



**Green Paper on the European Citizen's Initiative**

**Submission by European Movement Ireland**

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**[www.europeanmovement.ie](http://www.europeanmovement.ie)**

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## Introduction

In formulating our response to the Commission's Green Paper on the Citizens' Initiative, EM Ireland met with its members and asked them as European citizens for their thoughts on this new venture in European democracy. Below are our key findings, along with our research completed in answering the specific questions posed by the Commission's Green Paper.

## Our key findings

### Defining the Citizens' Initiative

As stated in Treaty law, under the initiative *'not less than one million citizens who are nationals of a significant number of Member States may take the initiative of **inviting** the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider a legal act of the Union is required for the purpose of implementing the Treaties'*<sup>1</sup>.

According to a resolution by the European Parliament on the Citizens' Initiative, an initiative is deemed admissible if:

- a) it contains a request to the Commission to submit a proposal for a legal act of the Union;
- b) the Union has legislative competence, and the Commission has the right to submit a proposal in the matters concerned; and
- c) the requested legal act is not manifestly contrary to the general principles of law as applied to the Union.

This is the starting position of European Movement Ireland, in relation to defining the Citizens' Initiative.

So what is the Citizens' Initiative or more importantly, what does it aim to be?

**Firstly, it formalises a system that does in some form exist.** The reality is that it is already possible for EU countries to lobby the Commission or Parliament on a particular issue – therefore citizens can initiate requests for policy change by lobbying a national party. Citizens are also free to lodge a complaint to the institutions through the European Ombudsman and to petition the Parliament for a matter to be investigated when they are personally affected by the issue raised. So from the outset, it is useful to frame the debate by noting that it does appear that the Citizens' Initiative is addressing an existing need and formalising a current ad hoc practice. Further to this, a number of countries have some form of national initiative system – so what is new to us, is not necessarily new to the entirety of Europe.

Not only does this Citizens' Initiative formalise a practice that is going on, but it also **marks the next step in the institutional reform** that the latest Treaty introduced. For many, the Citizens' Initiative will be the first tangible outcome of the Lisbon Treaty. In Ireland given our near habit of 'double referenda' for European Treaties, this very tangible outcome of the Lisbon Treaty is an

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<sup>1</sup> Article 11, paragraph 4, of the Treaty of the Union

opportunity to make Europe more part of our day-to-day politics, rather than waiting until six weeks before polling day.

It is important that the initiative has integrity. A failed initiative will reflect badly on the Lisbon Treaty as a whole, giving oxygen to groups who are against European co-operation for a variety of reasons. For this reason, we would suggest that the Citizen's Initiative be reviewed one year after its inception to work out any problems that may arise. There is no doubt that the Citizens' Initiative is a positive step in the right direction, but European Movement Ireland feels that we need to be realistic when we consider how far reaching the Citizen's Initiative might actually be and that expectations need to be clearly managed.

### **Key themes: Transparency, inclusion & sincerity of intention**

In discussions with our members, three key themes for the successful implementation of a Citizens' Initiative emerged:

#### **1. Transparency.**

The issue of transparency was a major concern during our discussion, more so on the European institutional side than for those organisations or individuals taking part in the initiatives. If the Commission itself is given responsibility for deciding on the legitimacy of initiatives it could be seen as a filtering process and would severely undermine the legitimacy of the tool. EM Ireland strongly urges that the European Ombudsman be given responsibility for both the admissibility of initiatives and the validation of signatures to reduce any scepticism about the actual transparency of the initiative. This would involve an amendment to the current remit of the role of the European Ombudsman, and this is something that we would see as hugely worthwhile in terms of transparency and good separation of powers.

#### **2. Inclusion.**

Overall, our members favoured a low threshold approach to the Citizen's Initiative. By this we mean lower the age limit; allow the minimum number of EU countries to get involved in one initiative (one quarter); and use the figure of 0.2% for the minimum number of signatories required from each country. We are seeking to make this initiative as inclusive possible so we can start to erase that image of the EU being less democratic than it actually is.

In light of this, the Green Paper suggests that the minimum age for taking part in an initiative should be set at 18, matching the age for voting in EU elections. As an organisation that encourages direct engagement with the EU, EM Ireland feels this age limit could be lowered to 16 be relatively easily in this country.

The Citizens' Initiative is an excellent opportunity to get young people actively involved, engaged and interested in Europe and to forgo this would in our view be an opportunity lost. We have a chance in Ireland to seize this opportunity and to use the signing of an Initiative to be a 'learner permit' for fully-fledged voting at the age of 18. To avoid a

nightmare situation in getting people to register in order to take part we would suggest using PPS numbers or passport numbers could be used in order for people to sign up as this would limit excessive administrative burden.

### 3. Sincerity of intention.

For the individual, this sincerity of intention would mean that an online forum with information on initiatives is provided, but that those who want to sign a petition need to do so at a local post office or local government office. Thus they are required to do more than just add an e-mail address to a list. By going that extra mile to sign a petition rather than being free to do so at the click of a mouse, there would be a tangible, active aspect to this project while also encouraging and foster a greater sense of civic duty. Great and all as it was to have 'A Nation Once Again' voted the world's top tune by a BBC world service survey in 2002, we in Ireland have first-hand knowledge of how powerful the Internet can be and believe that measures need to be in place to ensure the Citizens' Initiative is taken seriously.

EM Ireland feels that the Internet should definitely be utilised in this initiative to inform and mobilise citizens across the EU and provide that sense of horizontal communication. However we also need to be mindful of the fact that access to the Internet in Ireland is very much characterised by demographic variables such as age, income etc. To leave the Citizens' Initiative as something that only those with the internet have access to would be contrary to the ideals that form the very basis of this project.

### An institutional opportunity....

The Citizens' Initiative is most definitely a positive step in the right direction though it is currently unclear where exactly this step will lead. The initiative is in its infancy, it is experimental and a learning curve must be expected. The EU, and most importantly the Commission, needs to manage the expectations of citizens in terms of this initiative so that the results incurred through the submission of one million (or more) signatures are not overly inflated.

We at European Movement have watched as the debate here in Ireland has devoted much of its time to what is the responsibility for *individuals* involved in this process – for example, whether initiatives will have to be written in legal text, how we will register our initiatives and how we will have to verify signatures. Much of the remaining discussion has been devoted to the role to be played by local and national governments in ensuring the smooth, swift and successful running of the initiative.

We have noticed that in all this detailed discussion, there is little mention of the responsibility or procedure required by Europe. The idea of an appeal system has not even been mooted and we feel this warrants consideration if not inclusion. EM Ireland feels that the responsibilities of the European institutions have not received due consideration in the Green Paper or indeed at any of the meetings or discussions that we have attended. We presume this information will appear in the next documentation to circulate from Brussels but given the tight schedule that is being mooted and the talk of first reading approval through Parliament, it is increasingly unlikely that a White

Paper will have time for much discussion. Therefore, we at European Movement would like to take this chance to raise some issues now regarding institutional responsibility and opportunity. So what are the responsibilities of the European Institutions? We see them as two-fold:

### **To take the opportunity.**

It is proven too often in the European system that the 'devilish detail' can be very distracting – and therefore we are asking the European Commission to resist the usual habit of overly pre-empting every eventuality. In much of the discussions we have observed, we have noticed that the detail is most definitely the real hub of the discussion and as we have mentioned above, it is very much concentrated on the individual. A small word of caution - we may be concentrating so much on pre-empting all eventualities that this initiative losing real sight of its initial purpose, that of citizen engagement.

In short, let's not forget the wood for all the observing of trees.

### **To recognise where the power of the system lies.**

We see this Citizens' Initiative as a clear opportunity – albeit small and possibly symbolic – to further clarify the balance of power and to make clear where the power really does lie in the system. The fact is the Commission holds the right of initiative and that the power of decision-making is held in the Parliament and the Council.

Though some say that there is little detail in the Treaty Article dealing with the Citizens' Initiative, we found that this Treaty Article further corroborates this point. Article 11 states *'not less than one million citizens who are nationals of a significant number of Member States may take the initiative of **inviting** the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider a legal act of the Union is required for the purpose of implementing the Treaties'*<sup>2</sup>.

The key word here for us is "invite". We are all free to accept or decline invitations and sometimes we don't even need to give a reason as to why we are declining. However, when one million people invite you to do something they are surely deserving of a response.

As we have mentioned above, we would strongly urge that the European Ombudsman plays a key role in the verification processes required for the Citizens' Initiative. Further to this, we would also ask the Commission to play their role of 'initiator of legislation' as supposed to 'judge and jury'. If the Ombudsman rules that an initiative has legal basis, if the one million verified signatures are collected, we believe it would be in Europe's interest that the Commission devise the appropriate legislative tool to initiate proceedings and that ultimately the Parliament and the Council - and those people directly elected who make up these institutions – that should decide the fate of the legislation inspired by a Citizens' Initiative.

One of the Spanish government's overall aims during its presidency between now and July is to promote a 'People's Europe' and make it more responsive. A 'People's Europe' will not transpire

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<sup>2</sup> Article 11, paragraph 4, of the Treaty of the Union

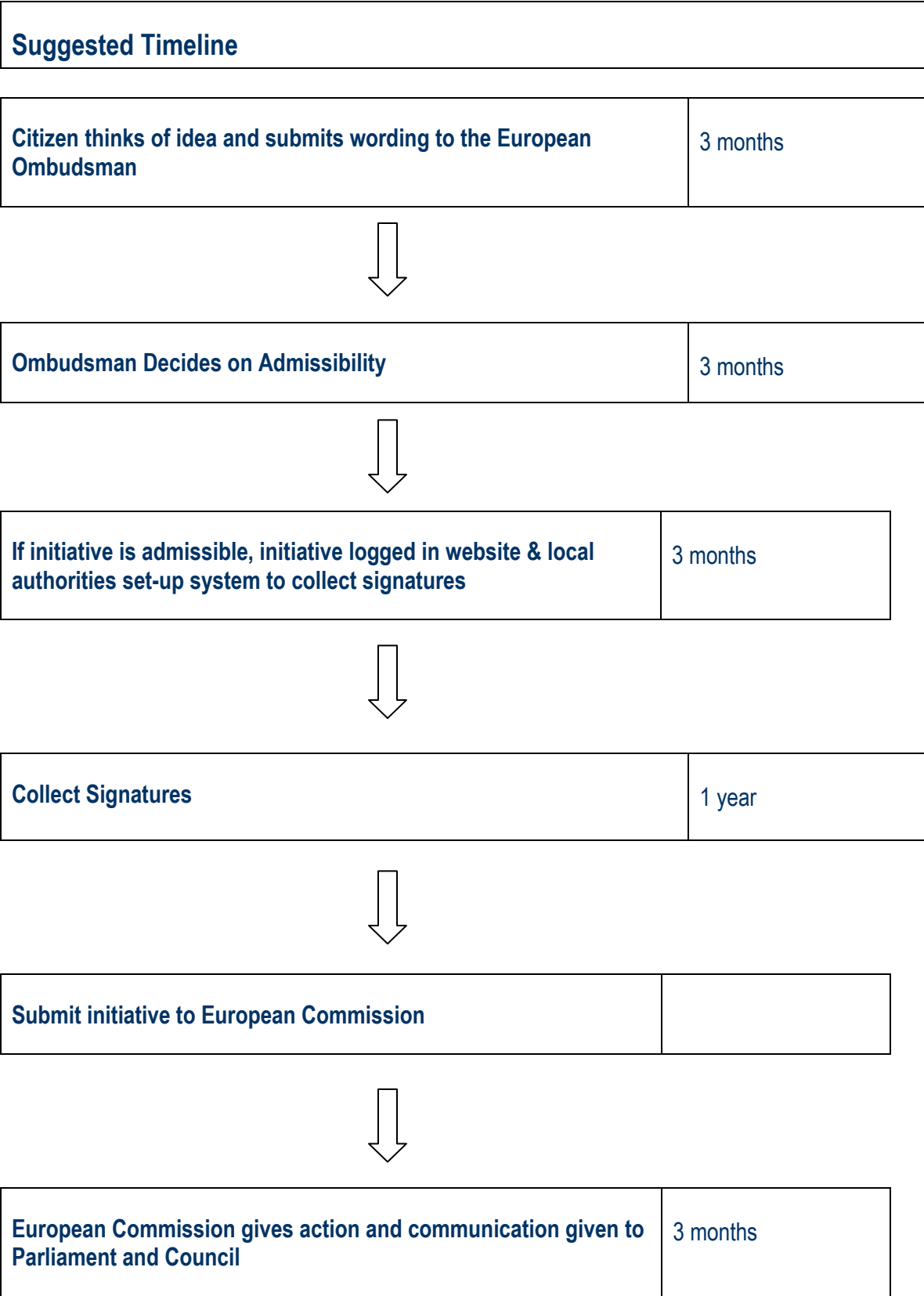
without everyone playing their role and everyone fulfilling their responsibilities. Ensuring that these responsibilities are enshrined in the procedure for the Citizens' Initiative means that there is potential for this project to have a real impact. This is why we have set out a step-by-step process which we hope is a simple guide to how this system could work, to the benefit of both the institutions and the individuals who are at the core of the EU's work.

## **Concluding remarks**

All in all, there is huge potential for this project. It is a significant development in European politics but should not be seen as a panacea for what is known as "the democratic deficit". The Citizens' Initiative could be a genuinely valuable and efficient instrument to generate awareness, participation, and robust debate, acting as a barometer of public opinion at the very least, or as a tool to effect or initiate real legislative change at the very most. It is up to the Commission to ensure that the Regulation it puts forward promotes the latter. It is our view that a focus on sincerity of intention on both sides along with a commitment to transparency and inclusivity should be a starting point.

Ultimately, we at EM Ireland believe that the Citizens' Initiative creates a dialogue beyond national governments and encourages genuine citizen involvement and engagement with the EU on a direct level. If this democratic experiment is managed well it could go even further and create a space for European citizens, reaching across borders and uniting people on a new level. However no political experiment can be undertaken without caveats and we need to be mindful of the fact that there will be unintended consequences with the Citizens' Initiative. How this initiative is represented to citizens and how the Union responds to its citizens will be integral to ensuring the success of this new venture in pan-European democracy.

Regardless of what the Commission decides, regardless of how the Parliament and the Council also view and ultimately approve this – there is a responsibility on us all sitting here and our wider communities to ensure Irish people are made aware of this new string to their participatory bow.



## Background: Answering the Commission's questions.

As many will be aware, the Commission set a number of questions to be answered in the Green Paper on the Citizens' Initiative. In order to find a starting point for our discussion with our members, below are our answers to the questions posed.

### 1. Minimum number of Member States from which citizens should 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?*

Given that the purpose of the Citizens' Initiative is to involve citizens in the shaping of EU policy it is vital that the initiatives put forward represent a Union interest rather than simply that of an individual EU country. To ensure this, the Treaty states that a request for an initiative must come from a 'significant number of Member States'. Three potential options are set out in the Green Paper in terms of determining the minimum number necessary; they are to require that the threshold be:

- a majority of member states (14/27)
- a quarter (7/27) of member states, or
- one third (9/27) of member states

While the European Parliament's resolution on the Citizens' Initiative advocates one quarter as a suitable threshold, the Commission considers a threshold of one third to be appropriate. Requiring that a majority of states as a threshold is rejected by both Parliament and Commission and EM Ireland would also agree that this threshold is too high. In terms of the remaining options:

1. It would appear that the third option of one third has more grounding in the Treaty provisions as it is the threshold used in the provisions on 'enhanced cooperation' and for the number of national parliaments needed to trigger the subsidiarity procedure. It is also used in some national systems with existing Citizens' Initiatives, for example Austria, Poland, Hungary, Spain, Portugal Lithuania and Slovenia.
2. That said, the figure of one quarter also has some merits. The figure of one quarter also matches a provision of the Treaty on the functioning of the European Union (Article 76), albeit a more sector specific one. Under this Article, acts relating to judicial cooperation in criminal matters or police cooperation can be adopted on the initiative of a quarter of the Member States. In addition to this, given the relatively low level of interest in European Affairs this figure of one quarter could be more achievable.

3. Instead of choosing either one quarter or one third as an option, another possibility is to merge the two. A minimum number of one quarter of EU countries could be required for the first year of the initiative in order to facilitate and encourage the use of the instrument, with one third being set as the minimum in the years following, or vice versa.

**Following consultations with our members, EM Ireland advocates a low threshold for participation in the Citizens' Initiative and therefore recommends option 2 - one quarter of EU countries.**

## 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?*

Both the Commission and the Parliament favour a threshold of 0.2% of the population of each Member State where signatures are collected as the minimum number of signatures for that State. Given Ireland's comparatively small population this is definitely favourable to the other option put forward in the Green Paper, which is to set a fixed number of participating citizens for all Member States. We feel that this would penalise Irish citizens.

EM Ireland therefore supports the use of a percentage of the population as the most equitable option. In terms of the figure itself, 0.2% of the population would translate to the following numbers for Ireland:

Population of Ireland	4,239,848 <sup>3</sup>
0.2% of Population of Ireland	8,480

It is important to note, however, that not all citizens will be eligible to take part in this initiative, as a minimum age will be set. If this is set at the suggested age of 18, (dealt with further in Section 3) and if electoral registers are used as methods of verification of signatures, the number of signatures will actually be coming from a much smaller pool. The number most likely to take part is further reduced when actual turnout for the most recent European Elections is considered.

Number of citizens eligible to vote in Ireland	3,078,032 <sup>4</sup>
Actual Irish turnout in European Elections 2009	58.64% <sup>5</sup>
EU Average Turnout in European Elections 2009:	43%

This leaves the realistic number of citizens from which the 8,500 signatures must be obtained at approximately 1,759,200 (0.48%), which could still be considered a reasonable requirement.

<sup>3</sup> Central Statistics Office: <http://www.cso.ie/statistics/popnbyage2006.htm>

<sup>4</sup> Elections Ireland Website: <http://electionsireland.org/results/referendum/refresult.cfm?ref=2009R>

<sup>5</sup> Europa Website: [http://www.europarl.europa.eu/parliament/archive/elections2009/en/ireland\\_en.html#ancre4](http://www.europarl.europa.eu/parliament/archive/elections2009/en/ireland_en.html#ancre4)

In the event that electoral registers are not used to verify signatures, other potential methods of verification would be to match names to some of the following:

- Passport Numbers
- CAO applications
- PPS numbers

### **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?*

The Commission and the Parliament have suggested that the minimum age required to support a European Citizens' Initiative should be linked to the voting age for the European Parliament elections in each Member State. In Ireland this would be 18 years of age.

EM Ireland believes the age at which citizens should be entitled to take part in a Citizens' Initiative should be set at 16. This would encourage the widest possible participation and engagement of citizens in the initiative, and could help to foster an interest in EU affairs at an early age, with the possible added result of increasing the number of these young people who actively use their vote in elections when they reach the age of 18. Excessive administrative burden could be avoided by using PPS numbers or passport numbers to verify the signatures, thus the aim of implementing the initiative in as timely a manner as possible would not be negatively impacted.

The idea of making the Citizens' Initiative available at an earlier age is in line with a number of recent developments across Europe and on a national level seeking to extend voting rights, or at least bring this discussion to the fore. In 2007, Austria passed a bill which lowered the voting age from 18 to 16, and between 2006 and 2008 three British Crown dependencies reduced their voting age to 16. German municipal elections and Swiss cantonal elections have also lowered the voting age to 16. On a national level, the National Youth Council of Ireland is currently running a 'Vote at Sixteen' campaign lobbying for a lowering of the voting age from 18 to 16. An Oireachtas Committee Meeting on this topic was held on the 13 January 2010, and an Independent Electoral Commission is due to be set up in the near future to overhaul and improve the electoral system as a whole, with a view in particular to improving the method of registering to vote. These changes indicate a general trend towards engaging young people in politics and EU affairs at as early an age as possible.

**Therefore EM Ireland would see no reason why the minimum age for the Citizens' Initiative should not be set at 16.**

#### 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?*

It appears that the issue here is to strike a balance between accessibility and ensuring that the initiative is effective and clear in its wording and aim. The option requiring that a Citizens' Initiative would take the form of a legal draft could prove restrictive and off-putting. Furthermore, as it is not necessarily required by the wording of the Treaty, it is an unnecessary bureaucracy – an addition of 'red tape' – that does not assist in the original aim of this very initiative, to bring citizens directly into the legislative procedure.

As an organisation that promotes the discussion of Europe in a jargon-free way, EM Ireland therefore agrees with the suggestion that it would 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 in non-legal language. The main concern is to ensure that such proposals will be sufficient to be deemed admissible by the Commission. One would hope however that those taking the time and effort to become involved in an initiative of this scale would familiarise themselves with these requirements at the outset.

The Treaty states that the initiatives should invite *'the European Commission, within the framework of its powers to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties'*, and therefore **a website detailing the Commission's powers and the provisions of the EU Treaties could be a useful aid to citizens in determining what exactly can be requested under the initiative but that these initiatives do not require a law degree to formulate.**

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

There are a number of factors to consider here, among them the method for collecting and verifying signatures, data protection and the extent to which common requirements should be set out at EU level.

*Do you think there should be a common set of procedural requirements for the collection, verification and authentication of signatures by Member States' authorities at EU level?*

**EM Ireland believes that with full harmonisation of procedural requirements at EU level would lead to unnecessary bureaucracy.** Rather, a system whereby a number of basic provisions including minimum requirements for verification and authentication of signatures are set out at EU level would be more desirable. This would ensure a level playing field while at the same

time leaving member states with considerable flexibility. The aim of the initiative is increased democracy and accessibility, and now that the Lisbon Treaty is in force, the Spanish Presidency is keen to see the initiative implemented as quickly as possible. Full harmonisation of procedural requirements could simply create burdensome regulations and administration which could delay or could ultimately prevent the European Citizens' Initiative from becoming a 'new dimension to European democracy'.

*Should citizens be able to support a Citizens' Initiative online? If so what security and authentication features should be foreseen?*

**Although EM Ireland definitely agrees with the use of the Internet in the Citizens' Initiative we feel that the act of signing initiatives should not simply involve a passive click of a mouse.** An online component should be central in terms of encouraging trans-European communication, ensuring transparency, and awareness raising. This could be achieved using interlinked registration websites (discussed in section 7), citizen forums, and an information site on initiative requirements (discussed in section 4 above) creating a dynamic, interactive and tangible connection between the Commission and the citizens of the EU. Actually signing initiatives should be an active component of the initiative however, completed in libraries, post offices or local authority offices. This would inculcate a sense of civic duty, and add legitimacy to the initiative. This aspect would also be important from an equality perspective. Internet access is not easily available to every Irish citizen. According to the OECD Country Statistical Profiles for 2009, 57% of Irish households have access to the Internet.<sup>6</sup> In addition, the internet is generally more widely used by younger generations and so this could tilt the subjects chosen towards this age cohort.

**It should be noted however that EM Ireland feels that if there was a functioning e-voting system in place in Ireland the attitude to using the Internet to collect signatures would change considerably.** Therefore, while we are proposing a more paper-based process for signatures now, we do feel that the introduction of this new democratic consultation does afford us an opportunity to see how e-voting could be introduced into this country successfully. And if our voting system was to ever modernise to an electronic format, this should also be applied to the Initiative process.

In the event that an online method of signature collection is chosen, issues of data protection and verification of signatures, and indeed responsibility for these, would then need to be addressed.

Another issue to be borne in mind in terms of the online collection of signatures would be how long this information is retained by the responsible body. This is an important issue that would need to be discussed, for example, would information be kept for up to nine months as is done by Google or for longer periods such as the legal standard of six years as outlined in the Statute of Limitations 1957.

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<sup>6</sup> OECD website: <http://stats.oecd.org/viewhtml.aspx?queryname=18157&querytype=view&lang=en>

### **Summary of the advantages of using an online system for debate and coordination purposes**

- It would open the channels of communication on a pan-European level
- It would ensure transparency
- It would help to avoid the presentation of initiatives on the same topic
- It would facilitate pan-European communication in terms of linking up to collect signatures thus ensuring that not just well funded schemes gain momentum
- It would be more straightforward than other methods of signature collection, thus avoiding overly cumbersome administration
- It would enable EU citizens residing in a Member State of which they are not a national to take part in an initiative and still have their voices heard
- It would facilitate the fulfilment of the basic theoretical aims of the initiative, ie to give a stronger voice to European citizens, to increase public debate, to reinforce citizens and civil society's involvement in the shaping of EU policy

#### *Responsibility for Verifying and Certifying Signatures*

Both the Parliament and the Commission state that **responsibility for checking the validity of signatures lies with the national authorities of the member states**. EM Ireland agrees with this proposal.

#### *Collection, Verification and Validity of Signatures*

In the case that signatures are collected online, in Ireland verification must follow the guidelines set by the E-Commerce Act 2000. See Annex 1.

There are a number of examples that can be looked to for best practice in this area:

- EuroPetition: Based in Ireland, EuroPetition is a service mediated by Local Authorities providing citizen engagement locally and distributing interaction with National Petitioning initiatives and the European Parliament's Petitions Committee.<sup>7</sup> The project will pilot trial the coordination and submission of cross-border and pan-European "EuroPetitions" from 5 Regional Clusters in Italy, Netherlands, Spain, Sweden and UK, involving 16 Local Authorities and over 6.7 million citizens across the EU. The project aims to create an open, simple and scalable process which will build local support for petitions and then migrate these out to other territories.<sup>8</sup> EuroPetitions suggest a certain process for online petitioning which they depict in the form of a flow chart, available at [http://spartakan.files.wordpress.com/2009/10/petition\\_model\\_20092.pdf](http://spartakan.files.wordpress.com/2009/10/petition_model_20092.pdf). Although EuroPetition will be finished as a project before the Citizen's Initiative process is

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<sup>7</sup>EuroPetition Website: <http://europetition.eu/>

<sup>8</sup>Europa Website, Research and Innovation Activities:

[http://ec.europa.eu/information\\_society/apps/projects/factsheet/index.cfm?project\\_ref=EP-08-01-009](http://ec.europa.eu/information_society/apps/projects/factsheet/index.cfm?project_ref=EP-08-01-009)

operational, they hope that the service will continue after the project ends, to help citizens participate in Citizens' Initiatives.

- As mentioned above, the Scottish Parliament has recently been using online petitioning, procedure can be viewed at their website <http://epetitions.scottish.parliament.uk/default.asp>
- Remote E-Voting has recently been introduced in Estonia, further research and findings on e-Elections can be found at <http://www.e-oting.cc/static/evoting/files/VOTE-ID-2007.pdf> . This information is useful in terms of security features needed, protection of data, and potential pitfalls of online petitioning.

### *Data Protection*

Signatures and personal information collected must be protected in line with:

- The Data Protection Act of 1988
- Data Protection (Amendment) Act 2002
- The ePrivacy Regulations 2003 which give effect to the EU ePrivacy Directive <sup>9</sup>

Those responsible for the collection of signatures are data controllers. A data controller is the individual or the legal person who controls and is responsible for the keeping and use of personal information on computer or in structured manual files. Being a data controller carries with it serious legal responsibilities. The Data Protection Acts, 1988 and 2002 do not detail specific security measures that a Data Controller or Data Processor must have in place. Rather section 2(1) (d) of the 1988 Act places an obligation on persons to have appropriate measures in place to prevent "*unauthorised access to, or alteration, disclosure or destruction of, the data and against their accidental loss or destruction.*"<sup>10</sup>

*Are specific procedures needed in order to ensure that EU citizens can support a Citizens' Initiative regardless of their country of residence?*

The most recent statistics by the CSO estimate that approximately 163,000 non-Irish EU citizens are currently residing in Ireland<sup>11</sup> therefore this question is definitely a relevant one in the Irish context. The online service suggested above would enable EU citizens residing outside their home country to easily be able to support a Citizens' Initiative. The question remains as to whether these signatures would count as part of the citizens' country of residence's quota, or that of their home country.

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<sup>9</sup> Consolidated version of the regulations <http://www.dataprotection.ie/viewdoc.asp?DocID=896&ad=1>

<sup>10</sup> Date Protection Commissioner:

<http://www.dataprotection.ie/viewdoc.asp?m=y&fn=/documents/responsibilities/sg160204.htm>

<sup>11</sup>Central Statistics Office: <http://www.cso.ie/statistics/popnclssbyreligionandnationality2006.htm>

## 6. Time limit for the collection of signatures

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

**EM Ireland agrees with both the Commission and the Parliament that a time limit of one year for the collection of signatures is sufficient in order to maintain momentum.**

## 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 Commission?*

In line with the Commission's view, **EM Ireland agrees that registration of a proposed initiative on a website should be mandatory.** This could link in with other online aspects mentioned in section 6 above.

EM Ireland rejects the Commission proposal that admissibility should only be checked after the signatures have been collected. In line with the European Parliament suggestion, EM Ireland would suggest that it is essential to have legal certainty as to the admissibility of the initiative before collecting statements of support. This is an ideal opportunity to ensure that the subject and wording are valid before proceeding with signature collection.

Further to this, EM Ireland believes that transparency is a key consideration when deciding this specific matter and that this initiative is an opportunity to clarify the balance of power within the key law-making institutions. In light of this, we believe that if the Commission is deemed responsible for determining the admissibility of initiatives, it could lead to a false perception that the Commission is somehow filtering proposals.

To avoid this, **EM Ireland would strongly urge that the European Ombudsman be given responsibility for the verification of admissibility.** Although this would require a legal change to extent the remit of the ombudsman. Introducing this separation of powers into the Citizens' Initiative would also be highly beneficial in terms of transparency.

## 8. Requirements for organisers – transparency and funding

*Do you think that organisers should be required to provide information on the support and funding they have for an initiative?*

EM Ireland believes that in the interests of transparency the organisers of Initiatives should be required to provide certain basic information in relation to the organisations that support an initiative and how the initiatives are or will be funded.

The online service discussed in section 5 above would facilitate this transparency if all funding details were uploaded to the website at the time of registration. **For Ireland, issues of transparency should be decided upon in line with SIPO recommendations and guidelines,**<sup>12</sup> and with each EU country's corresponding equivalent.

## **9. Examination of Citizens' Initiatives by the Commission**

*Should a time limit be foreseen for the Commission to examine a Citizens' Initiative?*

The Lisbon Treaty sets no time limit for the Commission to deal with a Citizens' Initiative, and no specific time limit is foreseen either for the examination of petitions by the European Parliament. EM Ireland feels that at the very least a time limit should be set for the Commission to state and comprehensively explain on the online service, the actions it intends to take and predicted timeline and outcome. EM Ireland would agree with the Commission recommendation that **this time limit should not exceed 6 months.**

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

*Is it appropriate to introduce rules to prevent the successive presentation of Citizens' Initiatives on the same issue?*

**EM Ireland feels that the existence of an online service documenting proposed initiatives could result in the merging of similar or related petitions thus reducing the chances of successive initiatives on the same issue and avoiding duplication.**

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<sup>12</sup> SIPO website: <http://www.sipo.gov.ie/en/AboutUs/>

## ANNEX : Electronic Commerce Act 2000 Sections 13 & 14

### Signatures

13.

(1) If by law or otherwise the signature of a person or public body is required (whether the requirement is in the form of an obligation or consequences flow from there being no signature) or permitted, then, subject to *subsection (2)*, an electronic signature may be used.

(2) An electronic signature may be used as provided in *subsection (1)* only—

(a) where the signature is required or permitted to be given to a public body or to a person acting on behalf of a public body and the public body consents to the use of an electronic signature but requires that it be in accordance with particular information technology and procedural requirements (including that it be an advanced electronic signature, that it be based on a qualified certificate, that it be issued by an accredited certification service provider or that it be created by a secure signature creation device) — if the public body's requirements have been met and those requirements have been made public and are objective, transparent, proportionate and non-discriminatory, and

(b) where the signature is required or permitted to be given to a person who is neither a public body nor acting on behalf of a public body— if the person to whom the signature is required or permitted to be given consents to the use of an electronic signature.

(3) *Subsections (1)* and *(2)* are without prejudice to any other provision of this Act or law requiring or permitting an electronic communication to contain an electronic signature, an advanced electronic signature, an electronic signature based on a qualified certificate, an electronic signature created by a secure signature creation device or other technological requirements relating to an electronic signature.

### Signatures required

Signatures required to be witnessed

14.—(1) If by law or otherwise a signature to a document is to be witnessed. required to be witnessed (whether the requirement is in the form of an obligation or consequences flow from the signature not being witnessed) that requirement is taken to have been met if—

(a) the signature to be witnessed is an advanced electronic signature, based on a qualified certificate, of the person or public body by whom the document is required to be signed,

(b) the document contains an indication that the signature of that person or public body is required to be witnessed, and

(c) the signature of the person purporting to witness the signature to be witnessed is an advanced electronic signature, based on a qualified certificate.

(2) An advanced electronic signature based on a qualified certificate may be used as provided in *subsection (1)* only—

(a) where the signature required or permitted to be witnessed is on a document to be given to a public body or to a person acting on behalf of a public body and the public body consents to the use of an electronic signature of both the person attesting the document and witnessing the signature but requires that the document and signatures be in accordance with particular information technology and procedural requirements (including that a qualified certificate on which the signature or signatures are based be issued by an accredited certification service provider) — if the public body's requirements are met and those requirements have been made public and are objective, transparent, proportionate and non-discriminatory, and

(b) where the document on or in respect of which the signature is to be witnessed is required or permitted to be given to a person who is neither a public body nor acting on behalf of a public body— if the person to whom it is required or permitted to be given consents to the use of an advanced electronic signature based on a qualified certificate for that purpose.