

Brussels, 20/07/2010
C/2010/ 5058

Dear President,

The European Commission welcomes the interest of the Czech Senate in the European citizens' initiative and thanks you for having transmitted its resolution on the proposal for a Regulation on the citizens' initiative adopted on 31 March 2010.

The Commission takes note of the comments made on different points of the proposal and would like to emphasize that, in its proposal, it tried to find a good balance between the need for appropriate and proportionate rules and procedures and the need to keep the instrument simple and user-friendly, taking into account the many contributions received during the public consultation as well as the outcome of the Stakeholder Hearing organised on 22 February 2010.

In particular, as regards your concern about the minimum number of signatories per Member State and the risk of promotion of minor opinions aiming at suppression of fundamental human rights and freedoms, the Commission would like to underline that Article 4(4) foresees that it "shall reject the registration of proposed citizens' initiatives which are manifestly against the values of the Union". This provision would therefore limit considerably the risk you raised in your Resolution.

Concerning the timing of the decision on admissibility, this is one of the major issues currently discussed in the European Parliament and the Council. In the general approach agreed at the General Affairs Council on 14 June, the approach proposed by the Commission is maintained but with a lower threshold of 100.000 signatures. In your Resolution, you consider that the admissibility check should be done before the registration of the proposed citizens' initiatives. In this regard, it is important to be aware of the possible risks of obliging the Commission to take a decision on the admissibility of all proposed initiatives before any signatures have been collected:

1. Firstly there is no guarantee that a person registering an initiative genuinely intends to collect signatures for that initiative. Therefore there is a real risk of abuse of the system by people simply wanting the Commission to take a formal position on whether an issue falls within its competences or not.

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2. Secondly, there is a risk of misperception of the formal Commission decision on admissibility at the beginning of the process: a positive decision could be seen as a green light on the substance of the initiative and, on the other hand, a negative decision could be perceived as a form of censorship of disliked initiatives to prevent collection of signatures.

3. Finally, there are important human and financial resource implications for the Commission in such an approach, which would need to be addressed. Moreover, there would be a risk of an overload of the system, which could jeopardize genuine initiatives and affect the credibility of the system itself.

Concerning the possibility of review of the decision on admissibility by the Court of Justice, we consider that, indeed, it stems directly from the Treaty on the Functioning of the European Union, Article 263 first subparagraph, that legal acts of the Union which have legal effects vis à vis third parties are subject to review by the Court. That is why this is not mentioned specifically in the Commission's proposal. Nevertheless, we understand that citizens must be informed about this possibility and we can ensure you that it will be well explained in the future Commission's website/register of the citizens' initiatives. It will also be notified to the organisers together with the decision on admissibility.

In relation to your comment on delegated powers, it is important to understand that adjustments to the annexes would be of a purely technical and administrative nature and thus would not warrant a full legislative proposal. Moreover, during the negotiations in the Council, the Presidency proposed to specify the criteria to amend Annex I by delegated acts. The Commission is not opposed to this new provision.

Finally, as regards the transparency of funding, the Commission is committed to ensure that citizens will get information on all forms of support received by a citizens' initiative. It has foreseen provisions in this regard in its proposal in order to ensure that information on funding will be made public in the Commission's website/register of citizens' initiatives. However, we do not think that using the Register of interest representatives is appropriate for that purpose.

The proposal is now being discussed in the European Parliament and the Council. In the Parliament, a draft report of the Committee on Constitutional Affairs is expected in September. As for the Council, it reached an agreement on a general approach on 14 June.

The Commission hopes that the Regulation will be in place by the end of this year, so that citizens will be able to benefit from this new instrument soon.

I trust you will find this a valuable contribution to your own deliberations and look forward to developing our policy dialogue further in the future.

Yours faithfully,

