

Joint Committee on European Affairs

Joint Committee's Contribution to the European Commission on its Green Paper on a European Citizens' Initiative, COM (2009) 622

1. The Joint Committee has considered the European Commission's Green Paper on a European Citizens' Initiative in great detail. It held public hearings on the Green Paper with the Minister of State for European Affairs, Mr. Dick Roche TD, with the Irish MEPs and with European Movement Ireland. It also invited submissions from members of the general public. On the basis of these public hearings and the submissions received from the general public, as well as the Committee's own analysis of the Green Paper, the Committee has prepared this contribution which seeks to address the key issues raised by the Commission in relation to the establishment of the Citizens' Initiative. The Committee asks that the Commission take into account the views and positions set out in this contribution when it comes to formulate the draft Regulation on the implementation of the Citizens' Initiative.

General Comments

2. During the referendum campaign of the Lisbon Treaty in Ireland, the Committee welcomed the introduction of a Citizens' Initiative by the Treaty. Article 11(4) of the Treaty of the European Union (TEU), as amended by the Lisbon Treaty, states:

Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, with 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.

While this Article seems on the face of it to be straight forward, the Committee understands that rules and procedures must be put in place to ensure that the Citizens' Initiative is fair, effective and not open to abuse. However, the Commission should resist regulating for every eventuality and accept that there is a degree of experimentalism with the initiative, which, like any other new initiative, has the potential to result in unknown consequences. The interests of the citizen should be the paramount concern in regulating for the Citizens' Initiative. Otherwise, the very purpose of the initiative – to bring the Union closer to the citizen – will be undermined and the democratic achievements of the Lisbon Treaty lost.

3. The Committee supports the Citizens' Initiative and believes that, if implemented properly, has the potential to create a real public space within the European Union

and contribute to bridging the so-called 'democratic deficit'. One of the main objectives of the Lisbon Treaty was to enhance the democratic legitimacy of the EU and to bring the Union closer to the citizen. The implementation of the Citizens' Initiative, one of the main innovations of the Lisbon Treaty, should make this objective more of a reality. By extending the right of the Council and the European Parliament to request that the Commission initiate legislation to the citizens, the Union is enabling the citizen to have a direct link with the institutions of the Union. The Citizen's Initiative will for the first time introduce a level of participatory democracy into the EU, which should complement and support the high level of representative democracy which already exists in the EU and which has been further strengthened by the Lisbon Treaty.

4. The Committee believes that enough time be given to the consideration of the Citizens' Initiative so that consultation with the public is as wide-ranging as possible. To this end, the Committee welcomes the Commission's initiative to prepare a Green Paper on this important issue and to invite submissions from the general public. It will also be important to subject the draft Regulation, once published, to close scrutiny. Notwithstanding the need to give sufficient time and space for the consideration of the implementation of the Citizens' Initiative, the Committee hopes that the initiative will be in place by 1 December 2010, the first anniversary of the entry into force of the Lisbon Treaty. Given the importance afforded to the democratic provisions of the Lisbon Treaty, it is now important that they are delivered in a timely and effective manner.

Specific Issues

Minimum number of Member States

5. The Committee agrees that the minimum number of Member States from which the signatories come from should ensure that an initiative is sufficiently representative of a Union interest. However, when deciding such limits, the Council and the European Parliament should ensure that the Citizens' Initiative is as accessible as possible. To set thresholds too high could hinder a worthwhile initiative or even discourage a citizen from beginning an initiative. The Committee is aware that the Commission prefers the minimum number to be one third of Member States (or nine Member States) while the European Parliament prefers one quarter (or seven Member States). The Committee understands that consensus in the Council is forming around one third of Member States. By way of compromise, the Committee proposes that the minimum number of Member States should be fixed at eight with the Regulation allowing for the number to be set at one quarter of Member States if the number of EU Member States reaches 32.

Minimum number of signatures per Member State

6. The Committee agrees that in view of the fact that the Treaty requires that a citizens' initiative be supported by no less than one million people coming from a significant number of Member States, it is necessary to set a minimum number of citizens that are required to support an initiative in each of the Member States involved. Again, the issue of accessibility should be kept in mind when deciding this figure. The Committee does not favour the option of simply fix the number of people per Member State as this would ignore the enormous differences in population between Member States and penalise smaller Member States such as Ireland. The Committee therefore supports the use of a percentage of the population as the most equitable option and believes that 0.2 per cent is the appropriate percentage given that 1 million signatories is approximately 0.2 per cent of the EU's population of nearly 500 million people.

Eligibility to support a citizens' initiative – minimum age

7. The Committee acknowledges that setting the minimum age of 18 to support a citizens' initiative would reflect the voting age in 26 of the 27 Member States. It also understands that setting the minimum age at 16 could create a significant administrative burden by diverging from existing systems for voter registration and that this could cause a delay in the implementation of the Citizens' Initiative which should be avoided. However, the Committee believes that the Citizens' Initiative is an excellent opportunity to get young people actively involved, engaged and interested in the EU. This could also raise the level of understanding about the EU which is low across the Union. Therefore, the Committee proposes that the option of setting the minimum at 16 should be fully explored. Setting the minimum age at 16 should not imply that the voting age should be reduced from 18 as this remains the procreative of individual Member States. To avoid excessive administrative burden, the Committee would also suggest using social security numbers (i.e. PPS numbers) to verify the signatures.

Wording of the initiative

8. The Committee agrees that it is necessary to set out some requirements as to what form an initiative should take, in particular in order to be sure that citizens and the Commission can clearly identify the subject-matter and objectives of an initiative. However, these requirements should be made as simple as possible so that they do not create an obstacle to a genuine initiative or discourage citizens from making an initiative. Therefore, the Committee believes that the initiative should not be required to take the form of a draft legal act. The initiative should instead be required to state clearly the subject matter and objectives of the proposal and how it relates to the implementation of the Treaties.

Collection, verification and authentication of signatures

9. The Committee agrees that it is important to ensure adequate verification and authentication of signatures in order to guarantee the legitimacy and credibility of citizens' initiatives. This verification and authentication of signatures must be in line with relevant national, European and international legislation on fundamental rights, human rights and the protection of personal data. The Committee believes that this task needs to be performed by the national authorities of the Member State as to harmonise this task at EU level could not only fail to respect national laws and procedures but could cause unnecessary bureaucracy which would undermine the effectiveness of the initiative.

10. The Committee is aware that Citizens' Initiatives already exist in a number of EU Member States. The experience of the systems in these Member States should be drawn on when other Member States are developing their own systems of verification and authentication. In Ireland, the Committee believes that the use of PPS numbers should be explored as the means for verifying signatures. This could circumvent any problems which may exist with the electoral register and also keep open the possibility of extending the initiative to 16 year olds.

11. The use of PPS numbers could also facilitate the collection of signatures on-line. The Committee understands the risk of using the internet, especially with regard to personal data protection. It also acknowledges the principle that using local libraries, post offices or local authority offices for signing initiatives would demonstrate a citizen's active participation in a democratic process and would inculcate a sense of civic duty. It must also be acknowledged that not every household or citizen has access to the internet and these people should not be discriminated against. However, the use of the internet would make the possibility of gathering 1 million signatures more achievable and therefore it should be explored as a means of making the Citizens' Initiative more accessible for citizens. In order to ensure proper security measures are in place, the Committee proposes that a central internet site is created and managed by the relevant Government Department where initiatives can be registered. Those who wish to support the initiative can be directed to this site in order to register their support. This would also make the verification of a signature more cost efficient and less time consuming. In addition, it should also be possible for people to sign an initiative in a local library, post office or local authority office in order to cater for those who do not have access to the internet.

12. An on-line mechanism for the collection of signatures would also enable EU citizens residing outside their home country to be able to support a Citizens' Initiative. However, the issue as to whether these signatures would count as part of the citizens' country of residence quota, or that of their home country, needs to be addressed. There is a large Irish diaspora throughout the EU and worldwide and there are many

EU citizens from other Member States living in Ireland. How will these citizens be catered for if they are not on the electoral register or do not have a social security number of their home country? Should non-citizens of a country, albeit citizens of the Union, be allowed to create an initiative within the jurisdiction in which they are living? Perhaps the definition of an EU citizen as a 'legal person' could offer solutions to these questions as they would be on some type of government database in their country of residence. In addition, all EU citizens are entitled to vote in European elections in their country of residence if they are not voting in any other jurisdiction. Therefore, the electoral register for European elections could be used for the purposes of verification. These important issues need careful reflection and will need to be accommodated for in the proposed Regulation.

Time limit for the collection of signatures

13. The Committee agrees that a time limit for the collection of signatures is required. Otherwise, initiatives would risk losing their relevance and if there is no time limit the context in which people supported the initiative may have changed and they may no longer wish to support the initiative. However, the Committee also agrees that the time limit should be reasonable and sufficiently long so to allow for the collection of the required signatures. The Committee therefore believes that a time limit of one year is reasonable.

Registration of proposed initiatives

14. The Committee agrees that the registration of a proposed initiative on a website should be required. However, the Committee does not agree that the admissibility of the proposed initiative should only be checked after the signatures are collected. It would be extremely discouraging for citizens to collect 1 million signatures, perhaps over the space of a year, to be told at the end of the process that the initiative is inadmissible. This would undermine the Citizens' Initiative and only serve to damage the reputation of the EU and reinforce the general public's perception of the EU as a distant, non-responsive body. The Committee also believes that the checking of an initiative for admissibility should be seen to be impartial and be assessed on legal grounds, not on political grounds.
15. Therefore, the Committee proposes that an initiative should be deemed to be admissible within two months of registration. It also proposes that the European Ombudsman, as an impartial actor separate from the Commission, should be given the responsibility for the verification of admissibility. By extension, the European Ombudsman would provide the dedicated website for the registration of initiatives. The European Ombudsman would be able to assess the admissibility of an initiative on legal grounds and would not be open to the accusation, unlike the Commission, of being political in its approach. The Committee also proposes that the text of initiatives, once registered, are sent by the Ombudsman to the European Parliament,

the Council, the Commission and to national parliaments for their information.

Requirements for organisers – transparency and funding

16. In the interests of transparency and accountability, the Committee supports the proposal that organisers of initiatives should be required to provide certain basic information when registering the initiative, in particular in relation to who is supporting an initiative and how the campaign around an initiative is being funded. It is also proposed that organisers of initiatives should be obliged to make a declaration of interests. These measures should ensure that the Citizens' Initiative is not abused by commercial interests and lobbyists, that it is seen to be a true tool of participatory democracy by the citizens and that its integrity and credibility is protected. Organisers should also be obliged to comply with relevant data protection legislation.

Examination of initiative by the Commission

17. The Committee welcomes the Commission's proposal that it will examine a citizen's initiative within a reasonable time-frame not exceeding six months and that its conclusions would be set out publically in a communication. The Committee proposes that once an initiative has achieved 1 million signatures from the required number of Member States, the Commission should state and explain via the on-line service the actions it intends to take and the predicted timeline for its consideration of the initiative. This will demonstrate to the organiser and the supporters of the initiative that the Commission is actively responding to the initiative. The Committee also proposes that all communications published on foot of an initiative should be automatically forwarded to all national parliaments as well as the Council and the European Parliament. This would be in line with Protocol 1 of the TEU on the role of national parliaments in the EU. It is also recommended that if the Commission does not intend to initiate a legislative proposal as requested by a Citizens' Initiative, it should be obliged to explain its reasons for not doing so to the organisers, the Council, the European Parliament and the national parliaments.

Initiatives on the same issue

18. In order to safeguard public confidence in the process, the Committee believes that safeguards should be in place to discourage repeat proposals or to disallow a failed citizens' initiative being represented within defined periods of time. The Committee suggests a time limit which corresponds to the life of the sitting European Parliament plus an additional year. This would give citizens reassurance that an issue could be reviewed, if necessary, once a new European Parliament has been convened. However, the Committee agrees that the practical requirements and the financial resources needed to launch a Citizens' Initiative are likely to limit repetition and duplication. In addition, the Committee believes that the existence of an on-line service as outlined in Paragraph 11 above could facilitate the merging of similar or related initiatives which would reduce the chances of successive initiatives on the

same issue and help in avoiding duplication.

Communication

19. Raising awareness of the Citizens' Initiative among the general public will be key to the success of the initiative. It falls to the Commission, the European Parliament, Member State Governments and national parliaments to ensure that the availability of the Citizens' Initiative is actively advertised and that the procedures and criteria for organising an initiative are fully explained. The Committee proposes that the Commission should establish a dedicated website explaining the Commission's powers and the provisions of the EU Treaties in order to inform citizens' of what exactly can be requested under the initiative. This website should also explain the four main criteria which an initiative must adhere to, namely:

- (i) it should call on the Commission to initiate a draft EU legal act;
- (ii) the EU has to have the competence to adopt the proposed act in question;
- (iii) the Commission has to have the competence to submit a proposed act;
- (iv) the requested act cannot manifestly be contrary to the general principles of law as applied by the EU (e.g. equal treatment and non-discrimination).

This website should also explain the difference between the Citizens' Initiative and the right granted to every EU citizen to petition the European Parliament. The existence of these two distinct mechanisms, which on paper may look quite similar to the citizen, has the potential of causing confusion and could undermine the effectiveness of the respective processes. This website should be supported by public advertising and awareness raising events. The on-line facilitates, as proposed in this contribution, should also include extensive explanations of the Citizens' Initiative.

Review Clause

20. As referred to earlier, the Citizens' Initiative is a new innovation for the EU and in that sense is experimental. It is impossible to regulate for every eventuality or to plan for every possible risk. It is very likely that as it is implemented and becomes more widely used, the initiative will create unknown consequences. The Committee therefore believes that the rules and procedures of the Citizens' Initiative should be constantly and regularly reviewed. To this end, the Committee proposes that the Regulation on the Citizens' Initiative should include a review clause which would oblige the Commission too undertake an annual review of the operation of the initiative and report to the Council, the European Parliament and the national parliaments.

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