



European Tribune (<http://www.eurotrib.com>)

***European Tribune response to the
Public consultation on the Green Paper "on a European Citizens'
Initiative"***

January 2010



1. General response to the public consultation

We welcome the European Commission's Green Paper on the Citizens' Initiative which we view as an important democratic and institutional reform created by the Lisbon Treaty. It has the potential to bring the Union closer to its citizens, and the citizens closer to the Union. The rapid implementation of this institution is key and we congratulate the Commission on the sense of urgency it has shown in the Green Paper.

The questions posed by the Commission in its Green Paper highlight important issues of implementation, which will not in all cases be easy to resolve. In order to ensure both sound and rapid implementation, it is important to remain as close as possible to existing rules and procedures that exist in parallel for other instruments, and we are pleased to note that this is also the tenor of the Green Paper.

Nonetheless, there are vital issues that are not discussed in the Green Paper, and we hope that the Commission will also use the opportunity of this consultation to take in views and advice on a broader set of matters that need to be addressed in the Regulation on the Citizens' Initiative.

In particular, there is a strong need to clarify and discuss the legal status of a successful Citizens' Initiative. This need arises out of the brevity of the description of the Citizens' Initiative in the Treaty on European Union, as amended by the Lisbon Treaty. It states that citizens "may take the initiative of inviting the 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".

There are multiple issues that need to be addressed with regard to the legal status:

- Is a Citizens' Initiative in any way binding upon the Commission?
- What is the scope of the Commission's admissibility test?
- Will there be an opportunity to appeal Decisions of the Commission?

These three questions are interconnected. If a Citizen's Initiative does not bind the Commission to act on its content, there is no need for the Commission to exhaust the full scope it might have to test for the admissibility of initiatives, and also no need for judicial review. If a Citizen's Initiative does bind the Commission to initiate legislation on the content of the initiative, a broader test of admissibility would be reasonable, but it would also stand within reason that an opportunity to appeal the Commission's rulings should exist before the European Court of Justice.

The Commission only hints at its views on these matters by stating - on registration - that the admissibility and substance of initiatives cannot be seen in isolation, and further stating - on time limits - that it will assess whether an initiative merits action on its side when it is admissible. These statements can be read to imply that the Commission will feel free to:



1. perform a broad test on the admissibility of an Initiative (as being within the Commission's legal scope for action), and
2. decide on its own whether an Initiative merits action or not.

In our view the binding nature of the Citizens' Initiative is critical to its success. If admissible initiatives do not bind the Commission to initiate legislation, the interest in the instrument will soon dissipate. On the other hand, if the Commission initiates legislation, it still has to go through a lengthy procedure, including advice from the Committee on the Regions, the European Economic and Social Committee, a 'subsidiarity check' by the national Parliaments, and (usually) multiple readings in the Parliament and Council, both of which can stop the legislation at each turn.

Keeping in mind the general need to hew close to existing rules and procedures, it would be optimal if the Commission were to use a procedure identical to the one it uses for requests of the Parliament and Council in respective accordance with Articles 225 and 241 of the Treaty on the Functioning of the European Union.

The citizens of the European Union have fewer direct means to exercise pressure on the Commission in the normal course of its operations than Parliament and Council. This means that it is also of vital importance that an opportunity for judicial review exists for Commission Decisions on the admissibility and the need to follow up on Citizens' Initiatives.



2. Response to the questions of the Green Paper

Questions 1 and 2:

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?

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?

One third of the total number of Member States with 0.2% of the population per Member State is an appropriate threshold in the case that the Citizens' Initiative obliges the Commission to take action. A requirement that no single Member State can exceed a certain share of the signatures required would provide an appropriate additional threshold to ensure that the Initiative has broad support. One third of the one million signatures required would be a good figure in this context.

Question 3:

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?

The right to vote in EU elections is the most coherent and simple choice for the minimum age, specifically with a view towards keeping the rules and procedures of different instruments identical. This will both enhance the legitimacy and simplify the administration of Citizens' Initiatives.

Question 4:

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?

Considering the test of admissibility that the Commission intends to perform, an initiative should, in addition to clearly stating the subject-matter and objectives, contain a statement on its congruence with the requirements for admissibility. This would serve the purpose of making the organisers of an initiative aware of these requirements at the earliest possible stage. As far as is possible within the constraints of admissibility, the organisers of initiatives should be left free to determine the scope and level of detail to be contained in an Initiative proposal.

Question 5:

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?

Some level of harmonisation of procedural requirements is strongly needed in order to level the playing field across the different Member States. There are a number of issues that need to be harmonised:

- Permitted methods of collection

We recommend that the collection of signatures should be in handwriting, and electronic collection of signatures including online collection should not be permitted. Further requirements should go towards facilitating the collection of signatures in the context of the minimum amount of information required for verification.

- Verification

Different methods of verification present the biggest hurdle for an equal playing field within the European Union. We recommend harmonisation towards performing only ex-post verification. Where harmonisation requires some Member States to perform significant administrative changes, the accompanying costs should in part be compensated in order to facilitate acceptance.

- Deposits and service fees

Where Member States require deposits for the registration of Citizen's Initiatives or service fees for verification or at other stages in the process, these should be given a reasonably low ceiling, in the region of 500 to 1000 Euros.

Member States can use similar procedures as they do for the European Parliament elections to ensure participation of citizens outside of their country of residence. However, in view of the notable difficulties experienced by citizens of one member state resident in another in registering for European Parliament elections in some Member States, and also, to ensure that an EU citizen gives his or her signature in one country only, further harmonisation of these procedures is highly desirable. We also hope that minimal harmonisation of the procedures for collection and verification for the European Citizens' Initiative can be used as a template for nominations of candidates and lists for the European Parliament elections.



Question 6:

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?

Yes. One year is an appropriate time limit.

Question 7:

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?

A mandatory system of registration is necessary, and this could be done through a website. As the Commission also discusses the provision of ex-ante legal advice, our position is that the provision of ex-ante legal advice on admissibility is useful, but should be performed by an independent service or commission, against the provision of a deposit (also in the range of 1000 Euros). This deposit could be refunded if the initiative is successful, or reaches a certain threshold of signatures. It would then only be logical that this external body should also provide the platform for the registration of initiatives.

Question 8:

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?

Full transparency of funding is key to the credibility of the European Citizens' Initiative. Where possible this should be ensured without necessitating the creation of a legal entity for initiatives. The Commission should provide a set of minimal rules and supply formats required for the accounting of funding and expenditures in order to ensure some measure of uniformity and facilitate this aspect of the initiatives.

Question 9:

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

Yes. The time limits the Commission discusses are reasonable, and should also be used in its procedures for requests from the Parliament and the Council.



Question 10:

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?

Rules against the successive presentation of initiatives are unnecessary considering the organisational and financial requirements for the initiators.