



EUROPEAN COMMISSION

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Mr Klaus Kastenhofer
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Mr David Heller
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Subject: Your request for registration of a proposed citizens' initiative

Title of proposed citizens' initiative: *My voice against nuclear power*

Date of request for registration: 01/04/2012

Dear Organisers,

I refer to the request of 1 April 2012 for registration of a proposed citizens' initiative entitled "*My voice against nuclear power*".

As stated in Article 4(2) of Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative, the Commission shall register a proposed citizens' initiative within two months from the receipt of the relevant information, provided that the following conditions are fulfilled:

- (a) the citizens' committee has been formed and the contact persons have been designated in accordance with Article 3(2) of Regulation (EU) No 211/2011;
- (b) the proposed citizens' initiative does not manifestly fall 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;
- (c) the proposed citizens' initiative is not manifestly abusive, frivolous or vexatious; and

(d) the proposed citizens' initiative is not manifestly contrary to the values of the Union as set out in Article 2 of the Treaty on European Union (TEU).

The Commission has examined your proposed citizens' initiative to make sure that it meets these conditions laid down in the above-mentioned Regulation.

I regret to inform you that, further to this examination, the Commission hereby refuses the registration of this proposed initiative on the grounds that it falls manifestly 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 in-depth examination of the provisions of the Treaties that you suggested and of all other possible legal bases has led to this conclusion.

The main object of your proposed initiative is to eliminate nuclear power, as highlighted in its title ("*My voice against nuclear power*"). Although your proposed initiative is composed of two main aspects, namely:

- the elaboration and implementation of phase-out plans for all nuclear power plants in the EU and
- the development of renewable energy sources and the reinforcement of energy efficiency in order to substitute the use of nuclear material and fossil fuels,

the two aspects are intrinsically linked, the second aspect being ancillary to the first, as demonstrated by the fact that you say that renewable energies would substitute for the use of nuclear material.

The measures necessary to attain this main objective, as cited by you in your request namely phase-out plans, decommissioning, waste storage, insurance and liability fall within the competence of the Euratom Treaty. However, the Euratom Treaty does not include any provision on the citizens' initiative and Articles 11 of the TEU and 24 of the Treaty on the Functioning of the European Union (TFEU) are not among the provisions of the TEU and of the TFEU that are applicable in accordance with Article 106a of the Euratom Treaty. This means that a citizens' initiative cannot be based on the Euratom Treaty.

Further and in any event, the TEU and the TFEU cannot provide any appropriate legal bases as the proposed legal act would be manifestly contrary to the objectives of the Euratom Treaty, as stated in its Preamble and its Article 1, namely the establishment and growth of the nuclear industries. Indeed, the legal bases of the TEU and TFEU cannot be interpreted as giving the Commission the possibility to propose a legal act that would have the effect of modifying/repealing provisions of primary law (namely the Euratom Treaty).

Modifications of the Euratom Treaty are only possible under the conditions that all contracting parties agree.

For these reasons, your proposed citizens' initiative falls manifestly 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.

Should you wish to appeal against this decision, we would like to draw your attention to the means of redress available.

You may either:

- bring proceedings before the General Court under the conditions specified in Article 263 of the TFEU;

- or, if you wish to complain about maladministration, file a complaint with the European Ombudsman under the conditions specified in Article 228 of the TFEU.

Please note that this letter will be published on the Commission's website for the citizens' initiative in order to inform the public of this decision in a transparent way.

Yours faithfully,

Catherine Day
Secretary General

