

***Europe United***

*Statement on the European Citizens' Initiative  
(Green paper COM(2009) 622)*

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## I. Introduction

Article 11.4. of the Treaty on European Union (TEU), introduced through the Lisbon treaty, gives European citizens the right to directly initiate European legislation if they find the necessary support amongst other citizens.

Europe United warmly welcomes this new possibility and believes that it will be helpful to bridge the perceived gap between European citizens and the Union's institutions. We therefore believe that it is absolutely vital, that the EU uses this unique opportunity to make itself more accessible.

### **The EU should opt for a courageous Citizen's Initiative legislation**

We believe (and surveys support this stance) that the European people have a genuine wish for a strong and prosperous European Union. But at the same time, we see that EU-critical positions have gained ground over the last years and could lead to a change in this position. The basic reason for this is that there is a feeling amongst European citizens that they have no way to influence the direction and the policies of the European Union.

It is therefore crucial that the EU uses every chance at hand to solve this problem and to bring Europe nearer to the citizens and empower them to have a strong voice in European policy-making. People must notice that they have a say in the European Union and that the European Union listens – this is the best way to overcome the widespread criticism on the EU. The European Citizens' Initiative is one of those chances (while surely not being the only one).

Of utmost importance with regard to the European Citizen's Initiative is that the European Union makes sure this tool is truly usable for the average citizen. Lobby groups and politicians already have powerful ways to bring their issues on the European agenda and to influence policy making – citizens don't yet have any such opportunity. **Therefore, in this legislation, industry and party interests should have no place.** With the Lisbon treaty, the right to a European Citizens' Initiative has become a **basic right of the citizens** and as such should not be allowed to be washed-out by strong lobby interests.

At the end of the day, if the ECI becomes unusable for the citizens, it will be the EU which will lose a lot of credibility. We therefore trust that the European Commission will ensure that such a situation doesn't arise.

### **Problems citizens may face when launching an ECI**

The statement we hereby deliver is based entirely on our own experiences as a growing group of engaged citizens who are committed to a strong and at the same time democratic European Union and who've run several campaigns on European policies and shared our experiences with other like-minded initiatives. We therefore know some if not most of the obstacles average citizens will invariable face when trying to set up a Citizens' Initiative.

The name of the new tool "European Citizens' Initiative" already points out what must in our opinion be central about the related regulations adopted by the European Union: **First and foremost, it must be usable by and accessible to the citizens' of Europe the European Union** and must not be allowed to be limited to only those few who have the power or resources to campaign for their goals anyway. This doesn't mean, though that lobby groups should not be allowed to use ECIs – it is a tool that must be open to everyone, no matter how many, how much power, resources or experience they have.

The viewpoint that should be taken when drafting this regulation should therefore be that of **"average citizens" who will most likely face problems like:** having no

experience with political campaigning, no experience in fund raising, no established media contacts, no deep legal knowledge about the complicated system of the European Union, no contacts in other EU states, no knowledge about the political and legal systems and culture of other states, only limited time to spend on a campaign, limited means to do such things as translations or travelling to other EU states etc.

Every single of the above-mentioned problems might already prove too big of a hurdle for them to overcome – and a mistake in one of those areas in the early phase of a campaign (when there is not much knowledge about those problems) might be uncorrectable and stall the campaign entirely.

It will therefore be of importance that citizens have an **easy way to get the necessary information and support for their campaigns and to get independent assessment** about the potential for success (or failure) of their campaign before they invest time and money into it.

We believe such support and assessment could come both from EU institutions and from independent institutions which can pool the necessary knowledge and resources.

### **Assessing the impact of an ECI campaign**

As the European Citizens' Initiative is de facto a mere "petition-on-steroids" and can't trigger a compulsory referendum and due to the potential hurdles for citizens in organising initiatives, it **should be made sure that both the hurdles at EU level be kept to a minimum and that the necessary checks whether an initiative has met the necessary goals should be done in a fair and transparent way.**

This includes that no single criterion (besides the basic) should be able to invalidate an initiative if the other criteria have been fulfilled satisfactory.

This could for example mean that if a campaign has reached significantly more than one million signatures within the necessary timeframe but narrowly misses the minimum number of member states it should still be accepted as valid. Naturally, the rules behind such a sliding scale system should be laid down in the regulation and should be transparent for citizens.

This would also serve to make sure the tool is not too "member states-focused" but can instead develop a true European spirit.

### **Other thoughts**

Our proposal is also based on several other considerations such as:

**The role of the member states** should be kept at a bare minimum for several reasons: the ECI distinctively European, not national; states should have minimal influence on Citizen's Initiatives as they already have well-developed channels to bring forward their agenda and it should be avoided that the rules for the ECI become too influenced by national politics.

**Think about what it can do!** The ECI is a new and unique tool for more democracy on a supranational level – something that has never been done before. We can opt to do it right and make it usable for the addresses – the citizens – or this historic opportunity to set a precedent will most likely be lost.

**With regard to citizenship and place of residence**, we believe that EU citizenship should be the guiding measure, not national citizenship. Whoever is an EU citizen may use the tool, no matter where they live.

**When it comes to checking the signatures**, this should be done after an Initiative has reached the one million and was sent to the Commission. The member states should have a minimal role and the burden of checking the signatures should lie on the Commission and the member states together. We believe a good balance can be struck between the necessary administrative work and legal requirements if the EU

takes a random sample of several thousand signatures and sends those to member states for verification.

One highly important point about the usability of the ECI will at the end lie in the **information available about the ECI** (how to do it; who helps; legal backgrounds; data security etc.). This should naturally be done by the EU in co-operation with other support organisations.

**"Constitutional" (treaty changing) initiatives and initiatives which lie outside of the scope of the Commission** should be possible and accepted anyway. Even if the Commission may have no legal provisions to realize certain demands, it may and should still use its weight as a key institution of the EU to implement initiatives that have found broad support.

## II. Answers to the Commission's work paper questions

### 1. Minimum number of Member States from which citizens must come

*Do you consider that one third of the total number of Member States would constitute a "significant number of Member States" as required by the Treaty? If not, what threshold would you consider appropriate, and why?*

Europe United believes that the minimal number of states from which citizens must come should be set high enough to make sure a campaign has actually found support all over Europe, but not too high to make it too hard to achieve (*see considerations above*). We therefore believe that it might be of merit to **create a two-tier system** along the following lines:

An Initiative must have found support from at least a small number of citizens (for example 0,05%) in 90% of the member states (which would currently mean 24 member states) and must have found support from a higher number (for example the proposed 0,2%) in at least seven countries.

Even better than this though, would be a system through which a higher number of signatures in a few states could "heal" a too low number of signatures in other states as long as the states don't just cover a certain region of Europe. This is mainly in line with our thoughts about assessing the impact of an ECI laid down in the introduction. EU citizens with permanent residency in another member state should naturally be counted towards the member states they live in, not their home state, as the right to participate in an ECI is a right that derives from their European citizenship. It might in that case be **worthwhile to think about not checking for their national citizenship but just for their European citizenship**.

### 2. Minimum number of signatures per Member State

*"Do you consider that 0.2% of the total population of each Member State is an appropriate threshold? If not, do you have other proposals in this regard in order to achieve the aim of ensuring that a citizens' initiative is genuinely representative of a Union interest?"*

As pointed out above under point 1, we believe that the minimum required number of signatures per state should be connected to the minimum number of states (as it naturally is). This might be realized by the above-mentioned two-tiered minimum (or a similar rule) or by a (also-above mentioned) "healing" system.

### 3. Eligibility to support a citizens' initiative - minimum age

*"Should the minimum age required to support a European citizens' initiative be linked to the voting age for the European Parliament elections in each Member State? If not, what other option would you consider appropriate, and why?"*

We believe it may be worthwhile to consider a **pan-European minimum age for participating**. In our opinion, this should always be **geared to the lowest European Parliament voting age in any EU state** (currently Austria with 16b years). This would especially give young citizens a chance to become involved in European politics and would give all citizens the same right to support an initiative, without regard to their citizenship and residence.

The most obvious problem here might arise in states like the UK where it is not easily possible to verify a person's identity for that purpose unless the person is on the electoral role. This problem could be overcome in our opinion by making sure that citizens in all states **have the right to register as a (future) voter once they have reached their 16<sup>th</sup> birthday**. Voting rights may obviously only be exerted once the person has reached the legal minimum voting age but the person could still sign initiatives once they are registered. Using this approach, EU citizens who are registered in another state than their home state for the European elections would also automatically be allowed to sign an ECI in their state of residence.

If such an approach is found to be too cumbersome to realize, it should still be possible for citizens who haven't reached the minimum voting age to sign an initiative anyway for symbolic reasons without their signatures being counted towards the total number of signatures.

### 4. Form and wording of a citizens' initiative

*"Would it be sufficient and appropriate to require that an initiative clearly state the subject, matter and objectives of the proposal on which the Commission is invited to act? What other requirements, if any, should be set out as to the form and wording of a citizens' initiative?"*

We believe that citizens should have the right to be as flexible as possible when it comes to the form and wording of an initiative, yet the goals must be understandable. We believe **no rules are necessary** concerning the formulation of a citizens' initiative as those are things which will regulate themselves naturally (hardly understandable initiatives will have a hard time to convince citizens to sign them anyway).

Especially, **under NO circumstances must it be required that citizens propose a draft legal text** for several reasons:

- It will make it harder or even impossible for potential signatories to understand and support the goal of an initiative.
- It will make it nearly impossible for average citizens to start a campaign if they have to consult a European law specialist on the correct formulation of a legal text.
- It will make it very hard for successful initiatives to debate their proposal with other stakeholder after the initiative has reached the goal of one million signatures and is in the process of implementation.

We furthermore believe that **all kinds of initiatives (even such which demand changes to the treaties or regulation in areas not in the EU's responsibility)**

**should be acceptable.** The European Commission is a key player in the system of the European Union and should put its weight and "soft power" behind such initiatives if they find considerable support. At the end of the day, even if such a demand can't be realized in the short term, it will serve as a powerful indicator to all actors in the EU as to what the citizen's wish.

## **5. Requirements for the collection, verification and authentication of signatures**

*"Do you think that there should be a common set of procedural requirements for the collection, verification and authentication of signatures by Member States' authorities at EU level? To what extent should Member States be able to put in place specific provisions at national level? Are specific procedures needed in order to ensure that EU citizens can support a citizens' initiative regardless of their country of residence? Should citizens be able to support a citizens' initiative online? If so, what security and authentication features should be foreseen?"*

Europe United firmly believes that the requirements for collection, verification and authentication of ECI signatures are definitely the wrong place for "flexibility for the member states". **What we need instead is maximum flexibility for the organisers!**

To this end, those **procedures for the ECI must in our opinion be harmonized** across the Union to make sure the rules are the same in all member states. Otherwise, citizens would once again be faced with a system much too complicated to actually use as they'd be forced to take into account 27 different legal systems – something that is totally impossible without a lot of (expensive) professional legal support.

Due to the nature of the ECI as a pan-European tool, we furthermore believe that **state-of-the-art technologies for collecting signatures must be made available (especially, but not limited to internet signing)**. Due to the fast pace of communications technology, this should be formulated as open as possible to allow for future innovative methods which don't yet exist.

As initiatives will naturally be dealing with huge lists of personal data (millions of data entries), data security is of utmost importance. The EU should therefore be committed to supporting initiatives in establishing best practice with regards to data security but also have the legal tools to control and punish such campaigners which may want to abuse personal data of signatories.

**Our proposal** would therefore be:

- Pan-European, harmonized rules for collecting signatures and verifying them once the initiative has reached its goal.
- Points 1 and 3 already cover our opinion on EU citizens resident in another EU state.
- Selecting signatures should be allowed via all possible means: simple lists on the street or in places which a lot of people frequent regularly (shops, restaurants, doctor's practices etc.) but also by allowing collection via internet, letter, fax, text messages or other innovative ways which may only come up in the next years
- The EU should provide an easy to use and attractive online system for the collection of signatures online, by fax, by text message or by other potential future systems. Other systems which can provide the same features and level of security should also be allowed.
- Signatures should be verified by the Commission only after a successful initiative has gained one million or more signatures and has submitted

their list of signatures to the Commission. This should be done the way that the Commission takes samples of a few thousand signatures and sends them to member states for having them verified. Statistically, a randomized sample of 5000-10000 signatures will show with necessary reliability whether or not the one million signatures have been achieved. This system is successfully used in other legislations and strikes a balance between the need to check whether the signatures are valid and the bureaucracy involved.

- Security standards should follow best practice in national laws; to ensure that the necessary security standards are adhered to, the Commission should be able to control initiatives for their data security policies and should make available courses in data security for initiative officials.

## 6. Time limit for the collection of signatures

*"Should a time limit for the collection of signatures be fixed? If so, would you consider that one year would be an appropriate time-limit?"*

We agree with the Green Paper's statement that a time limit must be set in order to make sure that an initiative can reflect political and social realities. We are also very critical of the very short time frames (like one or two months) proposed by some organisations as we believe such a short time frame would make it utterly impossible to select the necessary number of signatures, especially for average citizens (it can't be stressed often enough that this is supposed to be a Citizens' Initiative, not a Lobby Groups' Initiative).

The proposed limit of one year is still rather on the short side compared to other proposals in this regard, taking into account the hurdles that citizens will have to overcome to successfully start a European Citizens' Initiative. We still **believe that such a time frame of one year is reasonable if Citizens' Initiatives can rely on support** from the side of the Commission or other support structures (like support offices).

We further believe that initiatives should be allowed a phase of "pre-campaigning" which could serve to estimate the potential success of a campaign and give the Commission time to make an (non-binding) statement on the campaign. Such a pre-campaigning would obviously not be a necessity if the initiators of an initiative don't wish to make use of it and should itself be limited in time.

## 7. Registration of proposed initiatives

*"Do you think that a mandatory system of registration of proposed initiatives is necessary? If so, do you agree that this could be done through a specific website provided by the European Commission?"*

Europe United believes that the **registration of proposed initiatives – if done at all – must under all circumstances have a purely declaratory character** and that (much as the Commission points out in the Green Paper) there must under no circumstances be a handle by which EU institution could hinder unwanted initiatives. The one and only reason that could lead to an initiative being ended/forbidden should be if the demands of a campaign violate human rights or dignity. In case such an initiative was brought forward, the Commission should handle this by making a formal legal complaint against the initiators of such a campaign at the responsible national court (alternatively, the ECJ could be the place for ruling on such issues).

In fact, due to the democratically questionable nature of any registration procedure, **it should be discussed to have no registration procedure whatsoever**. In the end, it should be kept in mind that the right to start a European Citizens' Initiative is connected to the basic human right of free speech and any potential limit or control over which ECIs are deemed acceptable would essentially be a limit to free speech.

We therefore believe that adding an ECI to any online platform, even if provided by the EU, should not be connected to a formal ECI "declaration" (we won't use the word registration here) process but be separate from it.

Once an initiative has reached its goal of one million signatures it will be subject to scrutiny by the Commission anyway and will be checked for whether or not it adhered to all necessary rules so any registration is of questionable merit.

**Shortly said: it should be left up to initiative organisers whether or not they declare their intent of running an ECI to the Commission or not.** If they don't officially declare this intent, they could for natural reasons only profit very limited from support available from the Commission and couldn't do any pre-campaigning (in such a case, the date of the first signature should be the official start of the campaign).

## 8. Requirements for organisers - Transparency and funding

*"What specific requirements should be imposed upon the organisers of an initiative in order to ensure transparency and democratic accountability? Do you agree that organisers should be required to provide information on the support and funding that they have received for an initiative?"*

As we sincerely believe that the ECI tool should be usable for average citizens, the requirements for organisers should be set accordingly. This especially concerns the fact that average citizens will seldom have the financial means to launch an ECI on their own.

To allow them a successful launch, we believe **a certain support from the side of the EU** (at least information and courses about the legal background, fund raising, successful campaigning, data security etc. but possibly even such things as vouchers for travelling or translations) will be necessary.

Besides this though, initiatives will invariably have the need to attract funding from private sources. We believe that with regards to this kind of funding, organisers should provide the names of all people or organisations which have provided more than say 5000€ in finances, but without having to provide exact details (such as the exact sum, date etc.).

## 9. Examination of citizens' initiatives by the Commission

*"Should a time limit be foreseen for the Commission to examine a citizens' initiative?"*

We believe that a time limit to react to a successful initiative on the Commission's side is of necessity for simple reasons such as transparency and visible reaction for the citizens and to ensure it doesn't end up in the "project pipeline" forever (like the European Association Statute's more than decade long – and unsuccessful – limbo). We believe that such a time frame could be **somewhere between half a year and a year**.

We consider though, that **more important than the time frame, the Commission should make sure constant contact is established with the organisers** of an initiative and they be kept informed about the current status of their proposal and be invited to further discussions and related events. What should under no

circumstances happen is that once an initiative has reached one million signatures, it will get lost in the inner workings of the EU's policy making and never be heard of again by the initiators (and anyone else for that matter).

#### **10. Initiatives on the same issue**

*"Is it appropriate to introduce rules to prevent the successive presentation of citizens' initiatives on the same issue? If so, would this best be done by introducing some sort of disincentives - or time limits?"*

In line with point 7, we sincerely believe that there should be **no rules to prevent several initiatives on similar or the same issues**. The argument brought forward is simply pointless – what kind of “undue burden” could two initiatives on similar issues present anyway? Technical? Administrative? Political? Even the Green Paper doesn't go into detail what's meant here and doesn't seem to accept this kind of idea itself.

And as the Green Paper rightly points out, several initiatives may very well exist on a similar topic but won't necessarily be identical (this is in fact, highly unlikely).

If such constraints were implemented, it could also lead to the strange situation where someone could launch an initiative without the intent to campaign, simply with the goal to “block” another initiative on a similar issue.

**We therefore believe no rules should be adopted in this direction at all.**