

**The European Citizens' Initiative: a first step to overcome the democratic deficit  
or an empty promise?**

Ron Geurts van Kessel  
[rongvk@gmail.com](mailto:rongvk@gmail.com)

Joost Kosten  
[joosttt@gmail.com](mailto:joosttt@gmail.com)

Tone Mikaelson

Universiteit Leiden, The Netherlands

January 27<sup>th</sup> 2010

This paper has been written as part of the exam for the course Building Democratic Institutions in East and West in November and December 2009 given by Dr. A. Dimitrova to the post-graduate students in Public Administration at Leiden University. We wish to thank her for feedback and the opportunity to use this real life case which touches upon our own rights.

## **Introduction**

Until December 1<sup>st</sup> 2009, the European Commission had the sole right to initiate legislation. Since the Treaty of Lisbon finally entered into force, the European citizens as a body of 1,000,000 do have this right as well. However, this right cannot be used until more specific legislation will be adopted. Therefore, the European Commission presented a *Green Paper on a European Citizens' Initiative* (European Commission, 2009). It asked for advice by organizations in civil society and by European citizens regarding the European Citizens' Initiative (ECI). In this paper, we want to discuss the different topics the European Commission touches upon and try to answer their questions. In our original version of the paper, which we used for the course Building Democratic Institutions in East and West, the cases of Austria and Switzerland were used for lesson drawing. That part has been omitted, but we used it to highlight useful aspects for the European Union. After touching upon different aspects of a Citizens Initiative, we will draw a conclusion.

## **Lesson drawing from Austria and Switzerland**

Lesson drawing can be an important means to change policies and incorporate new aspects unknown before, or to start new initiatives all together (Rose, 1991). In this case, the European Union (EU) could learn very much from polities which have a (long) tradition of direct democracy. In this paper, there will be some references to articles and books about the political systems of Austria and Switzerland. In the original version of this paper, we used the works of Kriesi and Trechsel (2008), Linder (1998), Linder (2004) and Serdült (1997) for Switzerland. Different parts and chapters in the volume by Dachs et al. (1997) have been used for Austria. Moreover, we used the website of the Ministry of Interior (Bundesministerium für Inneres, n.d.).

Another interesting volume with different contributions about the democracies in Eastern Europe is Auer's and Bützer's book (2001). Different (member) states in former communist countries of Europe have recent experience with direct democracy and citizens' initiatives in particular.

## **Threshold and composition of member states**

In the section below, the questions posed by the Commission under the first and second heading will be answered without referring to the individual questions. First, it

should be pointed out that there is a contradiction among them. Either enough citizens in a significant amount of member states must sign the initiative, or there must be a 0.2% threshold for every member state. This will be elaborated on below.

The comparison above indicates that the threshold for a European citizens' initiative is rather low. On the other hand, the language barrier should be taken into account, although this problem exists in Switzerland as well. The composition of member states relates to the threshold, for which the federal states of Switzerland and Austria do not provide any lessons. 0.2% for every member states is proposed by the Commission. At the same time, 0.2% is the threshold for the Union as a whole. This is not contradictory, because when only signatures from one-third of the member states are a necessity, as the Commission proposes at the same time (2009: 4-5), the 0.2% threshold for every member state does not make sense. It should be phrased differently. With an additional hurdle, to be pointed out below, a third of the member states is good. Therefore, we would advice to keep a minimum threshold of 0.2% for the member states in which a campaign runs.

Moreover, it could be imagined that initiators of some countries are benefited over others and that they will look for allies who can rather easily be found. If signatures from at least one-third of the member states are required (i.e. currently nine states), why should one bother about countries such as Latvia, Cyprus or Slovenia? Within a limited time frame, there are bigger chances to collect enough signatures and resources in other member states. It could be expected that initiators would go for an 'easy combination', such as United Kingdom, Ireland, France, Belgium, the Netherlands, Germany, Austria, Luxemburg and Spain. Nine relatively large member states (sum of population is about 294 million) where the largest share of the population has only one out of five languages (English, French, Dutch, German, Spanish) as mother tongue. In the combination of Cyprus, Malta, Slovenia, Estonia, Latvia, Lithuania, Luxemburg, Denmark and Finland it is far more difficult to collect the required signatures, because the potential signatures and financial resources are more limited. Moreover, the newest twelve member states face different problems and a different socio-economic situation compared with the other fifteen countries. In short, it would be better to have a different mechanism stimulating the diversity of interests supporting an initiative and the equality of chances for initiators from different member states and at the same time not making the threshold so high that only very well organized, well staffed and very affluent groups can start an initiative.

It might be better to divide the 27 member states into three groups.<sup>1</sup> In three member states of each group at least 0.2% of the population should undersign the initiative. This keeps the campaign for the initiators feasible, in the sense that they can select some member states and disregard others. At the same time, it requires to start an initiative in a diversity of countries without automatically going for the 'easy member states' with large populations or shared languages. An additional advantage is that not always the same citizens are disturbed with initiative campaigns. Finally, the separation as we propose it, cuts across countries participating in the Euro and those not participating or planning to do so, member states of every enlargement, countries of north and south, east and west and states with different economic development. This makes it possible to start campaigns in countries with shared relatively particular interests, but does not serve the larger ones automatically. Smaller member states have to be taken into account.

An addition to this proposal could be that initiators can compensate. If they do not want to spread the initiative over member states of different size according to the rules proposed before, they can go for other combinations. For every country of the three required from each group they do not incorporate, they must compensate with another *and* an additional country in one of the other groups, e.g. instead of incorporating a third country from group 2, a group of initiators could go for two additional countries from group 1 or 3, resulting in a sum of ten member states to campaign. Compensation should take place in the same group, because that would still mean smaller member states should be taken into account, since group 1 only has seven countries, implying that it can compensate for only two of the six additional member states from group 2 and 3. At the same time, limitations to compensation could be formulated, in order to force initiators to take smaller member states into account.

Group 1 (seven member states, large population): Germany, France, United Kingdom, Italy, Spain, Poland, and Romania.

Group 2 (nine member states, medium population): The Netherlands, Greece, Portugal, Belgium, Czech Republic, Hungary, Sweden, Austria, and Bulgaria.

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<sup>1</sup> This might be seen as the purposeful creation of diversity of interests, which can be of great benefit to politics when trying to overcome the negative sides of democracy, as expressed in domination by certain factions (cf. Publius, 1787).

Group 3 (eleven member states, small population): Denmark, Slovakia, Finland, Ireland, Lithuania, Latvia, Slovenia, Estonia, Cyprus, Luxembourg, and Malta .

### **Eligibility to support a citizens' initiative**

There are two different ways to decide who is allowed to vote. Either the member states get to decide themselves. If so, they will most likely imply the same rules as the rules they have for electing members to the European Parliament. A different way to go about is to create one standard for the whole of the European Union.

In their proposal, the Commission brings up the topic about age<sup>2</sup>. Most governments restrict the right to vote to those that have reached a certain age, typically 18, when they are considered to have the necessary capacity to independently decide how to cast a vote<sup>3</sup>.

Firstly, although the fact that most member states have set the voting age at 18 might make a logical argument to follow suit with respect to the ECI, one must not forget that this voting age is rather ambiguous. There are numerous individuals, organizations and political parties that strive to lower the voting age<sup>4</sup> for various reasons, although most agree to several reasons for doing so. One might argue that lowering voting ages makes sense when various countries allow 16 and 17 year olds to make various choices that would indicate capacity to independently decide how to vote. 16 year olds can finish school and find employment, join the military, and be tried in court as an adult. Furthermore, allowing young EU citizens to participate when they are still learning about their civic duties can help develop their voting habits in a way that will have an impact for their voting behavior for the rest of their lives. Also, there is no reason to assume that today's media savvy 16 year olds are any less informed than their elders, there are many examples to the opposite as any EU politician who has debated with youngsters can attest to. Most importantly however, voting is a right based on citizenship and not knowledge or capacity to independently decide on whom or what to vote. Citizens do not have their knowledge or capability to do so tested and thus any uneducated adult can vote while an intelligent 17 year old is

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2 Commission of the European Communities: "Green Paper on a European Citizens' initiative". Brussels, November 11<sup>th</sup> 2009.

3 The European Parliament points out that the only exception on the rule is Austria, where the voting age is 16 instead of 18 (European Parliament, 2009).

4 [http://en.wikipedia.org/w/index.php?title=Voting\\_age&oldid=330589641#Organizations\\_in\\_favour\\_of\\_lowering\\_the\\_voting\\_age](http://en.wikipedia.org/w/index.php?title=Voting_age&oldid=330589641#Organizations_in_favour_of_lowering_the_voting_age)

denied to do the same. The idea that voting should be restricted to those possessing a certain capacity to do so is inherently undemocratic and the EU would do well to take the opportunity to take a rational stance in this matter.

Secondly, the argument presented in the green paper with regard to both the fact that under aged Austrian citizens would be excluded as well as the fact that this would create “a significant administrative burden” seem rather flimsy. As for the former, the act of voting for e.g. a representative in the national parliament in Austria has nothing to do with a citizens’ support of initiative on any institutional level through the signing of a petition. As such the argument that they would feel excluded in this respect appears unfounded. Any Austrian is free to sign a petition which aims to draw politicians’ attention to a matter of interest (and indirectly aims to promote the creation of legislation) regardless of age, and thus any age restriction would be more exclusionary than one set either at the age of 16 or 18. As for the latter, existing systems of voter registration, administratively burdensome or no, have absolutely no bearing on the ECI, as no method of registration has been established on either a EU or member state level. Any suggestion of administrative burdensomeness is unfounded, especially in light of the many possibilities with which to deal with the collecting of signatures for an ECI.

If there is to be a European standard; the question then is whether to follow Austria’s example and let every sixteen year old in Europe vote, or if Austria has to exclude their citizens under the age of eighteen years old from voting. In either way it is not fair. It is a contradictory statement for a government to let a certain age group participate in election at domestic level, but not on a European level. If you look from one side; the sixteen year olds in Austria would probably not take it lightly that one of their democratic rights is taken away from them. On the other side they are clearly not seen as mature enough by other countries.

However, it is not just age that is an issue here. There are also other limitations to who is allowed to vote. In countries like the US for example, criminals are not allowed to vote. Is this an issue here in Europe as well? A group that are in danger for being excluded, if they deserve it or not is not a discussion we will address here, are for example criminals, people without citizenship and people who for some reason have been taken their rights of self-determination away from them. Chances are big that the same rules do not apply for all the countries. Even though every country must have a

certain grounds of democracy in order to join the EU, it is still a fact that most West-European countries are more democratic than most East-European countries (Willy 2006:3). Could it be possible to see differences in the rules about who is allowed to give their vote? Is it right to “force” through a standard in which all countries have to use? There must be a reason for why a country has strict rules on this matter, and one country may not easily agree on a set of rules that everyone has to follow.

In sum; it can seem reasonable that each country follow their national rules, when it comes to the issue of age. But it might not be the right way to go around when it for example comes to certain groups of society, for example criminals. Should there be a common ground for all the countries, or should there be a mix of national and European electoral rules? It will probably either way be a subject of disagreement across Europe. The Commission has to decide what to do on this issue.

### **Form and wording**

One subject of discussion is how the citizens’ initiative should take form. One of the options is that the initiative should take form as a legal draft. This is clearly difficult to accomplish for people that do not have the basic knowledge of how this is done. There must be some degree of restrictions so that an initiative will not be too unclear or insufficient. For this to be a requirement, the Commission should at least publish a manual so that citizens can see what is required of them.

As the Swiss case points out, the Commission could also choose an either/or option. Initiators could provide a clear, specific text, perhaps even in legal wording. This is a requirement in Austria, where political parties have used the initiative as an additional means to set the agenda. Then, the Commission should be hesitant to amend it. It is not beyond imagination that European political parties could use the citizen initiative as a *de facto* Parliamentary initiative, in particular when the Commission respects initiatives in legal wording. Otherwise, in case of unclear, unspecific wording or an initiative with contradicting elements, the Commission should take the opportunity to interpret it as it wants. At best, the Commission should publish a small guideline containing specifications for an initiative, explaining that a good initiative touches upon a single issue.

### **Collection, verification and authentication**

The green paper argues that on the one hand the Commission would have to be certain that all signatures are valid and there is no fraud involved while on the other hand these verification procedures should not be so restrictive as to unnecessarily burden both citizens (to either organize and collect signatures or support an initiative) and members states (to verify these signatures are valid). The paper argues there are two ways with which to deal with the collection, verification and authentication of signatures.

On the one hand, the argument is put forth that there is no body at EU level that can undertake this task and that it presents technical difficulties. Because of this every member state should be free to decide upon how to regulate the collection of, and verify the validity of signatures. This would in turn offer “considerable flexibility to Member States in the way they implement this provision” although at the same time the authors seem aware of the fact that differences between types of regulation on the verification of signatures would certainly pose a problem. It is indeed obvious that stricter rules for the verification of a citizens’ identity and eligibility to sign an ECI in one country will deter citizens from exercising their right of either initiating or supporting an initiative. For this reason it should be of concern to the EU that citizens in different member states are treated relatively equally in this respect and steps taken to ensure uniformity in members states’ requirements for the collection, verification and authentication of signatures.

On the other hand, the green paper argues that by harmonizing the procedural requirements at EU level we wouldn’t have to worry about unequal rights for citizens of different members states, but at the cost of increased regulatory burdens for countries that already have their own systems in place. We would argue however, that administrative uniformity with regard to a *European* citizens’ initiative would be preferable on the long run, and as such countries with no system should implement uniform regulations while those with existing systems in place should gradually transform these into a harmonious European standard, at least regarding the ECI. The legitimacy of the system absolutely requires equal chances for European citizens to be heard, and although administrative and operational costs should be kept as low as possible, harmonization could very well be implemented over the near future as

member states are very likely to adapt their administrative systems to an increasingly ICT based world and constituency.

Overall, the difficulties of initiating, organizing and carrying out a successful citizens' initiative at a European level are great. Geographic distances, a huge variety of European languages and no common forum of communication make the one million signatures mark difficult to achieve. For this reason the rules and regulation surrounding the ECI should be as unrestrictive as possible, especially with regard to the verification of signatures. Establishing that the way in which verification is handled and thus the administrative burden and barrier to citizens that it presents should be the same to all citizens while at the same time striving to the barrier to citizens' participation as low as possible. At the same time the administrative burden to member states should be as low as possible as well, especially in order to allow member states to supervise as many simultaneous initiatives as possible. We argue that this could all be best achieved through allowing for as much flexibility for the collection of signatures by the organizers of the ECI, especially to allow for those more or less technology savvy to have equal opportunity to do so. For example, it would be ideal in a multinational environment if one local organization in say Romania would collect signatures by hand while at the same time an all together local organization in the United Kingdom strives to do the same through an internet petition while in the end all signatures are presented in a uniform manner and added up as such. The easiest way to deal with such a varied manner of signature collection would be the random verification of the validity of collected signatures by member state or EU bureaucrats in order to create a climate of self regulation.

Another lesson from Switzerland regards the verification of signatures. Although the literature did not explicate abuse, the municipal magazine of Neudorf (2006: 5), a Swiss municipality, warns against spurious signatures, which were found in some initiatives and referendums. The Swiss criminal code clearly prohibits falsifying, erasing or other maltreatment of signatures, both in case of referendums and initiatives in art. 282<sup>5</sup>. Since the European Union does not have criminal law for individuals, the European Commission should make sure that all individual member states prohibit maltreatment of signatures in case of a citizens' initiative in their criminal codes.

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5 Available at: [http://www.admin.ch/ch/d/sr/311\\_0/a282.html](http://www.admin.ch/ch/d/sr/311_0/a282.html).

In addition to keeping regulations unrestrictive as mentioned above, in the spirit of the ECI the EU would do well to incorporate supportive mechanisms into the procedure. We would argue that initiative organizers should be able to receive support in various forms, since without these the citizens' initiatives are likely to be limited to those with established organizations, funding and expertise while the spirit of the ECI is to be for citizens and thus should be as 'citizen friendly' as possible. One might think of some form of legal consultancy, advise on how to present a uniform legal draft and perhaps most importantly translation services. Moreover, as is mentioned in another paragraph of this paper, the European Commission could choose to split the process in two stages, comparable to the Austrian citizens' initiative.

In addition the EU could greatly support ECI's now and especially on the long term by providing a platform for the collection and registration of citizens signatures. If not now, in the future there should some sort of verifiable online signature procedure should be designed and maintained by the EU. When one needs to collect over one million verifiable signature throughout Europe it is obvious that internet is the most logical platform on which to present oneself and to make sure that citizens can do so safely and without fear for malice this might as well be facilitated centrally by the EU.

Examples of this kind of 'e-Governance' involving 'e-Petitions' include the Scottish Parliament, the Queensland Parliament in Australia<sup>6</sup> and Bristol City Council<sup>7</sup> in Britain who have all implemented electronic petitioning schemes to provide their constituents with an alternative channel through which to communicate their concerns and thus provide overall greater accessibility and (direct) democratization to the respective governments. Perhaps the best example of the use of an internet based petition by a government has been one concerning pricing and car tracking offered on the British Prime Minister's website. When news of this experimental feature became widespread, by February 2007 the petition had collected in excess of 1.8 million e-signatures from a population of 60 million people (3%) and managed to demonstrate both the pro's and con's of opening up government policies to such a popular direct democratic tool<sup>8</sup>.

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6 [http://www.parliament.qld.gov.au/view/EPetitions\\_QLD/](http://www.parliament.qld.gov.au/view/EPetitions_QLD/)

7 <http://epetitions.bristol.gov.uk/index.php>

8 [http://news.bbc.co.uk/2/hi/uk\\_news/6349027.stm](http://news.bbc.co.uk/2/hi/uk_news/6349027.stm)

In one academic study on this matter, it was observed that use of petitions by governments currently ranges from those who use it as a means of interacting with the public to those who aim to improve the expectation of petitioners to influence government policy (Palmieri 2007). Also the argument is made that some sort of petitioning is a strong historical feature and could be considered an 'ancient right' of western citizens, as it was historically provided people with a link to their Monarch and should continue to do so with their elected representatives (Palmieri 2007:13).

We argue that some kind of safe and secure 'e-Petition' mechanism would be cheaper on the long run when developed centrally on a EU level instead of individual member states in order to reach safety standards set by the EU. Also, this mechanism's functionality would by no means be limited to the ECI, this technology and platform could arguably be used for any number of 'e-voting' applications which are likely to become more and more widespread in the future due to the advantages over current voting practices.

Another option would be that the current electronic private services of the individual member states will be incorporated in a European wide system, e.g. the Dutch DigiD. The Dutch system for online payments, iDEAL, could serve as an example. No matter at which Dutch bank you have an account, as long as your bank participates in iDEAL, it is very easy to do an online payment via iDEAL by means of the online banking system your bank uses.

### **Registration and time limit for citizens and EU bodies**

Regarding the treatment of citizens' initiatives by the Commission, the Austrian and the Swiss system give the opportunity for an interesting combination. In Switzerland, a decision must be made whether initiatives are compatible with the constitution. This is decided upon by the government. In Austria, the initiative starts with a legislative proposal and an initial approximate 10,000 signatures. Then, in a second stage, when the Minister agrees, the remaining 90,000 signatures are gathered. The European Union could combine these aspects. First, since the initiative limits itself to the competences of the European Commission and should involve citizens from a significant amount of member states, initiatives could be handed in with an initial 10% of the votes (i.e. 100,000), not necessarily from different member states. Then, the initiators could ask the Commission to comment on the constitutional compatibility of the initiative. If the initiative is (partly) at odds with the competences

of the Commission, within a limited period the Commission should motivate why this is the case and what should be changed in order to make it compatible. This will on the one hand prevent a frustration of the civil service of the Commission, because still an initial 100,000 votes are necessary. On the other hand, it will probably avoid frustration and skepticism on the part of the initiators, who do not have to run a costly, multilingual campaign if their initiative does not meet the constitutional demands. Appeal at a third institution in case of a rejection by the Commission must be possible.

Because the threshold (as percentage of the citizens) is relatively low in case of the EU, at least compared with Austria and Switzerland, the proposed term of a year or even eighteen months (European Commission, 2009: 10) seems to be rather long. In Austria, where the term of collecting about 90% of the signatures is only one week, some initiatives even managed to collect signatures of more than 10% of the citizens with voting rights (see note 2, overview of the Austrian Ministry of Interior), i.e. currently more than 600.000 signatures. However, there is time to prepare in the period between publication of the decision of the minister and the actual week when citizens can sign. Such a two-stage procedure is worthwhile to consider, as was pointed out before.

Moreover, a time limit is necessary, because otherwise the request for “a significant number of member states” might be useless. This requirement seems to refer to the *democratic* side of the citizens' initiative. There must be an electoral basis in a significant number of member states. But it could be wondered if a basis exists, when initiators cannot really touch on important wishes or desires amongst the European population. If it takes five years to collect 1,000,000 signatures, why should the European Union care about something apparently not urgent? And does it match the current wishes and desires amongst the population? Given the current volatility amongst the population regarding elections, wishes and desires can clearly change in a relatively short time period of a few years. Moreover, long time periods will make verification utterly difficult, because some of those who signed in the past will have died. This group will become larger over time.<sup>9</sup>

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9 An illustration could be as follows. Eurostat states as total number of deaths in 2007: 4 798 087. Population: 495.305.424. Mortality rate (per 1000 inhabitants): 9,69. If we assume this to be the mortality rate for the signatories as well and a collecting of 200,000 undersignments each year (1,000,000/5), the number of died signatories at the end of the time period will be  $200,000/1,000*9,69*5+200,000/1,000*9,69*4+200,000/1,000*9,69*3+200,000/1,000*9,69*2+200,$

Moreover, the Commission, the Council and the Parliament should take legal time limits into account as well, in order to establish confidence amongst the European citizens that their initiatives will be treated fair and serious.

### **Transparency and funding**

The Commission asks advice regarding financing as well. As outlined above, Switzerland does have no law regarding financing of political activities. This means that there are no subsidies for political parties, but that initiators do not have to reveal their sponsors either, except for initiatives at the canton level in a few cantons. Since member states most probably have different rules for the revelation of financial resources and subsidies, money seems to be important, at least in the case of Switzerland, EU-level rules might be best to overcome difficulties regarding transparency and equality. European citizens should not only know for which they sign, but also what groups are behind it, in order to get an idea about the interests involved. Therefore, it would not be strange to require identification of sponsors at e.g. the website where votes should be cast.

### **Initiatives on the same issue**

On the matter of initiatives on the same issue we would argue that the green paper presents a good analysis of the problem, although it does not do justice to the practical implications of the issue. Yes, identical initiatives presented to the commission could theoretically put a strain on the time available to analyze and judge other presented initiatives, but as the green paper suggests, due to the operational and financial resources required to undertake an initiative the organizers are likely to check carefully if others address the same issue. If organizers were to find that this is the case it would be rather likely that they turn their efforts to supporting the existing initiative or otherwise join the multinational effort under the umbrella of whomever is already active in acquiring support and signatures. Ergo, this is likely to be a non-issue and does not warrant extensive regulating. However, if the Commission feels that rules should be in place for such an occasion, time limits would seem like an

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000/1,000\*9,69\*1 = 29,070 deaths. Of course this will be slightly lower, because the proper calculation would be (signatories year 1)/1000\*9,69+((signatories year 1)-(deaths year 1))/1000\*9,69+((signatories year 1)-((deaths year 1)+(deaths year 2)))/1000\*9,69..., but it was only to make an example that it will be difficult to trace the 10,000s of died signatories after a few years. Too much signatures of citizens whose vote does not count anymore could undermine the validity of an initiative.

unfortunate form of disincentive. Any initiative or proposed legal draft might become relevant overnight after, for example, significant and sudden events ranging from environmental disasters and financial crisis to the publication of an investigative reports or a terrorist attack. For this reason we argue that no time limit between the start of a new initiative on topic dealt with earlier is preferable over one that potentially frustrates the democratic process and the addressing of issues that are important to EU citizens.

Perhaps more importantly however, is something that the green paper does not deal with or even mention while this presents perhaps the biggest threat to the legitimacy of, and trust in, the Commission. Any rules to establish whether an incentive is similar or identical to another initiative presented to the Commission in a certain time frame is open to interpretation and abuse. A logical manner in which to address this fallacy would to allow for an appeal by those behind the initiative and to have the measure of similarity to be decided upon by an independent third party acceptable to both parties, e.g. an ombudsman. Also importantly, this third party's judgment should be final i.e. the Commission would have to have no choice by to decide on the initiative. In the latter case it would not be unimaginable that the Commission begrudgingly take a look at the initiative only to dismiss it out of hand, which presents us with a situation in which the Commission's actions should also be monitored by a third party (not necessarily the same) as to assure that it spent sufficient time on the matter and came to a just and fair conclusion. Moreover, regulation could be designed which forces the Commission to initiate legislation regarding the topic, no matter what its willingness to do so is, in order to let the representatives of the population (i.e. European Parliament) have the final say about the topic. Otherwise, if the Commission has too much leeway to decide to disregard an initiative, it might undermine the suffering legitimacy of the European Union even more, fostering the perception that it is an irresponsive elite-project.

In her critical analysis of the European Ombudsman, one scholar considered it to be the only "true classical ombudsman on the supranational level" (Reif 2004:372). She furthermore argued that such this was due to the elaborate design of European Union law and the reach of its institutions over individuals and juridical bodies all of which resulted in the substantial independence of the European Ombudsman by the Maastricht Treaty. The latter in turn being a critical factor for its efficacy on matters including anything possible related to the ECI in the future (Reif 2004).

Regardless of whether it is used poorly, with discretion or even not at all, the fact that this mechanism exists as part of the ECI procedure will aggravate euro-skeptics and diminish the possible legitimacy gain from the ECI. Ergo we would advise against putting this mechanism in action at all.

## **Conclusion**

Since the European Union faces some peculiar problems, such as the great diversity of languages, a lack of a European civil society, the inability to start criminal law procedures, et cetera, it is very difficult to predict the outcome of any of the regulatory schemes suggested above. This is of course assuming that any citizens' initiatives get far enough to put these to the test. First of all, regulations should be kept as 'light' or 'doable' as possible as to not create the impression that the Commission tries to avoid citizen involvement. The ECI presents the latest opportunity for the EU to legitimize itself in the face of growing skepticism over what is perceived as a democratic deficit. Therefore decisions regarding the ECI and its regulatory framework should not be taken lightly by any authorities involved. However, since it is difficult to predict whether any regulations will hamper citizens' use of this right, frequent evaluation should be part of the legislation regulating the ECI. For example, biannual evaluation by an independent party and involving all parties involved with the ECI process including the Initiative makers, individual citizens, Commission members, Parliament, relevant non Governmental Organizations et cetera. A thus implemented ECI would help ensure European citizens this is not just an empty promise.

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