CoR's political remit and which are deemed politically relevant.

Rapporteur

Luc Van den Brande (BE/EPP), Chairman of the Flemish-European Liaison Agency

Reference document

Report on the application of Regulation (EU) No 211/2011 on the citizens' initiative
COM(2015) 145 final

Opinion of the European Committee of the Regions – European Citizens' Initiative

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

The European Citizens' Initiative (ECI) with regard to the European participative democracy

1. recalls that the citizens are at the heart of the European project. The European participative democracy shall be considered as the right of European citizens to get involved in European politics and shape Europe's future. The Treaty (Art.10, 3) confers on every citizen the right to participate in the democratic life of the Union;
2. notes that under Article 11 of the Treaty on European Union the EU institutions are required to inform citizens and representative associations, to give them the opportunity to make known and publicly exchange their views in all areas of Union action. The same article contains an explicit mandate for the European Commission to consult with parties concerned in order to ensure that the Union's actions are coherent and transparent;
3. notes that the provisions regarding the European Citizens' Initiative are more specific than what is stipulated in Article 11, 1-3. Article 11.4 on the ECI does not deal with an "agenda setting" but has the prospect of a "legal act". It should be recognised that the ECI, similar to other direct democratic instruments at different levels, also should allow citizens to influence "the agenda" for the EU's political decision making;
4. recalls that the European Citizens' Initiative is a right for European citizens. It should be used to give an answer to the European democratic deficit and to provide a tool for European citizens to bridge the gap between citizens and European policy. With the continuing economic and confidence crisis in the EU, it is crucial to use all opportunities for an open dialogue with citizens and prevent their further disenchantment in the concept of European integration. This is also an occasion to restore and to further rebuild the trust of any young Europeans who may have lost faith in the concept of European integration. Strengthened participatory democracy is the only way to keep the perspective of the destiny of the EU and to get rid of the democratic deficit; notes that the European Citizens' Initiative aims to involve citizens more directly in the European political agenda and thus give them the right to legislative initiative. Also, the European Citizens' Initiative, as a transnational tool, has the aspiration of stimulating a Europe-wide debate on issues of concern to European citizens;
5. emphasises that the ECI must be appreciated within a realistic context with a clear and focused ambition and coherent guidance on the steps by which these can be delivered: it is no substitute for the right of initiative of the European Commission that has led to the progress in deepening the Union and must continue; the ECI completes the diversification of the legislative dynamics and gives a transnational dimension; it is an additional channel for mutual understanding whereby the European Commission itself has advantage; it has the potential to be a very good example of "democracy in action";

6. without prejudice to the European Citizens' Initiative, highlights the need to promote at local and regional level initiatives which foster transparency, cooperation and the involvement of Europeans in public policies, in line with the principle of participatory democracy. Furthermore the necessary involvement of regional and local governments is inspired by the fact that the ECI often involves policy areas for which they are completely or partially competent;
7. is of the opinion that we should strengthen our legal and political participatory instruments to come to a renewed governance architecture based on the principle of multilevel governance. Multilevel governance is essentially multi-channelled and therefore it allows for more "active" European citizenship. The challenge is to provide for a system of innovative interest representation in which people feel represented on an equal basis in their various identities;
8. emphasises that a European public space for debate between citizens and with power-holders is important for the legitimacy and accountability of the EU. The deficit in democracy can only be eliminated if a European public sphere in which the democratic process is incorporated comes into existence;
9. stresses that regional and local authorities attach special importance to participatory democracy because thus civil society organisations can be involved in European decision-making and play their role;
10. is of the opinion that the European Citizens' Initiative should be considered as one of the instruments for achieving the goals of participatory democracy, but it should not be expected that with this initiative the involvement of citizens in the European decision-making is realised automatically;
11. notes that the European Citizens' Initiative is the expression of participatory democracy that complements the notion of representative democracy; it enhances the set of rights related to citizenship of the Union and the public debate on European politics; it should strengthen the citizens' ownership of and identification with the Union;
12. notes that other channels of participatory democracy, such as other forms of civic dialogue and the involvement of representative civil society should not be neglected, since European Citizens' Initiatives focus on one specific policy issue and require significant coordinated effort and financial resources;
13. calls in this context on the European Commission to produce a report on how the provisions of Article 11.1 and 2 of the Treaty on the European Union are implemented and thus make it clear how the Commission puts into practice participatory democracy;
14. wonders whether - taking into account the limited number of successful initiatives - the initial objectives, as set out in the Regulation, have been achieved, namely to give every citizen the right to participate in European democracy; giving citizens the opportunity to directly approach the Commission; clear, simple and user-friendly procedures;

15. notes that the Commission has done its best to administer the ECI, but that on the other hand there is a pressing need to review certain aspects of its approach, and to undertake actions to identify and remedy those measures which have been overly legalistic and restrictive;

The report of the European Commission

16. takes note of the report of the Commission to the European Parliament and the Council on the application of Regulation (EU) No211/2011 on the citizens' initiative, carrying out Article 22 of the Regulation, by which the Commission is required to report every three years;
17. notes that the report acknowledges some problems and shortcomings, but it is mainly a factual and technical report, taking stock of the situation after three years of application of the Regulation. The report fails to give an answer to the shortcomings which could lead to the end of this initiative: "a democratic revolution that never took place";
18. notes that there is a common feeling that the Commission is rather cautious and restrictive in its approach and assessment and that this is something that should be monitored and regularly critiqued in order to improve matters;
19. states, based on the report from the Commission, that the European Citizens' Initiative has great potential - in three years 51 initiatives were proposed to the Commission. These initiatives focused on various policy areas such as social policy, environment, animal welfare, and education;
20. notes on the other hand that the registration of 20 (39%) of these 51 initiatives was refused by the Commission and that they did not pass the admissibility test mainly because these initiatives "manifestly fell outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties". The six ECI organisers decided to challenge these refusals before the European Court of Justice;
21. notes that only three initiatives have so far achieved the goal of one million signatures. The manner in which the Commission will give follow-up to those successful initiatives will largely determine whether the European citizens will still attach importance to the Citizens' Initiative as a participative model;
22. is worried about the fact that the number of initiatives presented is systematically declining (23 in 2012, 17 in 2013 and 10 in 2014) and that the number of refusals is increasing (30% in 2012 and 50% in 2014); proposes therefore, that the European Commission simplify the conditions thereof;
23. agrees with the Commission that the European Citizens Initiative needs thorough improvements and that solutions must be sought to enable more efficient use of this instrument;
24. calls on the Commission to take a more political approach to the ECI and to give more space to debate, to be more open and not limit the issue to the legal aspects. Democracy, especially in a

multilevel institutional environment, implies active participation and scrutiny on the part of citizens, and entails a responsibility for institutions to stimulate this participation;

Recommendations for a successful European Citizens' Initiative in the future

a) General observations

25. notes that it would have been appropriate to make reference to the citizens' rights and duties and to the principle of subsidiarity for the eligibility criteria;
26. is of the opinion that the current conflict of interest of the Commission which has to be at the same time a key information provider and support structure for ECIs, is the primary "addressee" for ECIs, and also acts as a "judge" for the decision regarding registration and admissibility of the initiatives is seriously damaging the effectiveness of the ECI in fostering citizens' participation and trust;
27. underlines that this conflict of interest for the Commission must encourage the other institutions to play their role in the ECI procedure (Council, Parliament, Committee of the Regions, European Economic and Social Committee);
28. suggests that it might be more appropriate to appoint an ad hoc impartial "wise people committee", gathering some experts, scholars and/or jurists, to check the admissibility, avoiding the Commission being judge and jury;
29. is of the opinion that especially the European Parliament has a central role to play in strengthening the transparency and the accountability of the ECI procedures and in the political follow-up, notably by improving the inclusiveness of the hearings organised, and by putting political pressure, where appropriate, on the European Commission, to respond in a timely and constructive way to successful ECIs;
30. underlines that the Commission must respect the principles of the European Rule of Law where any arbitrary assessment of eligibility should be avoided. Moreover, it is a matter of "Good governance" and not merely of "Better Regulation". The Commission should take into account "liability" in accordance with and respect for the Treaties;
31. is in favour of an improved ex ante assessment to avoid disappointment at the end. In the current situation only an ex post assessment takes place after the registration and after the collection of the signatures;
32. suggests to extend the collection period for statements of support to 18 months;
33. supports the common request of stakeholders and ECI's organisers to allow the latter to freely choose the date to start collecting signatures within a clearly defined time-limit following registration; suggests to give the organisers of an ECI an additional period of two months between the registration and the start of the collection of signatures to give them the opportunity to better inform European citizens and to organise the collection of signatures;

34. supports the establishment of a legal status for citizens' committees to mitigate the risk of personal liability for their individual members and to facilitate campaigning;
 35. stresses that the Commission must not arbitrarily decide to refuse ECIs and must come forward with a legislative proposal within one year if it agrees to a successful ECI, as it does with parliamentary initiatives. In this period of one year the Commission could give gradual implementation to the outcome of the ECI that leads finally to a legislative proposal. If not, the ECI will become obsolete;
 36. is of the opinion that a revision of the Regulation is imperative so that the identified barriers can be overcome. A revision comes not too early since this is a unique "experiment" with outcomes difficult to predict. Timely and anticipatory interventions are needed to prevent deterrence of potential ECI organisers;
 37. is willing to keep on working with the European institutions as well as all interested partners in the process of assessing the operation of the Regulation up to now and to contribute to its revision, in order to make this tool deploy its full potential;
 38. suggests exploring the possibility of changing the ECI regulation so that it would also become admissible to propose ECIs which aim at concrete changes of the EU Treaties according to Art 48 TEU;
 39. states that problems which do not require changes in the ECI Regulation itself should be addressed as quickly as possible. Simple and transparent procedures will indeed determine the future success of the ECI;
- b) Modifications and improvements to the ECI to be implemented without delay
40. notes that the comments on the current procedures and suggestions for improvement, formulated by various stakeholders and organisers of citizens' initiatives, are very similar and that it should therefore be possible to make adjustments and improvements without further delay;
 41. points out that extremely few Europeans know about the ECI. An indication of this can be seen in a recent Eurobarometer survey¹ of public perceptions of the EU in six Member States (Italy, Germany, Denmark, Portugal, Finland and Poland) with the ECI concept only registering to any significant degree on German respondents' radars. The CoR therefore underlines the need for joint action by the EU institutions and other levels of governance to make people aware of their right to propose and support an ECI. Information campaigns in all EU Member States, involving regional and local authorities, should be launched, with young people as one of its primary targets, to make citizens aware of this right;
 42. calls for more efficient communication on the ECI and stresses the role of decentralised communication in this connection. Regional and local authorities play a decisive role in making

¹ Eurobarometer, September 2014.

and maintaining the link between the population at large and institutions at all levels in the EU, and can play a crucial part in showing the relevance of EU-level political questions to citizens and in explaining how the ECI can be an instrument to influence EU policy. Supports the idea of using the national representation offices of the European Commission to build stronger information networks on the ECI and encourages the Commission to involve local and regional authorities in these networks. If the ECI relies a lot on new technologies to collect signatures within the set deadlines, regional and local authorities have a key role to play in disseminating information and relaying issues to and from the grassroots;

43. reiterates its proposal to establish an interinstitutional information point, which aim would be to raise overall awareness on the ECI as an instrument, promote its use, provide a minimum visibility to ongoing and successful citizens' initiatives and answer some questions on the ECI;
44. is in favour of establishing an ECI help-desk providing technical know-how and advice on how to organise and run an ECI campaign, with financial support from the EU budget. Such a help-desk should be distinct from any of the EU institutions because neutrality is a key element of the success of this initiative and can help foster trust on behalf of individuals considering initiating a citizens' initiative;
45. is committed to keep up the cooperation with the European Economic and Social Committee in organising a regular "ECI Day" event, which explores progress in the application and implementation of the regulation, fosters discussion between EU institutions and ECI organisers on the challenges faced by the latter and encourages dialogue between citizens and representatives of the institutions on initiatives under development;
46. notes that the ECI practice shows that the coaching of an ECI is perhaps as important as an ECI itself. It is obvious that ECIs need the support of civil society organisations (staff, financial means) to be successful. Managing an ECI by individual citizens, without external professional and financial support, is extremely difficult;
47. underlines that too many requirements and burdens may negatively affect the EU's objectives to bring citizens closer to the EU and the citizens' willingness to participate in the EU decision-making process; the European Citizens' Initiative should be a driver for encouraging as many people as possible to participate actively in EU policy and for putting a stop to misguided scepticism;
48. asks the Commission to also develop appropriate forms of response to those ECIs which receive significant support, but do not meet all the formal criteria or do not reach the full 1 million signatures, so that any substantial political message of such ECI and the mobilisation which they have created, are not completely ignored;
49. notes that citizens wish to participate in public policy, but will only do so if it is simple and actually makes a difference. Citizens want to know what happens to the initiatives they support. Facilitating two-way dialogue between EU institutions and an ECI's supporters is crucial for the ECIs success;

50. invites the Commission to explore the possibility of providing financial support towards the costly process of the organisational transnational development (by the relevant Citizens' Committee) of ECIs which both conform to a policy area of Commission competence and demonstrate a groundswell of popular support (i.e. reaching a set milestone threshold, within a given timeframe, in advance of the one million signatures mark requiring a legislative proposal to be made). This would assist with maintaining the necessary citizen-based focus to activities and in assuring the transparency of funding behind the ambitions;
 51. suggests that where such ECIs may relate to proposals with sufficient demonstrable and positive impact on local and regional governance, on the territorial dimension or on subsidiarity as to gain the prior support of the CoR Bureau, the CoR should be tasked with overseeing the operation of the aforementioned funding mechanism as well as providing some further assistance with promotional efforts;
 52. underlines that the current nationally defined requirements for data-collection constitute a serious barrier to the successful collection of signatures and therefore calls urgently on the Member States to take all necessary steps to simplify the personal data requirements and to harmonise the requirements across the EU as soon as possible;
 53. calls on the European Commission to ensure full transparency in the decision-making process and in particular invites the Commission to explain in detail the reasons for rejection of an ECI if it is considered to be "manifestly outside the Commission's powers" and at the same time to inform the organisers of the relevant legal considerations, so that they can decide whether to revise the ECI and resubmit it in a modified form;
 54. invites the Commission to explain its political choices to the public in a detailed and transparent manner in its formal response to an ECI that has obtained more than one million signatures. A politically strong follow-up should be ensured;
- c) The contribution of the Committee of the Regions and RLAs
55. reiterates its offer to assist the Commission in assessing whether initiatives comply with the principle of subsidiarity or how they contribute to territorial cohesion and cross-border cooperation;
 56. underlines that the ECI provides Europeans with an instrument which allows them to participate actively in European policy making; it therefore should not be initiated by the EU institutions. It recognises however its own role and responsibilities and recalls in this context the decision of its Bureau² on the CoR's involvement in European Citizens' Initiatives. It reiterates its commitment to support ECIs which fall into the CoR's political remit and which are deemed politically relevant, by, for example: supporting the European Commission in its screening of proposed ECIs from the perspective of their local/regional relevance and subsidiarity; hosting of events linked to the ECI; support for decentralised communication action on the ECI; where appropriate, own-initiative opinions on the ECI's subject; active participation in the EP hearings

²

144th meeting of the Committee of the Regions Bureau, 10 April 2013, item 8 – CDR1335-2013_11_00_TRA_NB-item 8.

and the political follow up; supporting the implementation of successful ECIs and where appropriate the legislation in response to them.

Brussels, 13 October 2015

The President
of the European Committee of the Regions

Markku Markkula

The Secretary-General
of the European Committee of the Regions

Jiří Buriánek

II. PROCEDURE

Title	European Citizens' Initiative
Reference(s)	
Legal basis	Own-initiative opinion (Art. 307(1)), Rule 41 b)i) RoP)
Procedural basis	
Date of Council/EP referral/Date of Commission letter	N/A
Date of Bureau decision	15 April 2015
Commission responsible	Commission for Citizenship, Governance, Institutional and External Affairs
Rapporteur	Luc Van den Brande (BE/EPP)
Analysis	8 May 2015
Discussed in commission	22 June 2015
Date adopted by commission	22 June 2015
Result of the vote in commission (majority, unanimity)	Majority
Date adopted in plenary	13 October 2015
Previous Committee opinions	CdR 167/2010 fin, opinion on <i>Regulation of the European Parliament and of the Council on the citizens' initiative</i> , rapporteur Sonia Masini (IT/PES)
Date of subsidiarity monitoring consultation	