

## EUROPEAN CITIZENS' INITIATIVE: NEW RULES, NEW TREND?\*

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### Abstract:

*This article will focus on the European citizens' Initiatives (ECIs) reform which will enter into force on 1 January 2019. Starting with an analysis of EU legal sources, this article will first highlight the rising interest in the most prominent participatory democratic instrument at the EU level; in a second step, it will present the actual outcomes of ECIs launched so far, highlighting some criticisms regarding the functioning of the process. In the conclusion, it will illustrate the recent reform introduced by Regulation 2019/788, questioning whether the new changes will enhance the participation of Civil Society and citizens in the EU integration process as a possible remedy to bridge the gap between supranational governance and citizens.*

**Key words:** *Public law, European process of integration, democracy, ECI, reforms*

### Introduction

The European Citizens' Initiative (ECI) launched in April 2012 is a feature of the Treaty of Lisbon that many people have not yet discovered. It is the world's first transnational direct democracy tool<sup>1</sup>: other than the consultation regime that offers purely informal participation options for Civil Society, the Citizens' Initiative allows citizens (individually or in organized groups) to play an active role in the EU's democratic life, giving them the opportunity to express their concerns across national boundaries and to influence the European political and legislative agenda through submitting a request to the European Commission to make a proposal for a legal act<sup>2</sup>.

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<sup>1</sup> J. Greenwood, K. Tuokko, *The European Citizens' Initiative: the territorial extension of a European political public sphere?*, European Politics and Society, 2017, p. 5.

<sup>2</sup> The literature on this issue is very broad. Among others, see E. Amnå, *New form of citizens participation*, Baden-Baden, Nomos, 2010; F. Esposito, *Vers un nouveau pouvoir citoyen?*,

The ECI claims to allow for the direct participation of citizens in the development of EU policies and was enthusiastically welcomed as, the most prominent, albeit rather recent, participatory democratic instrument at EU level; as the new tool for the citizens of the EU to set up a direct dialogue between them and the Commission; “as a new participatory way in which Europeans interact with their Union and with other European citizens”. All in all it was perceived as a panacea to alleviate the “democratic deficit” of the EU.

Despite the high hopes of its proponents, the ECI has not reached its goal, and instead of providing a, “whole new dimension of participatory democracy” as observers had hoped for in the beginning<sup>3</sup>, it has remained, “virtually unnoticed by the mass media and the wider public”<sup>4</sup>.

The current rules governing the ECI are based on a provision of the Lisbon Treaty and were implemented through the European Citizens’ Initiative Regulation, which has been in application since April 2012. Starting from 1 January 2020, the new regulation 2019/778 will replace the previous rules; the reforms aim to make the ECI more inclusive, more accessible, and less burdensome and easier to use for organisers and supporters, and to strengthen its follow-up.

## 1. Historical background and legislative framework

The concept of EU citizenship, from which ECI was derived, was first introduced in the Maastricht Treaty.

Participatory democracy has been a topic of discussion since the beginning of European integration, but has mainly revolved around the question of whether treaty revision should be legitimized by popular vote. For a long time the only instrument at EU citizens’ disposal was the right to petition the European Parliament (EP). The concept of the ECI was developed in the context of the Convention on the Future of Europe (2002-03) and was incorporated into the draft treaty establishing a Constitution for Europe in Article 47(4); however, lacking any

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Louvain-la-Neuve, Bruylant-Academia, 2007; B. Kaufmann, *The European Citizens Initiative handbook*, Bruxelles, Green European Foundation, November 2010; J.W. Pichler, B. Kaufmann, *The European Citizen' Initiative: into new democratic territory*, Morsel, Intersentia, 2010; J.W.Pichler, B. Kaufmann *The next big thing, making Europe ready for the Citizens' Initiative*, Morsel, Intersentia, 2011; Conrad M., *The ECI's contribution to the Emergence of a European Public Sphere*, in Conrad/ Knaut/Böttger (Hrsg.): *Bridging the Gap?*, 2016, p. 64-80; J. Organ, *EU Citizen Participation, Openness and the European Citizens Initiative: The TTIP Legacy*, *Common Market Law Review*, 2017, p. 1713–1748.

<sup>3</sup> J. Organnmely, *Decommissioning Direct Democracy? A Critical Analysis of Commission Decision-Making on the Legal Admissibility of European Citizens Initiative Proposals*, *European Constitutional Law Review*, 2014, p. 422–443.

<sup>4</sup> K. Böttger, M. Conrad and A. Knaut, *Bridging the Gap?: Opportunities and Constraints of the European Citizens' Initiative*, 2016, Baden-Baden: Nomos Verlag.

wide public debate beforehand, the legal text of the provisions, which was very similar to the current regime, only broadly outlines the contours of the ECI<sup>5</sup>.

Although the Convention Praesidium rejected the inclusion of these provisions in the final text, concerted efforts on the part of civil society organizations allowed them to be maintained and, despite the failure of the Constitutional Treaty, the ECI found its way into the Treaty of Lisbon. After the failure of the ratification process for the Constitutional Treaty, the problem became how to bring the EU closer to the people and how to cure the democratic deficit in the EU. The ECI represented one of the main ways that European institutions chose to defeat populism by bringing decision making closer to the citizens and by promoting a new legitimization of Europe's political unity<sup>6</sup>. It was reinserted during the drafting of the Lisbon Treaty because there was a belief that it could perhaps alleviate the EU's real and perceived deficits relating to democracy, legitimacy and the public sphere. It was supposed to give the individual, and indeed, "normal" EU citizen the opportunity to launch their own initiatives, to solicit support, and to collect signatures. Today, the citizens' initiative right is set out in Article 11(4) of the Treaty on European Union, under Title II of TEU (provisions on democratic principles)<sup>7</sup>. Within the framework of Title II of TEU, ECI is the most prominent example of the Treaty's new vision for democracy and a new "bottoms-up" approach for Civil Society and citizens.

Article 11(4) TEU establishes the basic framework for that right, while Article 24(1) TFEU sets out the general principles for a regulation defining concrete procedures and detailed conditions.

According to Article 11.4, no fewer than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the

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<sup>5</sup> M. Dougan, "What are we to make out of the Citizens' Initiative?", *Common Market Law Review*, 2011, p. 1807-1848, p. 1809.

<sup>6</sup> Four more mechanisms can be classified as tools for consultation and dialogues: petitioning the European Parliament, formal complaints to the ombudsman, public consultations, and citizens' dialogues. Whereas the ECI's petitions to the European Parliament and complaints to the European Ombudsman fall into the category of bottom-up instruments, as these offer citizens the opportunity to trigger certain processes themselves, citizens' consultations and citizens' dialogues represent top-down approaches that are instigated by the EU's political elite. Bottom-up instruments facilitate citizens' influence over policy outcome because they challenge the existing policy preferences of the political elite. Top-down instruments are generally weaker, as they aim to support existing policies and the clarification of policy value to achieve more effective governance. See in detail S. Russack, *Pathways for Citizens to Engage in EU Policymaking*, CEPS Policy Insights No. 2018-14 / November 2018.

<sup>7</sup> According the Lisbon Treaty, the European Union is based on two complementary principles: the "principle of representative democracy" and the "principle of participatory democracy".

The right to submit an ECI should be clearly separated from the right to submit a petition: while the former can be submitted by EU citizens or by natural or legal persons that are EU residents and must address matters that fall within a field of activity of the EU and affect the petitioner directly, the latter are addressed to Parliament in its capacity as the direct representative of the citizens at the EU level.

European Commission, within the framework of its powers, to submit an appropriate proposal on matters in which the citizens deem a legal act of the Union necessary for the implementation of treaties. In order to facilitate such “grassroots initiatives”, three other paragraphs within the same Article 11 of TEU request that EU institutions: 1) give citizens and representative associations, by appropriate means, the opportunity to make known and publicly exchange their views in all areas of Union action (par. 1); 2) maintain an open, transparent and regular dialogue with representative associations and Civil Society (par. 2); and, 3) that the Commission, in particular, carry out broad consultations with concerned parties in order to ensure that the Union’s actions are coherent and transparent (par. 3).

All in all, this provision is not only very innovative, because it provides the most concrete new instrument to involve citizens (individually or in organized groups) directly, but it is also symbolic since it is the formal expression of the link between the official citizenship rights granted by the EU and the more elusive notion of a European Civil Society.

Regulation (EU) No 211/2011 of the European Parliament and of the Council<sup>8</sup> laid down the rules and procedures for the European Citizens' Initiative and was complemented by Commission Implementing Regulation (EU) No 1179/2011<sup>9</sup>, which further defines technical specifications.

According to the ECI Regulation, ECI organizers must first set up a citizens' committee (consisting of at least seven people, all residing in different Member States) and ask the Commission to register their initiative. After two months, if the Commission concludes that the proposed initiative does not 'manifestly fall' outside its powers and complies with other formal conditions in Article 4.2 of the ECI Regulation (the legal admissibility test), it can be registered.

After registration, organizers must collect at least 1 million signatures in at least a quarter of the Member States (i.e. seven of the 28 Member States) within 12 months. In addition, specific quotas for the number of signatures requested from each Member State apply according to the relative sizes of the populations. It is expressly stated that initiatives may not be run by organizations or by members of

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<sup>8</sup> The procedures and conditions for exercising this right are governed by Regulation (EU) No 211/2011, of the European Parliament and of the Council of 16 February 2011 on the Citizens' Initiative, OJ 2011 L 65/1, adopted on the basis of article 24 TFEU. The proposal for a regulation was the result of an extensive consultation. Negotiation and settlement of the final text took several months. A draft proposal was submitted to Parliament and the Council on 31 March 2010, and a political agreement was reached on 15 December 2010, enabling formal adoption of the text by Parliament and the Council on 16 February 2011. On 1 April 2011, the text was agreed upon by the European Parliament and the Council was entered into force under Regulation (EU) No 211/2011.

<sup>9</sup> Commission Implementing Regulation (EU) No 1179/2011 of 17 November 2011 laying down technical specifications for online collection systems pursuant to Regulation (EU) No 211/2011 of the European Parliament and of the Council on the citizens' initiative.

the European Parliament<sup>10</sup>, but may be supported by them. Collected statements of support, either on paper or in an electronic format, are then forwarded to authorities in the Member States for verification, and then to the Commission. Finally, once all requirements for submitting an initiative have been met, the organizers will meet with the Commission representatives and have the opportunity to present their initiative at a public hearing in the European Parliament with the participation of other relevant EU institutions. Within three months the Commission decides whether to act on the initiative or not, and in either case it must publish a reasoned response (which will take the form of a communication). This will then be formally adopted by the College of Commissioners and published in all official EU languages.

Thus, while the initiative gives a limited and indirect right to citizens and organized Civil Society to initiate legislation, the Commission, indeed, has a gatekeeper role in determining whether or not to propose legislation.

According to Article 22 of the Regulation on the Citizens' Initiative, by 1 April 2015, and every three years thereafter, the Commission must present a report on the application of the Regulation, with a view to its possible revision.

The Commission issued such reports on 31 March 2015<sup>11</sup> and 28 March 2018<sup>12</sup>. These communications provided a state of play and assessment of the implementation of the ECI and spelled out a list of challenges identified after the first six years of implementation of this new legislative and institutional framework. They highlighted a number of shortcomings and took into account a number of suggestions that Parliament included in its reports, in addition to some of the substantive research carried out at its initiative<sup>13</sup>.

## 2. Track record of the ECI (the situation as of November 2019)

Seven years since the regulation (EU) no. 211/2011 entered into force is enough time to take preliminary stock of ECI.

Between 2012 and 2019, the Commission has received 74 ECI proposals<sup>14</sup>:

- 16 are currently open for signature<sup>15</sup>:

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<sup>10</sup> Members of the European Parliament may be members of citizens' committees but cannot be counted as one of the requisite 7 citizens, meaning that they may not be mentioned on the committee registration form.

<sup>11</sup> Report on the application of Regulation (EU) No 211/2011 on the citizens' initiative of 31 March 2015, COM(2015)0145

<sup>12</sup> Second report on the application of Regulation (EU) No 211/2011 on the citizens' initiative of 28 March 2018, COM(2018)0157.

<sup>13</sup> 'European Citizens' Initiative – First lessons of implementation', Policy Department on Citizens' Rights and Constitutional Affairs (2014), which can be accessed at:[http://www.europarl.europa.eu/RegData/etudes/STUD/2014/509982/IPOL\\_STU\(2014\)509982\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/509982/IPOL_STU(2014)509982_EN.pdf)

<sup>14</sup> According to the official register: <http://ec.europa.eu/citizens-initiative/eci>.

- 21 ECI registration requests have been rejected by the Commission, mostly because they fall outside of its competence, and 15 have been withdrawn by ECI organisers.
- 23 ECI requests did not gather sufficient support over the 12-month period for collecting signatures.
- The Commission has formally replied to 4 initiatives which gained 1 million signatures, namely, “Stop Vivisection”, “One of Us”, “Water is a public good, not a commodity”<sup>16</sup>, and “Ban glyphosate and protect people and the environment from toxic pesticides by adopting communications”, but none of them has become law yet<sup>17</sup>.
- 6 ECIs have been the subject of legal action before the General Court of the EU<sup>18</sup>.

The records show that the ECI has not reached its full potential as a democratic tool at the European level. After a strong initial interest in the instrument, the number of new initiatives has drastically decreased. It is a matter of fact that, due to technical shortcomings and the administrative procedures for organisers, the number of initiatives that have passed the threshold of one million signatures is very low. In addition, the initiatives had high refusal rates (mostly because the Commission considered them to be beyond the scope of its powers). Finally, there has been no legislative impact of successful initiatives so far, and the Commission’s

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<sup>15</sup> Namely 1) Save bees and farmers ! Towards a bee-friendly agriculture for a healthy environment; 2) Actions on Climate Emergency; 3) Stop corruption in Europe at its root, by cutting off funds to countries with inefficient judiciary after deadline; 4) Mettons fin à l'ère du plastique en Europe; 5) Grow scientific progress: crops matter!; 6) A price for carbon to fight climate change; 7) Save the bees! Protection of biodiversity and improvement of habitats for insects in Europe; 8) Ending the aviation fuel tax exemption in Europe; 9) PRO-NUTRISCORE; 10) Cohesion policy for the equality of the regions and sustainability of the regional cultures; 11) The fast, fair and effective solution to climate change; 12) Respect for the rule of the law within the European Union;; 13) NewRightsNow - Strengthening the rights of ‘uberised’ workers; 14) Housing for All; 15) Europe CARES - Inclusive Quality Education for Children with Disabilities; 16) Let's demand smarter vaping regulation!

<sup>16</sup> A proposal for the revision of the Directive on Drinking water was adopted by the Commission on 1.2.2018. Further information on this initiative can be found on the dedicated Commission website.

<sup>17</sup> Parliament organised hearings with the representatives of each initiative, which were held on 17 February 2014, 10 April 2014, 24 April 2015 and 20 November 2017, respectively. The Commission provided a reply setting out its legal and political conclusions with regard to all four of them.

<sup>18</sup> It should be specified that ECI organizers can utilise a number of judicial and extrajudicial remedies: they can submit an action to the General Court (in the first instance) and to the Court (on appeal) under art. 263 of TFEU asking for the annulment of the Commission’s refusal to register, or asking the Ombudsman to intervene. In its most recent judgment, T-646/13 ‘Minority SafePack v Commission’, Court stated that the Commission failed to comply with its obligation to explain in detail and justify its reasons to refuse to register an ECI; and in judgment T-754/14 ‘Michael Efler and others v Commission’, on the ‘Stop TTIP’ initiative, the Court decided that the initial refusal was unlawful, and the Commission was forced to register it.

follow-up is perceived as insufficient due to its non-binding character<sup>19</sup>. The declining numbers of proposed initiatives has been a consequence of the shortcomings under the old regulation: in each of the first two years, 19 ECIs were submitted, between 2014 and 2017 there were, on average, five per year. Starting in 2017, there has been an increase in the number of initiatives launched – seven in 2018 and sixteen in 2019. The poor success rate registered up to 2018 has generated considerable criticism and general Euroscepticism among academics and stakeholders.

### 3. The review process

Ever since the ECI Regulation became applicable, the European Parliament has repeatedly called for a reform of the ECI Regulation with a view to simplifying and streamlining the procedures. Over the past two years, EU institutions, ECI organizers, the Members of the European Parliament, the Commission, the Committee of Regions and the European Economic and Social Committee have all agreed that the ECI was unnecessarily complex and that significant changes to its procedures were urgently needed in order to restore citizen confidence in the popular legislative tool and to fulfil its promise of participatory democracy.<sup>20</sup>

The problems identified can be summarized with regard to the following three aspects:

a) the difficulties for citizens to propose legally admissible initiatives – this is evidenced by the relatively high rate of refusals of registration (30% of requests for registration could not be registered by the Commission, as they were manifestly outside the scope of the Commission's competences);

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<sup>19</sup> The Commission, indeed, has a monopoly on legislative initiatives (articles 7 and 225 of the TFEU) and is not legally obliged to follow up on any such initiative. The regulation only prescribes that it shall publish a communication containing its “legal and political conclusions” and “the actions it intends to take” or a justification for why it decided not to proceed with the initiative. If it decides to put forward a legislative proposal, the legislative procedure, pursuant to article 294 of TFEU, begins: the Commission proposal is submitted to the legislative institutions (generally the European Parliament and the Council) and, if adopted, it becomes law.

<sup>20</sup> The problems have been highlighted in several documents, all available on line. See two European Parliament studies, "European Citizens' Initiative - First lessons of implementation" and "Implementation of the European Citizens' Initiative"; The conclusions of the "ECI Days" of April 2015 and 20.1.2016; the Opinion of the Committee of the Regions of October 2015; the Resolution of the European Parliament of October 2015; the REFIT Platform Opinion of June 2016; and the Opinion of the European Economic and Social Committee of July 2016. The Ombudsman Report, a so-called own-initiative inquiry on the effectiveness of the ECI procedure, can be found at <http://www.ombudsman.europa.eu/en/cases/decision.faces/en/59205/html.bookmark>. The revision of the Regulation on the citizens' initiative was publicly announced by Commission First Vice-President Frans Timmermans on the occasion of the "ECI Day" Conference on 11.4.2017, as a result of a two-year review process triggered by the Commission Report on the application of the Regulation with regard to the Citizens' Initiative of 31.3.2015, cit.



b) a complex and burdensome process for organisers of initiatives to collect statements of support, as evidenced by the low rate of success (i.e. initiatives that manage to reach the required number of signatories within the one-year collection period);

c) the limited debate and impact generated thus far.

Finally, on 13 September 2017, the Commission presented its legislative proposal to revise the ECI<sup>21</sup>. Following inter-institutional negotiations held between September and December 2018, Parliament and the Council reached a political agreement on 12 December 2018. The agreed upon text was adopted by Parliament on 12 March 2019 and by the Council on 9 April 2019. The final act was signed on 17 April 2019 and was published in the *Official Journal of the European Union*<sup>22</sup>.

The purpose of the reform is to empower European citizens, to strengthen their sense of belonging to the EU, and to generate better and more democratic governance at the European level.

#### 4. The new Regulation

The **Regulation 788/2019 on the ECI** aims to make the European Citizens' Initiative more accessible, less burdensome and easier to use for organisers and supporters, and to strengthen follow-up in order to achieve its full potential as a tool to foster debate. It should also facilitate the participation of as many citizens as possible in the democratic decision-making process of the Union. To achieve those objectives, the procedures and conditions required for the European Citizens' Initiative should be effective, transparent, clear, simple, user-friendly, accessible for persons with disabilities, and proportionate to the nature of this instrument. They should strike a judicious balance between rights and obligations and should ensure that valid initiatives receive an appropriate examination and response by the Commission. All in all, the reform is a tangible improvement and citizens should be able to put issues on the political agenda more easily.

The procedure to submit a new ECI has 5 steps which are similar to the ones stated in Regulation 211/2011. The first step, according to the new rules (and identical to the previous ones), is the establishment of an organizing committee (called a 'citizens' committee') which must be formed by at least seven people who are residents of at least seven different Member States (but not necessarily of seven different nationalities) and who are of age to vote in European elections. The novelty is that according to art. 2, and contrary to the Commission's and Parliament's proposals, Member States will be free to lower the participation age

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<sup>21</sup> Proposal for a regulation of the European Parliament and of the Council on the European Citizens' Initiative, (COM(2017)0482).

<sup>22</sup> OJ L130/55, on 17th May 2019



from 18 to 16. This seemingly small step could make a big difference by encouraging more youth participation at the European level.

During the registration phase, the committee must register the initiative with the Commission by submitting a document which: gives the title and subject matter and a short description of the initiative, outlines the legal basis for the proposed legal action, and provides information on the committee members and on all sources of support and funding for the proposed initiative. In order to make the ECI more accessible and to ensure that as many initiatives are registered as possible, the main novelty is that a partial registration is accepted and the new "two step procedure" allows organizers to revise their proposal and to provide more detailed information and other material in an Annex.

The Commission has two months to decide whether to register the proposed initiative<sup>23</sup>; the registered ones are then published on the Commission's web portal.

After registration, the collection of statements of support starts; regardless of whether they are collected on paper or electronically<sup>24</sup>, the same data requirements apply for the purpose of verification<sup>25</sup>.

In order to be considered by the Commission, the ECI must gather one million statements of support within 12 months<sup>26</sup>.

Regarding this phase, the new ECI Regulation includes some changes: it enables EU citizens to support an ECI regardless of where they live; it also introduces more flexibility in choosing the start date of the period for collecting signatures, within six months following registration. Moreover, it further simplifies the personal data requirements for ECI signatories. In addition, the new regulation lays down the Commission's obligation to set up and operate a central online collection system and to phase out individual collection systems after 2022. Finally,

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<sup>23</sup> The proposal will not be registered if the procedural requirements have not been met or if it falls outside the framework of the Commission's powers to submit a proposal for a legal act for the purpose of implementing the Treaties. Registration will also be refused if the initiative is manifestly frivolous, abusive or vexatious, or is contrary to the values of the EU as set out in Article 2 TEU (art. 6.2, d). The Commission's decision is open to judicial or extrajudicial redress.

<sup>24</sup> If statements of support are collected electronically, the online collection system must first be certified by the relevant national authorities. It must be specified that all the detailed rules for the technical specifications of online collection systems are laid down in a Commission implementing regulation No 1179/2011.

<sup>25</sup> These requirements, defined at Member State level, are spelled out in Annex III to Regulation (EU) No 211/2011. Belgium, Denmark, Germany, Estonia, Finland, Ireland, the Netherlands, Slovakia and the United Kingdom do not require signatories of statements of support to provide personal identification documents or numbers. All other Member States do require such identification. The Annex specifies, for each Member State in which they are required, the types of personal identification documents that may be used.

<sup>26</sup> In order for it to qualify in a given Member State, the number of signatories in that Member State must be at least 750 multiplied by the number of MEPs elected from that Member State. The minimum number of signed statements of support is determined according to the same system of digressive proportionality used to determine the distribution of seats in the European Parliament among the Member States.

at the insistence of the European Parliament, the new regulation provides for enhanced support for ECI organisers by means of contact points in each Member State and an online collaborative platform offering information and assistance, practical support, and legal advice about the ECI.

Following the next step, all the collected statements of support are then forwarded by the organisers to the competent national authorities for verification<sup>27</sup>, and then to the Commission. The national authorities have 3 months to certify the statements of support but are not required to verify the signatures. As a consequence, the organisers are asked to submit relevant certificates from the national authorities concerning the number of statements of support, and they must provide information about any sources of funding.<sup>28</sup>

Having received the submission, the Commission is required to publish it in a register immediately, and to meet with the organisers at the appropriate level to allow them to explain the details of their request. After an exchange of views with the Commission, the organisers are given an opportunity to present the initiative at a public hearing held by Parliament<sup>29</sup>. Following the public hearing, Parliament can hold a plenary debate and adopt a resolution in order to assess political support for the initiative.

Differently from the past, the new Regulation will extend the time period in which the Commission is required to respond to a valid initiative from three to six months. Moreover, the Commission, in a specific communication, will have to outline a formal list of actions it intends to take and a clear timeline for their implementation, setting out its legal and political conclusions on each initiative.

At first glance, the reform faces the several challenges listed and tackles the considerable bureaucratic hurdles and technical deficits criticised by users and NGOs. Due to these major changes, the Commission will take over the responsibility of translating the texts of the proposed initiatives. Initiatives starting from January 2020 can be partially registered. Technical and legal requirements for collecting signatures will be harmonised and will become less burdensome. In addition, the reform installs and confirms the online collaborative platform offering support to citizens organising initiatives. In an effort to ensure full transparency, two other new duties will be created: first, the regulation requires the organisers to report regularly on the sources of funding and other support provided; second, it also requires the Commission to make a contact form available

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<sup>27</sup> The authorities, which are typically interior ministries, electoral commissions or population registries, are tasked to certify the statements of support compiled by the Commission based on information communicated by the Member States. Their list is available at: <http://ec.europa.eu/citizens-initiative/public/authorities-verification>.

<sup>28</sup> Threshold set out in Regulation (EU, Euratom) No 1141/2014 on the statute and funding of European political parties and European political foundations, as amended by Regulation (EU, Euratom) 2018/673.

<sup>29</sup> The hearing is organized by the committee responsible for the subject matter of the ECI (Rule 211 of Parliament's Rules of Procedure).

on the register and on the ECI public website so that citizens can submit complaints relating to the completeness and correctness of such information.

Finally, there will be a broader hearing process, and the European Parliament will play a greater role in holding public Parliamentary plenary debates on the successful initiatives and in overseeing the actions taken by the Commission in response to the initiative.

At this stage, theoretically, Regulation 788/2019 seems to be a tangible improvement upon the ECIs' functioning; in practise, in the following months we will need to further analyse the impact of these changes on its effectiveness.

## Conclusions

Will the ECI live up to its promises? Is it a meaningful democratic instrument? Is it a real model for participatory governance in the EU?

ECI seemed to be a revolutionary tool for the inclusion of citizens and organized Civil Society groups in EU policy making; yet, the doubts about its capacity to keep the promise of enhancing the democratic quality of the EU legal system, referring to its weak device incapable of influencing the agenda of EU institutions (since it leaves the Commission's monopoly on legislative initiative untouched), made it less attractive.

Certainly, the reform is an important instrument in tackling the more complex institutional, legal and organisational issues and promoting a dialogue between citizens and the institutions. However, in our opinion, the key aim of the ECI is to promote transnational discussion and deliberation; the objective is not merely about collecting signatures, or about empowering EU citizens to co-determine the European agenda, but rather it is about grassroots participation in the common challenges<sup>30</sup>. If on the one hand ECI fails to "automatically" bring EU policy-making closer to the citizens, on the other hand it has to be considered that the main effect of the ECI may not be the passing of large amounts of new legislation, but rather the enlargement of the Brussels policy-making community to new constituencies and the fostering of a transnational European public opinion and transnational debate on European issues.

In other words, ECI is a useful tool not only to enhance the democratic legitimacy of the EU institutions but also, and foremost, to strengthen a common sense of belonging and an EU identity, and to foster pan-European public debate. The reform will better facilitate the ECI process, regardless of whether an ECI reaches one million signatures or not; however the hope is to enhance EU-wide

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<sup>30</sup> J.Sauron, *The European Citizens' Initiative: not such a good idea*, Fondation Robert Schuman, n°192, 31.1.2011.

debate. To make the mechanism more user friendly, a different and more comprehensive and transnational approach is needed. The ECI, because it can bypass national schemes of representation, could lead to the reinforcement of the principle of subsidiarity for an effective federal governance that is directly accountable to its citizens. A direct effect could be the reinforcement of the EU polity through active participation and the creation of a unique European civic ritual of direct democracy that gives a concrete meaning to European citizenship. In this regard, the ECI is a powerful tool to combat critics of the democratic legitimacy of the EU institutions in the short term and to generate a tangible sense of civic belonging to the EU in the long term<sup>31</sup>.

In a broader perspective, in a rapidly changing global order, under the pressure of globalisation and under the deepening of European integration, the EU member states are enmeshed in a system of multi-level governance which spreads decision making across different levels and numerous arenas and brings in a multitude of actors. Thus, in this changing environment, citizen-centric practices are needed to shape and strengthen the values that are connected with the EU.

However, as long as there is no deep sense of belonging to Europe, there will not be strong active citizenship (and the common feeling, at best, will be mainly limited to the right of citizens to express their views through voting). On the contrary, a “bottoms-up” mobilisation, intended not as a voluntaristic action but as a specific right to take part in governance policy may not only change the way in which the EU agenda is established, but it may also increase a transnational “civil dialogue” generating a real and effective societal integration within the Union’s States and, furthermore, it may enhance the democratic quality of the EU through a “cultural” growth<sup>32</sup>.

The ECI contains the seeds for a European public sphere and European parties; however, the development of European democracy and new forms of citizen participation have certainly not reached the end of the road.

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<sup>31</sup> E. Garnier, *A European Citizens’ Initiative 2.0 To Tackle The Democratic Deficit Effectively*, 17 April 2017, available at <https://www.thenewfederalist.eu>

<sup>32</sup> Some useful thoughts about how Civil Society and stakeholders will contribute to bringing about a higher standard of governance in Europe in the years to come are in a case study commissioned by the European Economic and Social Committee (EESC) from CNVOS (Centre for information service, cooperation and development of NGOs, Slovenia) and ENNA (European Network of National Civil Society Associations), dated December 2017, T.Divjak, G.Forbici, *The future evolution of Civil Society in the European Union by 2030*, CES/CSS/01/2017.