

**Tithe an Oireachtais**  
**An Comhchoiste um Ghnóthaí Eorpacha**

**Tuarascáil Iniúchta AE Uimh. 6**

**Tuarascáil maidir le Rannchuidiú an Chomhchoiste um Ghnóthaí Eorpacha leis an gCoimisiún Eorpach i ndáil leis an bPáipéar Uaine uaidh ar Thionscnamh Eorpach do Shaoránaigh**

**Feabhra 2010**

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**Houses of the Oireachtas**  
**Joint Committee on European Affairs**

**EU Scrutiny Report No. 6**

**Report on the Joint Committee on European Affairs' Contribution to the European Commission on its Green Paper on a European Citizens' Initiative**

**February 2010**

## **Joint Committee on European Affairs**

# **Report on the Joint Committee on European Affairs' Contribution to the European Commission on its Green Paper on a European Citizens' Initiative**

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*Appendix 2:* Submissions received from:

- Mr. Proinsias De Rossa MEP
- European Movement Ireland
- Temple Bar Cultural Trust
- Working-group on Europe of the Church of Ireland Church in Society Committee.

*Appendix 3:* Membership of the Joint Committee

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## **Joint Committee on European Affairs**

### **Report on the Joint Committee's Contribution to the European Commission on its Green Paper on a European Citizens' Initiative**

#### **1. Introduction**

The Joint Committee on European Affairs at its meeting on 15 December 2009 considered the European Commission's Green Paper on a European Citizens' Initiative. The Joint Committee subsequently discussed the matter with Mr Dick Roche TD, Minister of State for European Affairs at its meeting on 12 January 2010 and heard oral evidence from Irish MEPs and the European Movement Ireland followed by question and answer sessions on the subject at its meetings of 22 and 26 January respectively. The Joint Committee also received written submissions from Mr Proinsias De Rossa MEP, the European Movement Ireland, Temple Bar Cultural Trust and the Working-group on Europe of the Church of Ireland Church in Society Committee.

The Joint Committee in drafting its contribution considered both the oral evidence from invited witnesses and the written submissions received on the Green Paper. The Joint Committee would like to thank all those concerned for their valuable contribution.

At its meeting of 23 February 2010 the Joint Committee considered a draft report on its contribution and agreed that the report be forwarded to the European Commission.

#### **2. Decision of the Committee**

It was agreed on 23 February 2010 that a copy of the Report on Joint Committee's Contribution be laid before both Houses of the Oireachtas and that the Committee should seek a debate in both Houses on the report.

**Bernard Durkan T.D.**  
**Chairman**

**23 February 2010**

## **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 prerogative 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 to undertake an annual review of the operation of the initiative and report to the Council, the European Parliament and the national parliaments.

**Oireachtas Joint Committee on European Affairs**

**Dublin**

**23 February 2010**

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.11.2009  
COM(2009) 622 final

**GREEN PAPER**

**on a European Citizens' Initiative**

# GREEN PAPER

## on a European Citizens' Initiative

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## I. INTRODUCTION

The Treaty of Lisbon, which was signed in Lisbon on 13 December 2007 and amends the Treaty on European Union and the Treaty establishing the European Community, sought in particular to reinforce the democratic fabric of the European Union. One of its major innovations is to introduce the European citizens' initiative. It provides that *"not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties"*<sup>1</sup>.

It also provides that the procedures and conditions required for such a citizens' initiative, including the minimum number of Member States from which citizens must come, shall be determined in a Regulation to be adopted by the European Parliament and the Council on a proposal from the European Commission.

The European Commission welcomes the introduction of the citizens' initiative, which will give a stronger voice to European Union citizens by giving them the right to call directly on the Commission to bring forward new policy initiatives. It will add a new dimension to European democracy, complement the set of rights related to the citizenship of the Union and increase the public debate around European politics, helping to build a genuine European public space. Its implementation will reinforce citizens' and organised civil society's involvement in the shaping of EU policies.

The Commission is convinced that European citizens should benefit from this new right as quickly as possible after the entry into force of the Treaty of Lisbon. The Commission's ambition would therefore be to make it possible for the Regulation on the citizens' initiative to be adopted before the end of the first year after the entry into force of the Treaty and it trusts that the European Parliament and the Council will share that objective. Given the importance of the future proposal for citizens, organised civil society, stakeholders and public authorities in the Member States, citizens and all interested parties also need to have the opportunity to give their views on how the citizens' initiative should work.

The purpose of this Green Paper is therefore to seek the views of all interested parties on the key issues that will shape the future Regulation. The Commission hopes that the consultation will encourage a wide range of responses.

The experience of citizens, stakeholders and public authorities in relation to similar popular initiatives that are in place within the Member States, would be of particular interest in the context of this consultation.

The Commission also welcomes the European Parliament's resolution on the citizens' initiative, which was adopted in May 2009<sup>2</sup>, as a valuable contribution to this debate.

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<sup>1</sup> Article 11, paragraph 4, of the Treaty on European Union.

<sup>2</sup> European Parliament resolution of 7 May 2009 requesting the Commission to submit a proposal for a regulation of the European Parliament and of the Council on the implementation of the citizens' initiative - P6\_TA(2009)0389

## II. ISSUES FOR CONSULTATION

While the principle itself and the key features of the citizens' initiative are enshrined in the new Treaty, the procedure and practical arrangements required for this new institutional instrument raise legal, administrative and practical issues. These issues are presented hereafter together with a number of questions to which citizens and stakeholders are invited to respond.

### 1. Minimum number of Member States from which citizens must come

The Treaty indicates that the signatories of a citizens' initiative must come from "a significant number of Member States" and provides that the Regulation shall establish "the minimum number of Member States from which such citizens must come".

Several considerations need to be made in order to determine what the right threshold should be:

Firstly, the reason for requiring that signatories come from a "significant number of Member States" is to ensure that an initiative is sufficiently representative of a Union interest. Whilst a high threshold would indeed ensure that the initiative is sufficiently representative, it would nevertheless make the procedure more burdensome. On the other hand a low threshold would render the initiative more accessible, but less representative. Therefore the right balance has to be struck between these two considerations.

Secondly, the threshold should be determined on the basis of objective criteria, in particular in the light of other Treaty provisions, as to avoid conflicting interpretation.

One option would be to require that the threshold be a majority of Member States. With 27 EU Member States, a majority would currently be fourteen. The Treaty would not exclude such an approach. Nevertheless the use of the term "significant number" appears to indicate that a majority was not intended. Moreover a majority would seem disproportionately high.

Another option, at the lower end of the spectrum, would be to set the threshold at one quarter of Member States. That would currently be reached with seven Member States. This is the threshold that the European Parliament put forward in its resolution on the citizens' initiative, using an analogy with Article 76 of the Treaty on the functioning of the European Union, which provides that acts relating to judicial cooperation in criminal matters or police cooperation can be adopted on the initiative of a quarter of the Member States. The European Commission does not consider that this precedent offers a strong analogy for the citizens' initiative. It is very sector-specific and its logic differs from that of the citizens' initiative. Moreover, the Commission considers that one quarter of Member States would be too low a threshold to guarantee that the Union interest is adequately reflected.

A third option would be to set the threshold at one third of Member States. That would currently be reached with nine Member States. This would match a number of provisions of the Treaty which are of a more general nature. It is the threshold used in the provisions on "enhanced cooperation" which provides that "at least nine Member States" must participate<sup>3</sup>. One third is also used as the threshold for the number of national Parliaments needed to

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<sup>3</sup> Article 20 of the Treaty on European Union.

trigger the subsidiarity procedure provided for in Article 7(2) of the protocol on the principles of subsidiarity and proportionality, attached to the Treaties.

The figure of one third is also important in some national systems. The Austrian Federal Constitution states that citizens' initiatives must receive the support of 100 000 voters or one sixth of the voters in at least three Länder, which represents one third of the 9 Austrian Länder. Outside the EU, the Swiss threshold for the number of cantons required for optional referenda is also close to one third.

The Commission considers that a threshold of one third would strike the right balance between ensuring adequate representativity on the one hand and facilitating the use of the instrument on the other.

Questions:

Do you consider that one third of the total number of Member States would constitute a "significant number of Member States" as required by the Treaty?

If not, what threshold would you consider appropriate, and why?

## **2. Minimum number of signatures per Member State**

In view of the fact that the Treaty requires that a citizens' initiative be supported by no less than a million citizens coming from a significant number of Member States, the Commission considers that it is necessary to set a minimum number of citizens that are required to support an initiative in each of the Member States involved. The reference to a "significant number of Member States" was introduced in order to ensure that a European citizens' initiative would have a genuine European flavour. This implies in turn that a minimum number of participating citizens is needed across the minimum number of Member States to ensure that it reflects a reasonable body of opinion. It would be contrary to the spirit of the Treaty if an initiative could be presented by a large group of citizens from one Member State and only a purely nominal number of citizens coming from other Member States.

Such a requirement for a minimum number of citizens per Member State, would of course only concern the minimum number of Member States from which citizens presenting a citizens' initiative must come.

One approach in order to determine what the minimum number of citizens should be per Member State would be to set a fixed number of participating citizens for all Member States. This would have the advantage of being clear and simple. However given the enormous differences in population between the Member States, ranging from 410 000 in Malta to 82 million in Germany, such a fixed number would penalize citizens coming from smaller Member States.

Another more equitable option would be to set the threshold as a proportion of the population of each Member State. To fix this threshold, an analogy could be made with the proportion of citizens of the Union required to present a citizens' initiative. The population of the Union currently stands just under 500 million citizens. Therefore one million out of 500 million represents 0.2% of the population of the Union. 0.2% of the population of each Member State where signatures are collected could therefore be taken as the minimum number of citizens required for that State<sup>4</sup>. This

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<sup>4</sup> This is the option favoured by the European Parliament in its resolution on the citizens' initiative.

would currently represent around 160 000 for a country like Germany or 20 000 for a country like Belgium.

It is worth noting that the proportion of citizens required to support an initiative in most of the Member States where such an instrument is in place, is significantly higher than 0.2%. This is the case for instance in Austria and Spain where it is set at around 1.2% of the population, in Lithuania, where it is almost 1.5% of the population and Latvia where it is set at 10% of the population. Hungary, Poland, Portugal, and Slovenia also have thresholds above 0.2% of the population.

Questions:

Do you consider that 0.2% of the total population of each Member State is an appropriate threshold?

If not, do you have other proposals in this regard in order to achieve the aim of ensuring that a citizens' initiative is genuinely representative of a Union interest?

### **3. Eligibility to support a citizens' initiative - minimum age**

The Treaty provision applies to all citizens of the Union. It seems reasonable, however, to fix a minimum age for supporting a citizens' initiative. This is the case in all Member States where citizens' initiatives exist.

There appear to be two different options:

One would be to require that in order to be eligible to support a European citizens' initiative, citizens must be of voting age for the European elections in their Member State of residence<sup>5</sup>. This is the general practice in Member States: to support a citizens' initiative, citizens need to be eligible to vote. The voting age in all Member States is 18 with the exception of Austria where it is set at 16.

Whilst this approach would mean that citizens in Austria would benefit at a younger age from the right to support a citizens' initiative, it would nevertheless mirror the existing practice for electing members of the European Parliament.

Another option would be to set the minimum age for supporting an initiative in the Regulation itself, e.g. setting it at 16 or 18. Setting the minimum age at 18 would be in line with the voting age in all but one Member State. However, it would exclude those citizens who are already of voting age at 16 in Austria. Setting the minimum age at 16 would create a significant administrative burden by diverging from existing systems for voter registration.

Questions:

Should the minimum age required to support a European citizens' initiative be linked to the voting age for the European Parliament elections in each Member State?

If not, what other option would you consider appropriate, and why?

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<sup>5</sup> This is the proposal put forward by the European Parliament in its resolution on the citizens' initiative.

#### 4. Form and wording of a citizens' initiative

The text of the Treaty does not specify what form a citizens' initiative should take but merely that it should invite *"the European Commission, within the framework of its powers to submit any appropriate proposal on matters where citizens consider that a legal of the Union is required for the purpose of implementing the Treaties"*<sup>6</sup>.

It nevertheless appears 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 what the subject-matter and objectives of an initiative are.

One option would be to require that a citizens' initiative take the form of a draft legal act with clearly recognisable legal provisions. Draft laws are indeed required for initiatives in some Member States (Austria, Italy, Poland and Spain). However, such a requirement appears to be unnecessarily restrictive and burdensome. Moreover, the wording of the Treaty does not suggest that a draft legal instrument is the form required.

On the other hand, an unclear or insufficiently detailed text might be misleading for the signatories and could make it more difficult for the Commission to give a precise and justified response. Another option could therefore be to require that an initiative clearly state the subject-matter and objectives of the proposal on which the Commission is invited to act. Such an option would not exclude the possibility for citizens to annex a draft legal act for ease of reference.

Questions:

Would it be sufficient and appropriate to require that an initiative clearly state the subject-matter and objectives of the proposal on which the Commission is invited to act?

What other requirements, if any, should be set out as to the form and wording of a citizens' initiative?

#### 5. Requirements for the collection, verification and authentication of signatures

In order to guarantee the legitimacy and credibility of citizens' initiatives, provisions will need to be made so as to ensure adequate verification and authentication of signatures, in line with the relevant national, European and international legislation on fundamental rights, human rights and the protection of personal data. Since there is no body at EU level that has the competence or the necessary information to check the validity of signatures and to check whether any given citizen of the Union is actually eligible to support a citizens' initiative, this task will need to be performed by the national authorities of the Member States<sup>7</sup>. The national authorities would therefore be responsible for verifying and certifying the results of the collection exercise within their country.

However there are a number of considerations to be made in relation to how the verification should be carried out within the Member States and the extent to which common requirements should be set out at EU level.

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<sup>6</sup> Article 11, paragraph 4, of the Treaty on European Union.

<sup>7</sup> This is also acknowledged by the European Parliament in its resolution on the citizens' initiative.

All Member States have procedures and mechanisms for the verification of electors and a large number of them already have verification and authentication procedures for national citizens' initiatives. These verification and authentication procedures vary considerably, however, from one Member State to the other: some Member States have rather strict requirements in place as regards collection procedures. These include for instance requirements that citizens may only sign initiatives in officially designated centers, or that a public official or a notary must be present to authenticate all signatures at the time of collection, or requiring that a certificate of voter registration be issued for each signatory. Other Member States, on the other hand, have lighter systems in place, which do not impose any specific requirements for the collection of signatures but generally require ex-post verification of the signatures collected by the authorities, both in order to check the validity of the signatures and to verify the number of signatures collected.

It seems clear that the ultimate objective of Community provisions in this regard should be to ensure that Member States can guarantee adequate verification of the eligibility of signatures collected for a European citizens' initiative within their country, without imposing unduly restrictive requirements upon citizens or unnecessary administrative burdens.

One option in order to achieve this objective would be to require that Member States put in place adequate measures to that effect, whilst leaving it up to them to decide on the level of regulation of such procedures, including the possibility of making use of the provisions already in place for national citizens' initiatives. This option would have the advantage of offering considerable flexibility to Member States in the way they implement this provision. It would also greatly facilitate implementation for those Member States that already have procedures for citizens' initiative in place. On the other hand, this could mean that one same initiative would be subject to considerably different procedural rules in the different Member States, with the result that collecting signatures may be easier in some Member States and more difficult in others. This option could therefore have the unintended consequence that the voice of citizens of some Member States would be easier to hear than that of citizens of other Member States.

On the other end of the spectrum, another option could be to foresee a full harmonization of procedural requirements at EU level. This would mean in practice that all applicable procedural requirements would be set out in the EU Regulation and that the Member States would neither be able to derogate from those nor impose additional national requirements. This would have the advantage of ensuring a completely level playing field across the EU as regards the procedures to follow for preparing a citizens' initiative. Nevertheless it would impose considerable additional administrative and regulatory burdens on those Member States that already have procedures in place. Moreover there are specificities in national systems and procedures that an EU Regulation is unlikely to be able to fully take into account.

Therefore a more rational option could be to set a number of basic provisions at EU level, including on the one hand certain minimum requirements for verification and authentication of signatures and on the other hand obligations for Member States to facilitate the collection process and remove unduly restrictive requirements.

According to this approach, Member States would only be able to adopt additional measures within the framework of the requirements set out at EU level. This option would have the advantage of combining a certain level of flexibility for Member States, whilst ensuring common features for the procedures across the EU.

Such an approach could preserve the European-wide nature of the citizens' initiative by facilitating the simultaneous collection of signatures in several Member States. For that purpose, consideration should be given to the use of certified and protected online tools.

Any approach chosen would **also** need to **allow** EU citizens that reside outside their country of origin to support citizens' initiatives. Member States can draw on their experience in managing the right to vote of such citizens in European Parliament elections.

There are a number of important issues to consider that relate to the extent to which the collection of signatures is regulated and the nature of the requirements for verification and authentication. These are:

- whether any conditions should be imposed as to where and how signatures can be collected: e.g. by means of circulation of lists to be filled in and signed, by post, in officially designated centers, etc.;
- what specific requirements for verification and authentication and what security features would be needed in case of online collection of signatures;
- whether a citizen's statement of support for a given initiative should be checked in the Member State of which he/she is a national or in his/her Member State of residence;
- what safeguards in view of the protection of personal data should be in place for the collection and processing of data.

Questions:

Do you think that there should be a common set of procedural requirements for the collection, verification and authentication of signatures by Member States' authorities at EU level?

To what extent should Member States be able to put in place specific provisions at national level?

Are specific procedures needed in order to ensure that EU citizens can support a citizens' initiative regardless of their country of residence?

Should citizens be able to support a citizens' initiative online? If so, what security and authentication features should be foreseen?

## **6. Time limit for the collection of signatures**

The Treaty does not foresee a time limit for the collection of signatures. However, in European countries that have citizens' initiatives in place, a time limit for collecting signatures is usually set. The time limits vary from a number of days (for example, thirty days in Latvia or sixty days in Slovenia) to several months (for example, six months in Spain or eighteen months in Switzerland).

In addition, several reasons would justify the introduction of a time limit for the European citizens' initiative: such initiatives are often linked to particularly topical issues and may refer to problems which, if there is no time limit, or if the time limit is too long, lose their

relevance; the context in which people sign may change if the period is too long (for example, if European legislation on the same subject is amended or adopted in the meantime).

However, if a time limit is imposed, it must be reasonable and sufficiently long so as to allow a campaign reflecting the additional complexity of working throughout the European Union. This could be achieved by providing for a period of, for instance, one year<sup>8</sup>.

Questions:

Should a time limit for the collection of signatures be fixed?

If so, would you consider that one year would be an appropriate time-limit?

## **7. Registration of proposed initiatives**

Aside from the length of time, consideration should be given as to the way of determining when the time limit starts running and when it ends. In most Member States the time limit generally begins following completion of the required publication or registration formalities; however there are cases where the time limit is determined by the dates of the signatures.

The Commission considers that if a time limit is indeed set, it would be necessary to require a form of registration of the proposed initiative before the collection of signatures begins. Such registration could be done by the organisers of an initiative on a specific website provided by the Commission for this purpose. They would be required to upload all relevant information on the proposed initiative (e.g. title, subject-matter, objectives, background etc.) on the website, which would then be publicly available. The system would then provide the organiser with confirmation of the registration, the date and a registration number, on the basis of which the collection campaign could be launched.

Such registration would therefore serve to set the clock ticking but would also provide transparency as regards proposed citizens initiatives for which campaigns are running.

However, the Commission does not consider that such a registration process should involve any decision by the Commission as to the admissibility of the proposed initiative. Indeed it does not consider that it would be appropriate for the Commission to verify the formal admissibility of proposed initiatives before any signatures have yet been collected<sup>9</sup>. Such an approach could lead to confusion, giving the impression that the Commission had given some form of green light to proposed initiatives on more than purely procedural grounds. It would require checks to be made which would delay the moment from which signatures could be collected. Moreover, the admissibility and substance of initiatives cannot be seen in isolation and thus it would not be appropriate at the early stage of registration to undertake this examination.

The Commission understands that there may be some reluctance to launching an initiative across the EU, with the risk that it may ultimately be rejected on the grounds that it is not admissible. However it should be noted that the admissibility criterion - that the proposal on

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<sup>8</sup> One year is the time-limit suggested by the European Parliament in its resolution on the citizens' initiative.

<sup>9</sup> In its resolution, the European Parliament was rather of the opinion that an ex ante admissibility check should be made.

which the Commission is invited to act should be within the framework of its powers - is sufficiently clear and is known at EU level. In any event, organizers can normally be expected to have fully assessed whether the initiative legally falls within the framework of the Commission's powers before launching an initiative.

Questions:

Do you think that a mandatory system of registration of proposed initiatives is necessary?

If so, do you agree that this could be done through a specific website provided by the European Commission?

## **8. Requirements for organisers - Transparency and funding**

Launching and organising a campaign for a proposed European citizens' initiative will in most cases require support from organisations and/or funding.

In the interests of transparency and democratic accountability, the Commission considers that the organisers of initiatives should be required to provide certain basic information in particular in relation to the organisations that support an initiative and how the initiatives are or will be funded. This would be in the interest of the citizens considering signing up to an initiative; this would also be in line with the Commission's European Transparency Initiative<sup>10</sup>.

If registration is foreseen, such information could be provided on the register made available by the Commission. The Regulation could also require that organisers make publicly available all relevant information on funding and support during the course of the campaign.

In relation to the issue of funding, it should be noted that, without prejudice to other forms of cooperation and support for civil society organizations, it is not foreseen that any specific public funding would be provided for citizens' initiatives. This is also in the interest of preserving the independence and citizen-driven nature of initiatives.

Aside from requirements upon organisers relating to transparency, it should be noted that many national systems include provisions as to who may actually act as an organizer of an initiative. These generally require that an initiative must be presented by citizens or by committees made up of a certain number of citizens. The Commission considers that such a requirement may be too burdensome at EU level and would therefore prefer not to impose any restriction as to who may present an initiative - i.e. organisers can either be individual citizens or organisations. The case of petitions to the European Parliament offers a useful analogy in this context. Indeed, the Treaty provides that any citizen of the European Union and any natural or legal person residing or having its registered office in a Member State have the right to address a petition to the European Parliament<sup>11</sup>.

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<sup>10</sup> In its resolution, the European Parliament considers that the organisers of a citizens' initiative must, for the sake of transparency, publicly assume accountability for its funding including the sources of that funding.

<sup>11</sup> Article 227 of the Treaty on the functioning of the European Union.

Furthermore, organisers should comply with the obligations relating to the protection of personal data according to the relevant national law implementing EU legislation on data protection.

Questions:

What specific requirements should be imposed upon the organisers of an initiative in order to ensure transparency and democratic accountability?

Do you agree that organisers should be required to provide information on the support and funding that they have received for an initiative?

## **9. Examination of citizens' initiatives by the Commission**

Once the required number of signatures for a citizens' initiative have been collected and that they have been validated by the relevant Member States' authorities, the organizer of an initiative can formally submit the initiative to the Commission.

The Lisbon Treaty sets no time limit for the Commission to deal with a citizens' initiative, once it has been duly submitted. In part this could be in recognition of the fact that an initiative may deal with complex issues and the Commission would need some time to properly examine it before deciding on the action it intends to take: in certain cases, this might include the need to carry out an analysis of the merits and shortcomings of a proposed policy initiative. It should be noted that no specific time-limit is foreseen either for the examination of petitions by the European Parliament.

However, there is a case for fixing a time limit in line with good administrative practice and also in order not to leave a long period of uncertainty as regards the Commission's response. If a time limit is set, it should be long enough to allow the Commission to carefully examine the content of the initiative submitted. On the other hand, it should ensure that the supporters of an initiative are informed of the action that the Commission intends to take within a reasonable period of time.

The national systems operate different approaches to deadlines for considering citizens' initiatives. Whilst some systems impose deadlines ranging from a few weeks to several months, other systems do not impose a specific deadline on the authorities.

One could therefore foresee an obligation for the Commission to examine a citizens' initiative within a reasonable time-frame not exceeding 6 months. Such an approach would provide a time-limit whilst ensuring that the Commission has enough time in order to give initiatives adequate consideration, taking into account the potential complexities that they may entail.

This examination period would begin on the date of formal submission of the initiative to the Commission. This could be notified on the specific web-site mentioned under point 7.

During this period the Commission would assess both the admissibility of an initiative - i.e. whether the initiative falls within the framework of its powers - and whether the substance of

the initiative merits further action from its side<sup>12</sup>. Once the Commission has examined an initiative, its intention would be to set out its conclusions in relation to the action it envisages in a communication which would be made publicly available and notified to the European Parliament and the Council. The action envisaged in the communication may include, as appropriate, the need to carry out studies and impact assessments in view of possible policy proposals.

Questions:

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

## **10. Initiatives on the same issue**

In principle, it cannot be excluded that a number of initiatives on the same issue would be presented. However if a registration system is put in place, the transparency provided could ensure that duplication would be avoided.

This nonetheless leaves the potential issue of successive presentations of the same request, which would create undue burdens for the system and, in time, could undermine its reputation as a serious instrument for democratic expression. Therefore consideration should be given to whether some disincentives or time limits should be put in place to constrain the ability to represent an initiative (for instance a failed citizens' initiative could not be represented again before a certain time limit has elapsed).

However, it should be borne in mind that although some initiatives may regard the same subject-matter and contain some similar elements, they might not be identical. Moreover, the operational and financial resources required to the launch of an EU-wide initiative are likely to limit repetition and duplication.

Questions:

Is it appropriate to introduce rules to prevent the successive presentation of citizens' initiatives on the same issue?

If so, would this best be done by introducing some sort of disincentives - or time limits?

## **III HOW TO RESPOND**

Contributions to this consultation process should be sent to the Commission by 31<sup>st</sup> January 2010, either by email to the address "ECI-Consultation@ec.europa.eu", or by post to the following address:

European Commission  
Secretariat General  
Directorate E "Better Regulation and Institutional Issues"  
Unit E.1 "Institutional Issues"

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<sup>12</sup> The European Parliament, in its resolution on the citizens' initiative, had suggested a two-step approach by which the Commission would first have 2 months to verify the representativeness of an initiative and then a further 3 months to examine and take a decision on the substance of the initiative.

B - 1049 Brussels

The contributions received will be published on the internet, unless the author objects to publication of the personal data on the grounds that such publication would harm his or her legitimate interests. In this case the contribution may be published in an anonymous form.

Professional organisations responding to this Green Paper are encouraged, if they have not already done so, to register in the Commission's Register for Interest Representatives (<http://ec.europa.eu/transparency/regrin/>). This Register was set up in the framework of the European Transparency Initiative with a view to provide the Commission and the public at large with information about the objectives, funding and structures of interest representatives.

The Commission may invite contributors to a public hearing on the subject of this Green Paper.

## **Appendix 2.1: Submission from Pronsias De Rossa, MEP**

### **THE EUROPEAN CITIZENS' INITIATIVE**

**SUBMISSION BY PROINSIAS DE ROSSA MEP  
LEADER, LABOUR DELEGATION, SOCIALISTS AND DEMOCRATS GROUP,  
TO OIREACHTAS JOINT COMMITTEE ON EUROPEAN AFFAIRS  
22 JANUARY 2010**

#### **Introduction**

Under the Lisbon Treaty the functioning of the EU will continue to be based on the principle of "representative democracy", with all legislative decisions still taken jointly by the European Parliament and the Council.

However, in providing for the introduction of the European Citizens' Initiative (ECI), the Lisbon Treaty contains a significant new element of "participative democracy" at European level. This innovation had originally been agreed during in the 2002-03 European Convention on the Future of Europe, in close cooperation with non-governmental organisations. It was only included in the draft European Constitution issued in July 2003 by the Convention after a lengthy struggle. It was retained in the follow-up Lisbon Treaty, agreed in 2007 by Member States' governments.

The ECI represents a completely new instrument to broaden democratic participation in the EU. Its introduction is a world first towards the development of supranational direct democracy. It will, I believe, help to promote the development of a European public space in the longer term.

#### **The adoption of the Citizens' Initiative Regulation**

The Treaty on the Functioning of the European Union (Art.24) provides that the procedures and conditions for the ECI are to be determined in a EU Regulation to be adopted jointly by the European Parliament and the Council, acting on a proposal from the Commission. The Council will take its decision by a qualified majority vote.

On 7 May 2009, the European Parliament adopted a resolution<sup>1</sup>, requesting the Commission to come forward with such a draft Regulation and which made a number of specific recommendations in this regard. The EP's resolution was adopted by 380 votes to 41, with no abstentions.

On 11 November last, the European Commission produced a Green Paper on the ECI<sup>2</sup>, asking for responses from all interested parties by 31 January 2010. It promised to come forward with a draft Regulation in the first half of 2010, which it hoped the European Parliament and the Council would adopt within one year of the Lisbon Treaty taking effect, i.e. by 1 December 2010.

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<sup>1</sup> P6\_TA-PROV(2009)0389, 7 May 2009

<sup>2</sup> COM(2009) 622 final

## **What is an Citizens' Initiative?**

Following the entry into force of the Lisbon Treaty on 1 December 2009, almost every European Union legislative act, whether a regulations, a directive or a decision, is as a matter of principle adopted jointly by the European Parliament and by the Council, on the basis of a Commission proposal (Art.289, TFEU). In other words, in almost all cases the submission of a Commission proposal is a prerequisite for the adoption of EU legislation (now Art.17 (2) TEU).

With the establishment of the European Economic Community in 1957, the Member States had already given the Council the right to *'request the Commission to undertake any studies [it] considers desirable for the attainment of the common objectives, and to submit to it any appropriate proposals'* (now Art.241, TFEU).

In the Maastricht Treaty in 1992, the Member States also gave the European Parliament the right to formally request the Commission to submit legislative proposals (now Art 225, TFEU). The European Parliament is sometimes criticised for not having the right to initiate legislation but in fact under this particular provision, the European Parliament has successfully initiated a number of important pieces of European legislation over recent years, such as the Environmental Liability Directive, which makes industrial polluters liable for environmental damage they cause, European legislation on the settlement of claims arising from traffic accidents abroad, and the Renewables Energies legislation.

This right to request legislative proposals has now been extended to all EU citizens by means of the ECI: *'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, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties'* (Art.11 (4) TEU).

On this basis, EU citizens themselves can for the first time be directly involved in the initiation of a European legislative process, on the same footing as the European Parliament and the Council.

It is important to stress that Citizens' Initiatives must respect the EU treaties. It must meet four main criteria:

- i) It should call on the Commission to submit 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, and;
- iv) The requested act cannot manifestly be contrary to the general principles of law as applied by the EU (e.g. equal treatment).

For example, a Citizens' Initiative calling for the European Parliament to meet only in Brussels would not be successful since the decision on where the European Parliament meets is determined solely by national governments. The Commission cannot propose to change where the European Parliament sits.

## **The right to participate in an ECI**

There are two ways in which EU citizens can take part in an ECI, as organisers, or as supporters.

The work of organising an *Initiative* involves submitting an application for registration of an initiative to the European Commission, conducting publicity campaigns and, in accordance with Member States procedures, gathering statements of support, and explaining the nature of the initiative to the Commission.

EU citizens may support a citizens' initiative by making a formal statement that they endorse the aim of the request being made to the Commission. The right to participate in the ECI thus embraces both the right to organise and the right to support a citizens' initiative.

### **The Citizens' Initiative and Petitioning the European Parliament**

Pursuant to Article 24(2), in conjunction with Article 227 of the TFEU and pursuant to Article 44 of the Charter of Fundamental Rights, every EU citizen, every natural person resident in the EU and every legal person with a registered office in the EU has the right to petition the European Parliament. The new right to participate in a citizens' initiative thus supplements and complements the right to submit a petition; however, it does not replace it and is not identical to it.

Although the outcome of a citizens' initiative or a petition may be similar – for example, both may lead to the adoption of EU legislation – they differ as regards their role, to whom they are addressed and the conditions governing their submission. Whereas petitions are addressed to the European Parliament, citizens' initiatives are addressed to the Commission. The right of petition is granted to EU citizens in their capacity as persons directly or indirectly affected by the exercise (or more often the non-exercise) of EU powers. It offers them the possibility to directly address MEPs in order to inform them about a state of affairs (e.g. the failure to apply European water quality standards in a given locality) and to call for that state of affairs to be remedied.

In contrast, the citizens' initiative enables EU citizens to participate directly in the exercise of the EU's legislative powers by giving them the possibility to request the Commission to submit a legislative proposal. While the Commission retains the final right of initiative and is therefore not bound to make a proposal in response to a citizens' initiative, it has committed itself to carefully examining all initiatives that fall within the framework of its powers to consider whether a proposal would be appropriate. The European Parliament has suggested that the Commission be under a legal obligation to give its reasons for not responding to a citizens' initiative.

### **Minimum number of Member States**

Pursuant to Article 11(4) TEU, EU citizens who support a citizens' initiative must be nationals of a significant number of Member States. However, what is meant by 'a significant number' is not made clear and has to be laid down by the European Parliament and the Council in the forthcoming regulation.

The purpose behind the stipulation that the supporters of a citizens' initiative should come from several different Member States is to ensure that the starting point in the European legislative process is not an issue which solely reflects the specific interests of a single Member State, but rather the wider, common European interest.

Taking a cue from other provisions of the EU treaties, for example Art.76 TFEU which provides that acts in the field of freedom, security and justice may be dealt with on the initiative of a

quarter of the Member States, the last European Parliament believed a quarter of the Member States (i.e. seven at present) is sufficient to meet this particular criteria. I support this view.

On the other hand, the Commission has suggested that one quarter of the Member States would be too low a threshold to guarantee that the European interest is adequately reflected. It favours a threshold of one third of Member States (i.e. nine Member States). I understand that the current Spanish Presidency of the Council has obtained the consensus of all Member States that the higher threshold of one third would be required. The difference between these two approaches will, no doubt, will be thrashed out later this year during the adoption of the citizens' initiative regulation.

### **Minimum number of signatories**

The requirement that the supporters of a citizens' initiative should be nationals of a significant number of Member States makes little sense if it is not combined with a requirement stipulating the minimum number of supporters who must come from each of those Member States.

The Treaty on the Functioning of the European Union (Art 11(4)) sets a figure of one million EU citizens. This corresponds to approximately 1/500 of the EU's current population of 500 million. The European Parliament and the Commission agree that 1/500 of the population should be regarded as sufficiently representative for the required number of signatures at Member States level.

It is important to note that because Irish citizens living outside Ireland do not have the right to vote in Irish elections, then a successful citizens' initiative from Ireland would require the 1/500 requirement (i.e. roughly 9,000 signatories) to be made up of Irish citizens living in Ireland. Citizens of other EU Member States who are entitled to vote in their Member State of residence would be able to sign citizens' initiatives in those Member States. For example, French citizens living in Ireland who sign a citizens' initiative in Ireland would be included as making up the 1/500<sup>th</sup> of the French population 'quota'.

### **Minimum Age of Signatories**

The European Parliament hasn't specified a minimum age but has emphasised the need to avoid situations whereby the minimum age for taking part in a citizens' initiative would be higher than the minimum age for taking part in European elections (which is 18 in all Member States with the exception of Austria where it is 16).

### **The procedure for an ECI**

The Commission has suggested that a citizens' initiative clearly state the subject-matter and aims of the proposal on which the Commission is being invited to act. A draft legal act could also be appended.

The regulation also has to set down the procedure for a citizens' initiative. The procedure should be broken down into four stages that derive directly from the Lisbon Treaty: i) registration; ii) collecting support; iii) presentation; and iv) consideration;

In the first stage, **registration**, begins when its organisers register the initiative with the Commission and ends when the Commission's formal decision on the success of that registration. The European Parliament emphasises that within two months, the Commission must decide whether the initiative is admissible, i.e. that it meets the four criteria outlined earlier. Registration may be refused only on legal grounds, not on political grounds.

The second stage, "**collecting support**" involves collecting the individual statements of support for the initiative. Given that the Commission does not have the competence or capacity to check the validity of signatories and certifying the results, this task has to be carried out by the national authorities.

In addition, the Treaty does not foresee a time limit for the collection of signatures but the Commission and the European Parliament believe that one year would be an appropriate time-limit.

All supporting persons must individually state their support by means of a personal signature, in writing or, if appropriate, electronically, as well as date of birth, home address and nationality. Supporters would also be able to withdraw their support, and be informed of this by the organisers. Within two months and after verifying the statements of support, the national authorities should provide the organisers with an official confirmation of the number of lawful signatories.

The third stage, "**presentation**", begins when the organisers present the initiative to the Commission and ends with the Commission's decision on whether presentation has succeeded. Confirmation by the Member States of the number of statements of support must be submitted at the time of presentation. The European Parliament believes that within two months, the Commission must decide whether presentation has been successful. It must verify the representativeness of the initiative, as presented, i.e. it is supported by a minimum of one million EU citizens, who include nationals of the designated number of Member States (which has yet to be decided - seven according to the European Parliament and nine according to the Council), and that the number of nationals of each Member State concerned represents at least 1/500 of that Member State's population. Again, presentation may be refused only on legal grounds, and not on political grounds.

The fourth stage, "consideration", covers the Commission's detailed consideration of the initiative, including by meeting the organisers, and ends with the Commission's formal statement of its position on the request. The European Parliament believes that the Commission should take this decision within three months, whereas the Commission proposes six months. If the Commission does not intend to submit a proposal as requested, it must explain its reasons for not doing so to the organisers and to the European Parliament.

Each stage of the procedure must end with a formal decision, each of which can be legally challenged in the ECJ by the organisers. Member States' confirmations of the individual expressions of support must also, be liable to legal review at national level.

Two other issues must also be considered.

First, in the interests of transparency and accountability, the organisers of initiatives should be required to provide certain basic information, in particular in relation to who is supporting an initiative and how their campaign is being funded. The Commission is not proposing that public funds would be provided for citizens' initiatives. Nor is it being proposed that any provisions be

agreed at European level as to who can present an initiative. Furthermore, organisers must comply with all data protection obligations

Second, in order to avoid the problem of successive presentations of the same initiative, the Commission has suggested that consideration be given to whether some disincentives or time limits should be agreed, e.g. a failed initiative could not be re-presented again before a certain time limit has elapsed. It is likely however that the practical requirements of launching an EU-wide initiative are likely to limit repetition and duplication.

## **Conclusion**

Citizens' initiatives already exist in a majority of EU Member States, either at national, regional or local level.

The ECI enables citizens to take part in the democratic life of the EU. It is a "participatory democracy" tool. The European Parliament is fully committed to getting the European Citizens' Initiative up and running as soon as possible. I have no doubt that the Parliament will play its part towards ensuring that the Citizens' Initiative Regulation is adopted by next December.

At this stage it looks as if one of the key issues dividing the European Parliament and the Council will be the minimum number of Member States needed. The European Parliament believes it should be one quarter (seven) of Member States. I support this view. The Council on the other hand favours one third (nine). There are precedents at European level for both criteria and this issue will be decided later this year during the adoption of the Citizens Initiative Regulation.

The position of Irish citizens living outside Ireland also has to be considered by the Irish Government. The Commission's November Green Paper clearly favours giving EU citizens living outside their home country the right to support initiatives in their country of origin. It is difficult to see how Irish citizens living abroad will be able to take part while they do not have the right to vote in Ireland.

Finally, enabling Irish citizens to support a pan-European citizens' initiative will give them the same rights as currently enjoyed by the citizens of a majority of EU Member States, which already have citizens' initiatives either at national, regional and local level. This I believe should give rise to the consideration of introducing citizens' initiative in Ireland, as part of a complete overhaul of governance structures in Ireland.

## Appendix 2.2: Submission from European Movement Ireland



Green Paper on the European Citizen's Initiative

Submission by European Movement Ireland

Friday 29 January 2010

[www.europeanmovement.ie](http://www.europeanmovement.ie)

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## Introduction

In formulating our response to the Commission's Green Paper on the Citizens' Initiative, EM Ireland met with its members and asked them as European citizens for their thoughts on this new venture in European democracy. Below are our key findings, along with our research completed in answering the specific questions posed by the Commission's Green Paper.

## Our key findings

### Defining the Citizens' Initiative

As stated in Treaty law, under the initiative *'not less than one million citizens who are nationals of a significant number of Member States may take the initiative of **inviting** the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider a legal act of the Union is required for the purpose of implementing the Treaties'*<sup>1</sup>.

According to a resolution by the European Parliament on the Citizens' Initiative, an initiative is deemed admissible if:

- a) it contains a request to the Commission to submit a proposal for a legal act of the Union;
- b) the Union has legislative competence, and the Commission has the right to submit a proposal in the matters concerned; and
- c) the requested legal act is not manifestly contrary to the general principles of law as applied to the Union.

This is the starting position of European Movement Ireland, in relation to defining the Citizens' Initiative.

So what is the Citizens' Initiative or more importantly, what does it aim to be?

**Firstly, it formalises a system that does in some form exist.** The reality is that it is already possible for EU countries to lobby the Commission or Parliament on a particular issue – therefore citizens can initiate requests for policy change by lobbying a national party. Citizens are also free to lodge a complaint to the institutions through the European Ombudsman and to petition the Parliament for a matter to be investigated when they are personally affected by the issue raised. So from the outset, it is useful to frame the debate by noting that it does appear that the Citizens' Initiative is addressing an existing need and formalising a current ad hoc practice. Further to this, a number of countries have some form of national initiative system – so what is new to us, is not necessarily new to the entirety of Europe.

Not only does this Citizens' Initiative formalise a practice that is going on, but it also **marks the next step in the institutional reform** that the latest Treaty introduced. For many, the Citizens' Initiative will be the first tangible outcome of the Lisbon Treaty. In Ireland given our near habit of 'double referenda' for European Treaties, this very tangible outcome of the Lisbon Treaty is an

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<sup>1</sup> Article 11, paragraph 4, of the Treaty of the Union

opportunity to make Europe more part of our day-to-day politics, rather than waiting until six weeks before polling day.

It is important that the initiative has integrity. A failed initiative will reflect badly on the Lisbon Treaty as a whole, giving oxygen to groups who are against European co-operation for a variety of reasons. For this reason, we would suggest that the Citizen's Initiative be reviewed one year after its inception to work out any problems that may arise. There is no doubt that the Citizens' Initiative is a positive step in the right direction, but European Movement Ireland feels that we need to be realistic when we consider how far reaching the Citizen's Initiative might actually be and that expectations need to be clearly managed.

### **Key themes: Transparency, inclusion & sincerity of intention**

In discussions with our members, three key themes for the successful implementation of a Citizens' Initiative emerged:

#### **1. Transparency.**

The issue of transparency was a major concern during our discussion, more so on the European institutional side than for those organisations or individuals taking part in the initiatives. If the Commission itself is given responsibility for deciding on the legitimacy of initiatives it could be seen as a filtering process and would severely undermine the legitimacy of the tool. EM Ireland strongly urges that the European Ombudsman be given responsibility for both the admissibility of initiatives and the validation of signatures to reduce any scepticism about the actual transparency of the initiative. This would involve an amendment to the current remit of the role of the European Ombudsman, and this is something that we would see as hugely worthwhile in terms of transparency and good separation of powers.

#### **2. Inclusion.**

Overall, our members favoured a low threshold approach to the Citizen's Initiative. By this we mean lower the age limit; allow the minimum number of EU countries to get involved in one initiative (one quarter); and use the figure of 0.2% for the minimum number of signatories required from each country. We are seeking to make this initiative as inclusive possible so we can start to erase that image of the EU being less democratic than it actually is.

In light of this, the Green Paper suggests that the minimum age for taking part in an initiative should be set at 18, matching the age for voting in EU elections. As an organisation that encourages direct engagement with the EU, EM Ireland feels this age limit could be lowered to 16 be relatively easily in this country.

The Citizens' Initiative is an excellent opportunity to get young people actively involved, engaged and interested in Europe and to forgo this would in our view be an opportunity lost. We have a chance in Ireland to seize this opportunity and to use the signing of an Initiative to be a 'learner permit' for fully-fledged voting at the age of 18. To avoid a

nightmare situation in getting people to register in order to take part we would suggest using PPS numbers or passport numbers could be used in order for people to sign up as this would limit excessive administrative burden.

### 3. Sincerity of intention.

For the individual, this sincerity of intention would mean that an online forum with information on initiatives is provided, but that those who want to sign a petition need to do so at a local post office or local government office. Thus they are required to do more than just add an e-mail address to a list. By going that extra mile to sign a petition rather than being free to do so at the click of a mouse, there would be a tangible, active aspect to this project while also encouraging and foster a greater sense of civic duty. Great and all as it was to have 'A Nation Once Again' voted the world's top tune by a BBC world service survey in 2002, we in Ireland have first-hand knowledge of how powerful the Internet can be and believe that measures need to be in place to ensure the Citizens' Initiative is taken seriously.

EM Ireland feels that the Internet should definitely be utilised in this initiative to inform and mobilise citizens across the EU and provide that sense of horizontal communication. However we also need to be mindful of the fact that access to the Internet in Ireland is very much characterised by demographic variables such as age, income etc. To leave the Citizens' Initiative as something that only those with the internet have access to would be contrary to the ideals that form the very basis of this project.

### An institutional opportunity....

The Citizens' Initiative is most definitely a positive step in the right direction though it is currently unclear where exactly this step will lead. The initiative is in its infancy, it is experimental and a learning curve must be expected. The EU, and most importantly the Commission, needs to manage the expectations of citizens in terms of this initiative so that the results incurred through the submission of one million (or more) signatures are not overly inflated.

We at European Movement have watched as the debate here in Ireland has devoted much of its time to what is the responsibility for *individuals* involved in this process – for example, whether initiatives will have to be written in legal text, how we will register our initiatives and how we will have to verify signatures. Much of the remaining discussion has been devoted to the role to be played by local and national governments in ensuring the smooth, swift and successful running of the initiative.

We have noticed that in all this detailed discussion, there is little mention of the responsibility or procedure required by Europe. The idea of an appeal system has not even been mooted and we feel this warrants consideration if not inclusion. EM Ireland feels that the responsibilities of the European institutions have not received due consideration in the Green Paper or indeed at any of the meetings or discussions that we have attended. We presume this information will appear in the next documentation to circulate from Brussels but given the tight schedule that is being mooted and the talk of first reading approval through Parliament, it is increasingly unlikely that a White

Paper will have time for much discussion. Therefore, we at European Movement would like to take this chance to raise some issues now regarding institutional responsibility and opportunity. So what are the responsibilities of the European Institutions? We see them as two-fold:

### **To take the opportunity.**

It is proven too often in the European system that the 'devilish detail' can be very distracting – and therefore we are asking the European Commission to resist the usual habit of overly pre-empting every eventuality. In much of the discussions we have observed, we have noticed that the detail is most definitely the real hub of the discussion and as we have mentioned above, it is very much concentrated on the individual. A small word of caution - we may be concentrating so much on pre-empting all eventualities that this initiative losing real sight of its initial purpose, that of citizen engagement.

In short, let's not forget the wood for all the observing of trees.

### **To recognise where the power of the system lies.**

We see this Citizens' Initiative as a clear opportunity – albeit small and possibly symbolic – to further clarify the balance of power and to make clear where the power really does lie in the system. The fact is the Commission holds the right of initiative and that the power of decision-making is held in the Parliament and the Council.

Though some say that there is little detail in the Treaty Article dealing with the Citizens' Initiative, we found that this Treaty Article further corroborates this point. Article 11 states *'not less than one million citizens who are nationals of a significant number of Member States may take the initiative of **inviting** the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider a legal act of the Union is required for the purpose of implementing the Treaties'<sup>2</sup>.*

The key word here for us is "invite". We are all free to accept or decline invitations and sometimes we don't even need to give a reason as to why we are declining. However, when one million people invite you to do something they are surely deserving of a response.

As we have mentioned above, we would strongly urge that the European Ombudsman plays a key role in the verification processes required for the Citizens' Initiative. Further to this, we would also ask the Commission to play their role of 'initiator of legislation' as supposed to 'judge and jury'. If the Ombudsman rules that an initiative has legal basis, if the one million verified signatures are collected, we believe it would be in Europe's interest that the Commission devise the appropriate legislative tool to initiate proceedings and that ultimately the Parliament and the Council - and those people directly elected who make up these institutions – that should decide the fate of the legislation inspired by a Citizens' Initiative.

One of the Spanish government's overall aims during its presidency between now and July is to promote a 'People's Europe' and make it more responsive. A 'People's Europe' will not transpire

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<sup>2</sup> Article 11, paragraph 4, of the Treaty of the Union

without everyone playing their role and everyone fulfilling their responsibilities. Ensuring that these responsibilities are enshrined in the procedure for the Citizens' Initiative means that there is potential for this project to have a real impact. This is why we have set out a step-by-step process which we hope is a simple guide to how this system could work, to the benefit of both the institutions and the individuals who are at the core of the EU's work.

## Concluding remarks

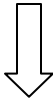
All in all, there is huge potential for this project. It is a significant development in European politics but should not be seen as a panacea for what is known as "the democratic deficit". The Citizens' Initiative could be a genuinely valuable and efficient instrument to generate awareness, participation, and robust debate, acting as a barometer of public opinion at the very least, or as a tool to effect or initiate real legislative change at the very most. It is up to the Commission to ensure that the Regulation it puts forward promotes the latter. It is our view that a focus on sincerity of intention on both sides along with a commitment to transparency and inclusivity should be a starting point.

Ultimately, we at EM Ireland believe that the Citizens' Initiative creates a dialogue beyond national governments and encourages genuine citizen involvement and engagement with the EU on a direct level. If this democratic experiment is managed well it could go even further and create a space for European citizens, reaching across borders and uniting people on a new level. However no political experiment can be undertaken without caveats and we need to be mindful of the fact that there will be unintended consequences with the Citizens' Initiative. How this initiative is represented to citizens and how the Union responds to its citizens will be integral to ensuring the success of this new venture in pan-European democracy.

Regardless of what the Commission decides, regardless of how the Parliament and the Council also view and ultimately approve this – there is a responsibility on us all sitting here and our wider communities to ensure Irish people are made aware of this new string to their participatory bow.

<b>Suggested Timeline</b>	
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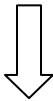
Citizen thinks of idea and submits wording to the European Ombudsman	3 months
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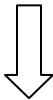
Ombudsman Decides on Admissibility	3 months
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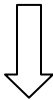
If initiative is admissible, initiative logged in website & local authorities set-up system to collect signatures	3 months
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Collect Signatures	1 year
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Submit initiative to European Commission	
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European Commission gives action and communication given to Parliament and Council	3 months
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## Background: Answering the Commission's questions.

As many will be aware, the Commission set a number of questions to be answered in the Green Paper on the Citizens' Initiative. In order to find a starting point for our discussion with our members, below are our answers to the questions posed.

### 1. Minimum number of Member States from which citizens should come

*Do you consider that one third of the total number of Member States would constitute a 'significant number of Member States' as required by the Treaty? If not, what threshold would you consider appropriate, and why?*

Given that the purpose of the Citizens' Initiative is to involve citizens in the shaping of EU policy it is vital that the initiatives put forward represent a Union interest rather than simply that of an individual EU country. To ensure this, the Treaty states that a request for an initiative must come from a 'significant number of Member States'. Three potential options are set out in the Green Paper in terms of determining the minimum number necessary; they are to require that the threshold be:

- a majority of member states (14/27)
- a quarter (7/27) of member states, or
- one third (9/27) of member states

While the European Parliament's resolution on the Citizens' Initiative advocates one quarter as a suitable threshold, the Commission considers a threshold of one third to be appropriate. Requiring that a majority of states as a threshold is rejected by both Parliament and Commission and EM Ireland would also agree that this threshold is too high. In terms of the remaining options:

1. It would appear that the third option of one third has more grounding in the Treaty provisions as it is the threshold used in the provisions on 'enhanced cooperation' and for the number of national parliaments needed to trigger the subsidiarity procedure. It is also used in some national systems with existing Citizens' Initiatives, for example Austria, Poland, Hungary, Spain, Portugal Lithuania and Slovenia.
2. That said, the figure of one quarter also has some merits. The figure of one quarter also matches a provision of the Treaty on the functioning of the European Union (Article 76), albeit a more sector specific one. Under this Article, acts relating to judicial cooperation in criminal matters or police cooperation can be adopted on the initiative of a quarter of the Member States. In addition to this, given the relatively low level of interest in European Affairs this figure of one quarter could be more achievable.

3. Instead of choosing either one quarter or one third as an option, another possibility is to merge the two. A minimum number of one quarter of EU countries could be required for the first year of the initiative in order to facilitate and encourage the use of the instrument, with one third being set as the minimum in the years following, or vice versa.

Following consultations with our members, EM Ireland advocates a low threshold for participation in the Citizens' Initiative and therefore recommends option 2 - one quarter of EU countries.

## 2. Minimum number of signatures per Member State

*Do you consider that 0.2% of the total population of each Member State is an appropriate threshold?*

Both the Commission and the Parliament favour a threshold of 0.2% of the population of each Member State where signatures are collected as the minimum number of signatures for that State. Given Ireland's comparatively small population this is definitely favourable to the other option put forward in the Green Paper, which is to set a fixed number of participating citizens for all Member States. We feel that this would penalise Irish citizens.

EM Ireland therefore supports the use of a percentage of the population as the most equitable option. In terms of the figure itself, 0.2% of the population would translate to the following numbers for Ireland:

Population of Ireland	4,239,848 <sup>3</sup>
0.2% of Population of Ireland	8,480

It is important to note, however, that not all citizens will be eligible to take part in this initiative, as a minimum age will be set. If this is set at the suggested age of 18, (dealt with further in Section 3) and if electoral registers are used as methods of verification of signatures, the number of signatures will actually be coming from a much smaller pool. The number most likely to take part is further reduced when actual turnout for the most recent European Elections is considered.

Number of citizens eligible to vote in Ireland	3,078,032 <sup>4</sup>
Actual Irish turnout in European Elections 2009	58.64% <sup>5</sup>
EU Average Turnout in European Elections 2009:	43%

This leaves the realistic number of citizens from which the 8,500 signatures must be obtained at approximately 1,759,200 (0.48%), which could still be considered a reasonable requirement.

<sup>3</sup> Central Statistics Office: <http://www.cso.ie/statistics/popnbyage2006.htm>

<sup>4</sup> Elections Ireland Website: <http://electionsireland.org/results/referendum/refresult.cfm?ref=2009R>

<sup>5</sup> Europa Website: [http://www.europarl.europa.eu/parliament/archive/elections2009/en/ireland\\_en.html#ancre4](http://www.europarl.europa.eu/parliament/archive/elections2009/en/ireland_en.html#ancre4)

In the event that electoral registers are not used to verify signatures, other potential methods of verification would be to match names to some of the following:

- Passport Numbers
- CAO applications
- PPS numbers

### 3. Eligibility to support a Citizens' Initiative – minimum age

*Should the minimum age required to support a European Citizens' Initiative be linked to the voting age for the European Parliament elections in each Member State?*

The Commission and the Parliament have suggested that the minimum age required to support a European Citizens' Initiative should be linked to the voting age for the European Parliament elections in each Member State. In Ireland this would be 18 years of age.

EM Ireland believes the age at which citizens should be entitled to take part in a Citizens' Initiative should be set at 16. This would encourage the widest possible participation and engagement of citizens in the initiative, and could help to foster an interest in EU affairs at an early age, with the possible added result of increasing the number of these young people who actively use their vote in elections when they reach the age of 18. Excessive administrative burden could be avoided by using PPS numbers or passport numbers to verify the signatures, thus the aim of implementing the initiative in as timely a manner as possible would not be negatively impacted.

The idea of making the Citizens' Initiative available at an earlier age is in line with a number of recent developments across Europe and on a national level seeking to extend voting rights, or at least bring this discussion to the fore. In 2007, Austria passed a bill which lowered the voting age from 18 to 16, and between 2006 and 2008 three British Crown dependencies reduced their voting age to 16. German municipal elections and Swiss cantonal elections have also lowered the voting age to 16. On a national level, the National Youth Council of Ireland is currently running a 'Vote at Sixteen' campaign lobbying for a lowering of the voting age from 18 to 16. An Oireachtas Committee Meeting on this topic was held on the 13 January 2010, and an Independent Electoral Commission is due to be set up in the near future to overhaul and improve the electoral system as a whole, with a view in particular to improving the method of registering to vote. These changes indicate a general trend towards engaging young people in politics and EU affairs at as early an age as possible.

**Therefore EM Ireland would see no reason why the minimum age for the Citizens' Initiative should not be set at 16.**

#### 4. Form and wording of a Citizens' Initiative

*Would it be sufficient and appropriate to require that an initiative clearly state the subject matter and objectives of the proposal on which the Commission is invited to act?*

It appears that the issue here is to strike a balance between accessibility and ensuring that the initiative is effective and clear in its wording and aim. The option requiring that a Citizens' Initiative would take the form of a legal draft could prove restrictive and off-putting. Furthermore, as it is not necessarily required by the wording of the Treaty, it is an unnecessary bureaucracy – an addition of 'red tape' – that does not assist in the original aim of this very initiative, to bring citizens directly into the legislative procedure.

As an organisation that promotes the discussion of Europe in a jargon-free way, EM Ireland therefore agrees with the suggestion that it would be sufficient and appropriate to require that an initiative clearly state the subject matter and objectives of the proposal on which the Commission is invited to act in non-legal language. The main concern is to ensure that such proposals will be sufficient to be deemed admissible by the Commission. One would hope however that those taking the time and effort to become involved in an initiative of this scale would familiarise themselves with these requirements at the outset.

The Treaty states that the initiatives should invite *'the European Commission, within the framework of its powers to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties'*, and therefore **a website detailing the Commission's powers and the provisions of the EU Treaties could be a useful aid to citizens in determining what exactly can be requested under the initiative but that these initiatives do not require a law degree to formulate.**

#### 5. Requirements for the collection, verification and authentication of signatures

There are a number of factors to consider here, among them the method for collecting and verifying signatures, data protection and the extent to which common requirements should be set out at EU level.

*Do you think there should be a common set of procedural requirements for the collection, verification and authentication of signatures by Member States' authorities at EU level?*

**EM Ireland believes that with full harmonisation of procedural requirements at EU level would lead to unnecessary bureaucracy.** Rather, a system whereby a number of basic provisions including minimum requirements for verification and authentication of signatures are set out at EU level would be more desirable. This would ensure a level playing field while at the same

time leaving member states with considerable flexibility. The aim of the initiative is increased democracy and accessibility, and now that the Lisbon Treaty is in force, the Spanish Presidency is keen to see the initiative implemented as quickly as possible. Full harmonisation of procedural requirements could simply create burdensome regulations and administration which could delay or could ultimately prevent the European Citizens' Initiative from becoming a 'new dimension to European democracy'.

*Should citizens be able to support a Citizens' Initiative online? If so what security and authentication features should be foreseen?*

**Although EM Ireland definitely agrees with the use of the Internet in the Citizens' Initiative we feel that the act of signing initiatives should not simply involve a passive click of a mouse.** An online component should be central in terms of encouraging trans-European communication, ensuring transparency, and awareness raising. This could be achieved using interlinked registration websites (discussed in section 7), citizen forums, and an information site on initiative requirements (discussed in section 4 above) creating a dynamic, interactive and tangible connection between the Commission and the citizens of the EU. Actually signing initiatives should be an active component of the initiative however, completed in libraries, post offices or local authority offices. This would inculcate a sense of civic duty, and add legitimacy to the initiative. This aspect would also be important from an equality perspective. Internet access is not easily available to every Irish citizen. According to the OECD Country Statistical Profiles for 2009, 57% of Irish households have access to the Internet.<sup>6</sup> In addition, the internet is generally more widely used by younger generations and so this could tilt the subjects chosen towards this age cohort.

**It should be noted however that EM Ireland feels that if there was a functioning e-voting system in place in Ireland the attitude to using the Internet to collect signatures would change considerably.** Therefore, while we are proposing a more paper-based process for signatures now, we do feel that the introduction of this new democratic consultation does afford us an opportunity to see how e-voting could be introduced into this country successfully. And if our voting system was to ever modernise to an electronic format, this should also be applied to the Initiative process.

In the event that an online method of signature collection is chosen, issues of data protection and verification of signatures, and indeed responsibility for these, would then need to be addressed.

Another issue to be borne in mind in terms of the online collection of signatures would be how long this information is retained by the responsible body. This is an important issue that would need to be discussed, for example, would information be kept for up to nine months as is done by Google or for longer periods such as the legal standard of six years as outlined in the Statute of Limitations 1957.

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<sup>6</sup> OECD website: <http://stats.oecd.org/viewhtml.aspx?queryname=18157&querytype=view&lang=en>

### Summary of the advantages of using an online system for debate and coordination purposes

- It would open the channels of communication on a pan-European level
- It would ensure transparency
- It would help to avoid the presentation of initiatives on the same topic
- It would facilitate pan-European communication in terms of linking up to collect signatures thus ensuring that not just well funded schemes gain momentum
- It would be more straightforward than other methods of signature collection, thus avoiding overly cumbersome administration
- It would enable EU citizens residing in a Member State of which they are not a national to take part in an initiative and still have their voices heard
- It would facilitate the fulfilment of the basic theoretical aims of the initiative, i.e. to give a stronger voice to European citizens, to increase public debate, to reinforce citizens and civil society's involvement in the shaping of EU policy

#### *Responsibility for Verifying and Certifying Signatures*

Both the Parliament and the Commission state that **responsibility for checking the validity of signatures lies with the national authorities of the member states**. EM Ireland agrees with this proposal.

#### *Collection, Verification and Validity of Signatures*

In the case that signatures are collected online, in Ireland verification must follow the guidelines set by the E-Commerce Act 2000. See Annex 1.

There are a number of examples that can be looked to for best practice in this area:

- EuroPetition: Based in Ireland, EuroPetition is a service mediated by Local Authorities providing citizen engagement locally and distributing interaction with National Petitioning initiatives and the European Parliament's Petitions Committee.<sup>7</sup> The project will pilot trial the coordination and submission of cross-border and pan-European "EuroPetitions" from 5 Regional Clusters in Italy, Netherlands, Spain, Sweden and UK, involving 16 Local Authorities and over 6.7 million citizens across the EU. The project aims to create an open, simple and scalable process which will build local support for petitions and then migrate these out to other territories.<sup>8</sup> EuroPetitions suggest a certain process for online petitioning which they depict in the form of a flow chart, available at [http://spartakan.files.wordpress.com/2009/10/petition\\_model\\_20092.pdf](http://spartakan.files.wordpress.com/2009/10/petition_model_20092.pdf). Although EuroPetition will be finished as a project before the Citizen's Initiative process is

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<sup>7</sup>EuroPetition Website: <http://europetition.eu/>

<sup>8</sup>Europa Website, Research and Innovation Activities:

[http://ec.europa.eu/information\\_society/apps/projects/factsheet/index.cfm?project\\_ref=EP-08-01-009](http://ec.europa.eu/information_society/apps/projects/factsheet/index.cfm?project_ref=EP-08-01-009)

operational, they hope that the service will continue after the project ends, to help citizens participate in Citizens' Initiatives.

- As mentioned above, the Scottish Parliament has recently been using online petitioning, procedure can be viewed at their website <http://epetitions.scottish.parliament.uk/default.asp>
- Remote E-Voting has recently been introduced in Estonia, further research and findings on e-Elections can be found at <http://www.e-oting.cc/static/evoting/files/VOTE-ID-2007.pdf> . This information is useful in terms of security features needed, protection of data, and potential pitfalls of online petitioning.

### *Data Protection*

Signatures and personal information collected must be protected in line with:

- The Data Protection Act of 1988
- Data Protection (Amendment) Act 2002
- The ePrivacy Regulations 2003 which give effect to the EU ePrivacy Directive <sup>9</sup>

Those responsible for the collection of signatures are data controllers. A data controller is the individual or the legal person who controls and is responsible for the keeping and use of personal information on computer or in structured manual files. Being a data controller carries with it serious legal responsibilities. The Data Protection Acts, 1988 and 2002 do not detail specific security measures that a Data Controller or Data Processor must have in place. Rather section 2(1) (d) of the 1988 Act places an obligation on persons to have appropriate measures in place to prevent "*unauthorised access to, or alteration, disclosure or destruction of, the data and against their accidental loss or destruction.*"<sup>10</sup>

*Are specific procedures needed in order to ensure that EU citizens can support a Citizens' Initiative regardless of their country of residence?*

The most recent statistics by the CSO estimate that approximately 163,000 non-Irish EU citizens are currently residing in Ireland<sup>11</sup> therefore this question is definitely a relevant one in the Irish context. The online service suggested above would enable EU citizens residing outside their home country to easily be able to support a Citizens' Initiative. The question remains as to whether these signatures would count as part of the citizens' country of residence's quota, or that of their home country.

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<sup>9</sup> Consolidated version of the regulations <http://www.dataprotection.ie/viewdoc.asp?DocID=896&ad=1>

<sup>10</sup> Data Protection Commissioner:

<http://www.dataprotection.ie/viewdoc.asp?m=y&fn=/documents/responsibilities/sg160204.htm>

<sup>11</sup>Central Statistics Office: <http://www.cso.ie/statistics/popnclssbyreligionandnationality2006.htm>

## 6. Time limit for the collection of signatures

*Should a time limit for the collection of signatures be fixed? If so, would you consider one year would be an appropriate time-limit?*

EM Ireland agrees with both the Commission and the Parliament that a time limit of one year for the collection of signatures is sufficient in order to maintain momentum.

## 7. Registration of proposed initiatives

*Do you think that a mandatory system of registration of proposed initiatives is necessary? If so, do you agree that this could be done through a specific website provided by the Commission?*

In line with the Commission's view, **EM Ireland agrees that registration of a proposed initiative on a website should be mandatory.** This could link in with other online aspects mentioned in section 6 above.

EM Ireland rejects the Commission proposal that admissibility should only be checked after the signatures have been collected. In line with the European Parliament suggestion, EM Ireland would suggest that it is essential to have legal certainty as to the admissibility of the initiative before collecting statements of support. This is an ideal opportunity to ensure that the subject and wording are valid before proceeding with signature collection.

Further to this, EM Ireland believes that transparency is a key consideration when deciding this specific matter and that this initiative is an opportunity to clarify the balance of power within the key law-making institutions. In light of this, we believe that if the Commission is deemed responsible for determining the admissibility of initiatives, it could lead to a false perception that the Commission is somehow filtering proposals.

To avoid this, **EM Ireland would strongly urge that the European Ombudsman be given responsibility for the verification of admissibility.** Although this would require a legal change to extend the remit of the ombudsman. Introducing this separation of powers into the Citizens' Initiative would also be highly beneficial in terms of transparency.

## 8. Requirements for organisers – transparency and funding

*Do you think that organisers should be required to provide information on the support and funding they have for an initiative?*

EM Ireland believes that in the interests of transparency the organisers of Initiatives should be required to provide certain basic information in relation to the organisations that support an initiative and how the initiatives are or will be funded.

The online service discussed in section 5 above would facilitate this transparency if all funding details were uploaded to the website at the time of registration. **For Ireland, issues of transparency should be decided upon in line with SIPO recommendations and guidelines,<sup>12</sup> and with each EU country's corresponding equivalent.**

## **9. Examination of Citizens' Initiatives by the Commission**

*Should a time limit be foreseen for the Commission to examine a Citizens' Initiative?*

The Lisbon Treaty sets no time limit for the Commission to deal with a Citizens' Initiative, and no specific time limit is foreseen either for the examination of petitions by the European Parliament. EM Ireland feels that at the very least a time limit should be set for the Commission to state and comprehensively explain on the online service, the actions it intends to take and predicted timeline and outcome. EM Ireland would agree with the Commission recommendation that **this time limit should not exceed 6 months.**

## **10. Initiatives on the same issue**

*Is it appropriate to introduce rules to prevent the successive presentation of Citizens' Initiatives on the same issue?*

EM Ireland feels that the existence of an online service documenting proposed initiatives could result in the merging of similar or related petitions thus reducing the chances of successive initiatives on the same issue and avoiding duplication.

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<sup>12</sup> SIPO website: <http://www.sipo.gov.ie/en/AboutUs/>

## ANNEX : Electronic Commerce Act 2000 Sections 13 & 14

### Signatures

13.

(1) If by law or otherwise the signature of a person or public body is required (whether the requirement is in the form of an obligation or consequences flow from there being no signature) or permitted, then, subject to *subsection (2)*, an electronic signature may be used.

(2) An electronic signature may be used as provided in *subsection (1)* only—

(a) where the signature is required or permitted to be given to a public body or to a person acting on behalf of a public body and the public body consents to the use of an electronic signature but requires that it be in accordance with particular information technology and procedural requirements (including that it be an advanced electronic signature, that it be based on a qualified certificate, that it be issued by an accredited certification service provider or that it be created by a secure signature creation device) — if the public body's requirements have been met and those requirements have been made public and are objective, transparent, proportionate and non-discriminatory, and

(b) where the signature is required or permitted to be given to a person who is neither a public body nor acting on behalf of a public body— if the person to whom the signature is required or permitted to be given consents to the use of an electronic signature.

(3) *Subsections (1)* and *(2)* are without prejudice to any other provision of this Act or law requiring or permitting an electronic communication to contain an electronic signature, an advanced electronic signature, an electronic signature based on a qualified certificate, an electronic signature created by a secure signature creation device or other technological requirements relating to an electronic signature.

### Signatures required

Signatures required to be witnessed

14.—(1) If by law or otherwise a signature to a document is to be witnessed. required to be witnessed (whether the requirement is in the form of an obligation or consequences flow from the signature not being witnessed) that requirement is taken to have been met if—

(a) the signature to be witnessed is an advanced electronic signature, based on a qualified certificate, of the person or public body by whom the document is required to be signed,

(b) the document contains an indication that the signature of that person or public body is required to be witnessed, and

(c) the signature of the person purporting to witness the signature to be witnessed is an advanced electronic signature, based on a qualified certificate.

(2) An advanced electronic signature based on a qualified certificate may be used as provided in *subsection (1)* only—

(a) where the signature required or permitted to be witnessed is on a document to be given to a public body or to a person acting on behalf of a public body and the public body consents to the use of an electronic signature of both the person attesting the document and witnessing the signature but requires that the document and signatures be in accordance with particular information technology and procedural requirements (including that a qualified certificate on which the signature or signatures are based be issued by an accredited certification service provider) — if the public body's requirements are met and those requirements have been made public and are objective, transparent, proportionate and non-discriminatory, and

(b) where the document on or in respect of which the signature is to be witnessed is required or permitted to be given to a person who is neither a public body nor acting on behalf of a public body— if the person to whom it is required or permitted to be given consents to the use of an advanced electronic signature based on a qualified certificate for that purpose.

## **Appendix 2.3: Submission from Temple Bar Cultural Trust**

Submission on a European Citizens Initiatives  
**Temple Bar Cultural Trust**

Thursday 28 January 2010



## Introduction

Temple Bar Cultural Trust welcomes and supports the efforts of the European Union in proposing this initiative with a view to promoting greater participation in European democracy, giving its citizens and even greater sense of empowerment in effecting change in the way the Union conducts its affairs.

In particular we support this initiative in the context of providing opportunities for citizens to influence and amend EU Policy on Culture and Cultural Development because we believe that:

- Culture is fundamental dimension to quality of life
- Social progress can be determined by the level of participation in cultural activities
- Culture enables people to participate fully as citizens in society have a say in the framing of policies
- A strong and well resourced Culture sector provides for social connections and interactions – vital dimensions to quality of life
- A strong and well resourced Cultural sector adds to the value people place on their environmental amenities and their actual choices (e.g. of where to live?)
- Some of the most important policy questions for quality of life relate to how developments in one area (e.g. culture) affect developments in others (e.g. health status, political voice and social connections), and how developments in all fields are related to those in income. How can we measure the impact of Culture here?

By having a greater say in the affairs of the European Union can only lead to the design and creation of a “good” society and enhanced quality of life and wellbeing.

In the Irish context, as outlined in the Government Smart Economy, while the arts, culture and creative industries are key and primary economic contributors, further investment in this areas must be based on world class ambition and achievement as well as strong sense of civic engagement.

We believe that this strong sense of civic engagement in Culture must be reflected in policymaking at local, national and European level

TBCT organizes Cultural programmes that specifically encourage broad social participation in the cultural life of Dublin and Ireland and initiative such as Culture Night demonstrate a completely different ways in which citizens can engage with and participate in Culture. This highlights the enormous interest that citizens have in engaging with cultural activities that are rooted in an ethos of social inclusion and social participation and any opportunities that arise for greater civic participation and contributions to Cultural Policymaking at European level can only be welcomed.



## **Responses to Issues for Consultation**

This section outlines the response of Temple Bar Cultural (TBCT) trust to the Issues for Consultation raised in the Green Paper on a European Citizens Initiative.

### **1. Minimum number of Member States from which citizens must come**

TBCT concurs with the proposal, namely that one third of Member States be considered as constituting a significant number of states to be deemed representative of the citizens of the European Union.

The immediate benefits of such an approach would be to allow citizens from any group of nine member states to propose initiatives, without reference to the respective political alignments/groups adopted by their national governments. In this way citizens could benefit from not having to (1) adhere to political alignments adopted by their own governments in relation to a specific issue, and (2) demonstrate in-depth knowledge of the positions of respective national governments in relation to the issue in question. The ultimate benefit to citizens, therefore, is that once a sufficient number of citizens have opted to take action and raise an issue with the Commission the entire process can take place without recourse to the political systems and structures in the individual Member States.

A secondary issue which may require further clarification is the rules governing limitations on countries (or in this case, citizens from countries) which may align themselves to form a group of nine Member States. For example, the combined populations of the nine least populated Member States comes to 20.5million (4% of the total population of the European Union). Is it in-keeping with the spirit of this initiative that the required one million citizens be drawn from nine Member States whose total population represents less than 5% of all European citizens?

### **2. Minimum number of signatures per Member State**

TBCT endorses the efforts of the European Union in proposing this initiative with a view to promoting greater participation in European democracy, giving its citizens an even greater sense of empowerment in effecting change in the way the Union conducts its affairs.

While supporting the principle of 0.2% of the population of a Member State being seen as representative, the application of this across all initiatives may result in some confusion in the minds of citizens in putting forward a citizens initiative. For example, the aggregate total of 0.2% of the populations of the nine least populated Member States comes to 41,000. Given Ireland's position as one of the smaller, less populated Member States, Irish citizens may choose to work with citizens from other 'small' Member States in putting forward a citizens initiative. Will the regulations governing citizens initiatives make it clear that the minimum requirement for proposing an initiative is the collection of at least signatures from 0.2% of populations from each of the participating nine countries or a total of 1 million signatures across the nine Member States, whichever is the greater? 1 million signatures from the nine least populated Member States would be in the region of 5% of total populations of those states. Perhaps, therefore, further consideration should be given to thresholds used in Spain, Austria and elsewhere.

### **3. Minimum age requirements**

TBCT supports the proposal that the same age requirements that currently apply to minimum voting age in each Member State be applied in the case of minimum age requirements for signing up to a European citizens initiative. This solution is the most practical of those proposed, and places least burden on administrative structures in each Member State.



#### **4. Form and wording of a citizens' initiative**

In-keeping with the spirit of the provisions of the Treaty of Lisbon, all efforts should be made to encourage citizens to propose initiatives in a manner which is least cumbersome and requires as little legal or technical knowledge as is possible.

In order to encourage the participation of ordinary citizens, the emphasis should be on brevity, clarity and simplicity. Organisers/proposers should not feel obliged to use (or have detailed knowledge) of legal terminology. The initiative should set out the implementation paths which apply to introduction/ratification of new measures in each of the participating countries. This would ensure that signatories to the initiative would have a clear understanding of how changes could happen in their own state, and what steps/processes were necessary to enact change.

#### **5 Requirements for the collection, verification and authentication of signatures**

It would be preferable to agree a minimum set of data to be collected with respect to signatories, which would apply to all Member States. Beyond this, it is important to retain the principle that each Member State has its own legal framework and that the European Citizens Initiative should work in communion with local differences and characteristics as they apply to each Member State. Additional provisions which apply at a local level should reflect existing practices in the Member State.

In order for an EU citizen to sign up to an initiative regardless of their present geographic location it may be necessary to construct a new, separate online database of citizens with an interest in participating in citizens initiatives (though this might mean that citizen's interests would then be registered centrally, rather than through a local agency/government in a Member State).

Having access to online petitions or being able to 'sign up' to a citizens initiative via an online service may indeed encourage more citizens to engage with an initiative. Such a system, however, would need to have the capability to register the details of individual citizens, and verify their registration (checking for duplicates) using the latest online security technologies. The entire online system, from the point of view of an end-user/citizen should appear as clean and simple (involving one or two steps) as possible, thereby removing any sense of having to complete lengthy forms. In operational terms, the creation of such a central database of European citizens (and their views on political issues) may raise fundamental questions about the protection of personal data of ordinary citizens. Provisions should be made to reduce the perception of an agenda to create a 'nanny State', as this would certainly disincentivise large segments of the European population from engaging with the citizens initiative.

#### **6. Time limit for the collection of signatures**

Time limits should be set for collection of signatures. Given the context provided in the Green Paper, the one year time limit proposed seems arbitrary. Perhaps a nine month cycle would be preferable, at least from the perspective of allowing for an initiative to be drafted, for support/signatures to be gathered, and for the final version to be submitted within a reasonably short period of time.

A nine month time period would allow sufficient time for news of the initiative to be disseminated (through a short information campaign), signatures to be collected and for necessary reporting to be completed between the end of the ninth month and the end of the same calendar year. This approach appears to have been adopted in Ireland in relation to the information campaign leading up to the second referendum on the Treaty of Lisbon. If a nine month cycle worked in this case, it should also adopt itself well to citizens' campaigns. With the proliferation of blogs and online communities there is every reason to believe that ordinary citizens could and would organise an effective campaign in a nine month timeframe.



## **7. Registration of proposed initiatives**

A mandatory system of registration of proposed initiatives is the best practical solution to the issues proposed. Citizens could be obliged to formally register a proposed initiative once the required threshold of signatures had been reached. In this way, the registration of an initiative would form the final step for the proposer/organiser, and would not impede them from carrying out the work of raising an issue and garnering support for it from among the ordinary citizens of Europe.

This process could be managed from a centralised website, provided the site was well maintained and regularly updated.

## **8. Transparency & funding requirements**

Transparency requirements should mirror those commonly applied to the use of public funding in Member States. So, for example, an individual/group organising an initiative could be required to give contact information for the lead organiser, his/her address, contact details, and a valid tax number (used for identity verification purposes only). This would ensure flexibility allowing for a group of individuals, an organisation or a single person to act as the proposer of an initiative, on behalf of all signatories. All organisers should be obliged to declare sources of funding which have contributed to the campaign supporting the initiative, particularly in the case of organisations or political groupings putting forward initiatives.

## **9 Examination of initiatives by the Commission**

The public should also be given a timeline in which they will receive a response from the Commission, and an indication of the likely form of response they can expect to receive. The response should clearly outline the action(s) that will be taken in response to the initiative and /or the process that will be triggered by the initiative. This will reinforce the understanding on the part of the citizens that their initiative has concrete results and will require for action to be taken to address their concerns.

## **10 Duplication of initiatives**

In order to maintain public faith in the process, safeguards should be in place to discourage repeat proposals on similar themes within defined periods of time. Ireland has plenty of recent experience with regard to multiple referenda on similar themes; experience here would suggest that it is of benefit to all citizens that a certain amount of time should be allowed to elapse before the same/similar issues can be considered a second time. Not allowing for such occurrence would surely allow for the system to become weighed down with the concerns of a small number of interest groups.

A timeline which corresponds to the life of the sitting European Parliament + 1 year might be worth considering. This would give citizens reassurance that an issue could be reviewed, if necessary, once the next European Parliament had been decided and had taken up its work.

## **BACKGROUND INFORMATION**

### **About Temple Bar Cultural Trust**

Temple Bar Cultural Trust's mission is to lead and support dynamic and sustainable cultural development programmes within and beyond Temple Bar for public and civic benefit.

#### *Bringing Culture Closer*

In Temple Bar Cultural Trust our job is bringing culture closer to people, and bringing people closer to culture. Dublin has a distinctive cultural personality and a lot to offer Dubliners and visitors. Our work in TBCT is about making sure that Temple Bar pulls its weight in supporting culture in Dublin and in making it a better place to grow up in, to live in, to work in and to visit.

Our top priority is to support culture here in Temple Bar – if we get this right, then we can make sure that Temple Bar, Dublin's Cultural Quarter, is contributing effectively to the prosperity and well-being of the City.

So how do we do this? We provide accommodation, venues, workspaces and public spaces for artists, audiences and arts organisations. We also organise hundreds of events and maybe you know about some of them: Culture Night, Circus Festival, Temple Bar Chocolate Festival, the Temple Bar Food Market and the Book Market.

### **Status & Structure**

Temple Bar Cultural Trust is a private limited company that works on a not-for-profit basis to support culture here in Temple Bar.

We value self-reliance and we fund all of our core activity from our property income.

Temple Bar Cultural Trust is governed by a Board appointed by Dublin City Council and has a full-time core staff of 16 plus weekend and seasonal staff and stewards.



## **Appendix 2.4: Submission from Working-group on Europe of the Church of Ireland Church in Society Committee**

### **Submission on the green paper on a European Citizens' Initiative from the Working-group on Europe of the Church of Ireland Church in Society Committee to the Oireachtas Joint Committee on European Affairs.**

We welcome the ambition of the European Commission, as expressed in the green paper (p.3) to ensure that European citizens should benefit from this new right as soon as possible after the entering into force of the Lisbon Treaty (i.e., by December 2010). We are glad to avail ourselves of the opportunity afforded us by the Commission and the Oireachtas Joint Committee on European Affairs to submit our comments.

Before taking in numerical order the issues set out in the green paper we wish to put on record our appreciation of the fact that the proposed Initiative goes some way towards addressing the view frequently expressed by supporters of the Union, as well as by its critics, that insufficient effort is devoted to bridging the gap that is perceived to exist between the citizens of the member states and the institutions of the Union. We also recognise that in devising the *modus operandi* of the Initiative the perennial tension between parliamentary democracy and populism has to be borne in mind.

## **II**

### **1. Minimum number of member states from which citizens must come**

We consider that a minimum of one third is preferable, and that while this is easily computed with 27 member states, the number would be rounded up where the number of member states was not evenly divisible by three.

### **2. Minimum number of signatures per member state**

While the suggested 0.2% seems reasonable to us, it might foster alliances between large and small states by stipulating a minority of 0.2% per state to require each state to reach 1% of the aggregate of participating states.

### **3. Eligibility to support a citizens' initiative- minimum age**

We agree that the age for eligibility to sign should in each state be the age of eligibility for voting in European elections there, noting that this is the general practice in those states that have an equivalent of the Citizens' Initiative.

### **4. Form and wording of a Citizens' Initiative**

While arguing that requiring proposers to draft a legal document is unrealistic (and quite likely in the eyes of some to cast doubts on the good faith behind the whole concept of citizen involvement) yet we acknowledge the necessity to avoid frivolous, unclear and inappropriate proposals. Nor would we wish to see the spirit that informs the concept to

become the tool of well-organised and well-funded pressure groups. Perhaps a template of some kind needs to be provided identifying

- the terms of the proposal itself
- the aims that it seeks to achieve, with arguments
- how it relates to treaty-based powers of the Commission
- such organisations and groups that support the proposal, with details of their sources of funding (see 8 below)

#### **5. Requirements for collection, verification and authentication of signatures**

While at first sight a harmonised procedure for collecting signatures would be attractive, it is scarcely necessary in practice, and so we would recommend that the mechanisms that already exist for such procedures in member states should suffice. However, account needs to be taken of the fact that in the case of Ireland, for example, the register for European elections lists voters who are not necessarily citizens.

So far as the participation of non-resident citizens is concerned, it should be noted that they have no votes in Irish elections other than those for university seats in Seanad Éireann. Furthermore, and while it might be consistent with the spirit of the Citizens' Initiative for the signatures of non-resident citizens to be allowed, the sheer logistics of validating them would seem daunting.

#### **6. Time limit for the collection of signatures**

The period of one year would seem reasonable.

#### **7. Registration of proposed initiatives**

A mandatory system of initiation is necessary, the ratification of registration being the required starting point for the collection of signatures. We would recommend that the registration process be the business of the Ombudsman, rather than of the Commission or other institutions of the Union.

#### **8. Requirements for organisers-Transparency of funding**

Agreed

#### **9. Examination of citizens' Initiatives by the Commission**

We agree that there is a strong case for fixing a time limit for the Commission to respond to a Citizen's Initiative. Six months, with the possibility of extension by a further three months in especially complex cases, would seem appropriate.

#### **10. Initiatives on the same issue**

We would be reluctant to envisage the Commission or other EU institutions having the right to reject Initiatives other than for non-compliance with the provisions provided for in (4) and (8) above, and would prefer that no disincentives were put in place.

### Appendix 3: Membership of the Joint Committee

#### Deputies:

Pat Breen	(FG)
Thomas Byrne	(FF) <sup>1</sup>
Joe Costello	(Lab
Lucinda Creighton	(FG)
Timmy Dooley	(FF) Vice-Chairman
Bernard Durkan	(FG) Chairman
Beverley Flynn	(FF)**
Seán Power	(FF) <sup>2</sup>
Michael Mulcahy	(FF)
Mary O'Rourke	(FF)
Billy Timmins	(FG)
Noel Treacy	(FF)
Joanna Tuffy	(Lab)**

#### Senators<sup>3</sup>:

Maurice Cummins	(FG)*
Pearse Doherty	(SF)*
Paschal Donohoe	(FG) <sup>4</sup>
John Hanafin	(FF)
Terry Leyden	(FF)
Rónán Mullen	(Ind)*
Phil Prendergast	(Lab)
Feargal Quinn	(Ind)

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<sup>1</sup> Deputy Thomas Byrne (FF) replaced Deputy Barry Andrews (FF) (on appointment as Minister of State at the Department of Health and Children), by Order of Dail Eireann on 26 June 2008

<sup>2</sup> Deputy Sean Power replaced Deputy Michael McGrath by Order of Dáil Eireann 10 July 2009

<sup>3</sup> Senator Deirdre deBurca resigned as of 16 February 2010

<sup>4</sup> Senator Paschal Donohoe (FG) replaced Senator Maurice Cummins (FG) by way of report laid before Seanad Eireann by the Committee on Selection on 5th December 2007

\*by way of report laid before Seanad Eireann by the Committee on Selection on 7 October 2008

\*\* Members appointed to the Committee by Order of Dail Eireann 2 October 2008

## Appendix 4: Orders of Reference of the Joint Committee

### Dáil Éireann on 23 October 2007 *ordered:*

- “(1) (a) That a Select Committee, which shall be called the Select Committee on European Affairs, consisting of 11 Members of Dáil Éireann (of whom four shall constitute a quorum), be appointed to consider—
- (i) such Bills the statute law in respect of which is dealt with by the Department of Foreign Affairs;
  - (ii) such proposals contained in any motion, including any motion within the meaning of Standing Order 159 concerning the approval by the Dáil of international agreements involving a charge on public funds; and
  - (iii) such other matters
- as shall be referred to it by Dáil Éireann from time to time.
- (b) For the purpose of its consideration of matters under paragraphs (1)(a)(i), (ii) and (iii), the Select Committee shall have the powers defined in Standing Order 83(1), (2) and (3).
- (c) For the avoidance of doubt, by virtue of his or her *ex officio* membership of the Select Committee in accordance with Standing Order 92(1), the Minister for Foreign Affairs (or a Minister or Minister of State nominated in his or her stead) shall be entitled to vote.
- (2) (a) The Select Committee shall be joined with a Select Committee to be appointed by Seanad Éireann to form the Joint Committee on European Affairs to—
- (i) consider such matters arising from Ireland’s membership of the European Communities and its adherence to the Treaty on European Union, as it may select;
  - (ii) consider such—
    - (I) programmes and guidelines prepared by the Commission of the European Communities as a basis for possible legislative action,
    - (II) non legislative documents published by any Union Institution in relation to EU policy matters,
    - (III) acts of the institutions of the European Communities,
    - (IV) regulations under the European Communities Acts 1972 to 2007,

- (V) other instruments made under statute and necessitated by the obligations of membership of the European Communities, and
- (VI) any other document relating to European Union matters deposited in both Houses of the Oireachtas by a Member of the Government or Minister of State,

as it may select;

- (iii) consider such other matters as may be referred to it from time to time by both Houses of the Oireachtas; and
- (iv) represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) jointly with the Joint Committee on European Scrutiny;

and shall report thereon to both Houses of the Oireachtas in consultation with the Joint Committee on European Scrutiny.

(b) The Joint Committee shall have:

- (i) the powers defined in Standing Order 83(1) to (9) inclusive;
- (ii) the power to refer a proposal for EU legislation which has been considered by it (and which has been concluded to be of sufficient importance to require additional scrutiny) to a Joint Committee on which has been conferred the power defined in Standing Order 83(4) to consider such proposals;
- (iii) the power to request the attendance of Members of the Government (or Ministers of State nominated in their stead) (or, in the case of the European Council, the Taoiseach or Minister for Foreign Affairs) before the Joint Committee and provide, in private session if so desired by the Member of the Government or Minister of State, oral briefings in advance of Council meetings to enable the Joint Committee to make known its views; and
- (iv) the power to make recommendations to the Minister for Foreign Affairs (or Minister of State) on European Union matters.

(c) The following persons may attend meetings of the Joint Committee and may take part in proceedings without having a right to vote or to move motions and amendments—

- (i) Members of the European Parliament elected from constituencies in Ireland (including Northern Ireland);

- (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe; and
  - (iii) at the invitation of the Joint Committee, other Members of the European Parliament.
- (d) The quorum of the Joint Committee shall be five, of whom at least one shall be a Member of Dáil Éireann and one a Member of Seanad Éireann.
- (3) The Chairman of the Joint Committee, who shall be a Member of Dáil Éireann, shall also be Chairman of the Select Committee.”.

**Dáil Éireann on 2 October 2008 *ordered:***

That the Orders of Reference of the Select Committee on European Affairs be amended in paragraph (1)(a) by the deletion of ‘11 members’ and the substitution therefor of ‘13 members’.

**Seanad Éireann on 24 October 2007 *ordered:***

- “(1) (a) That a Select Committee consisting of 6 members of Seanad Éireann shall be appointed to be joined with a Select Committee of Dáil Éireann to form the Joint Committee on European Affairs to—
- (i) consider such matters arising from Ireland’s membership of the European Communities and its adherence to the Treaty on European Union, as it may select;
  - (ii) consider such—
    - (I) programmes and guidelines prepared by the Commission of the European Communities as a basis for possible legislative action,
    - (II) non legislative documents published by any Union Institution in relation to EU policy matters,
    - (III) acts of the institutions of the European Communities,
    - (IV) regulations under the European Communities Acts 1972 to 2007,
    - (V) other instruments made under statute and necessitated by the obligations of membership of the European Communities,

and

  - (VI) any other document relating to European Union matters deposited in both Houses of the Oireachtas by a Member of

the Government or Minister of State,  
as it may select;

- (iii) consider such other matters as may be referred to it from time to time by both Houses of the Oireachtas; and
- (iv) represent both Houses of the Oireachtas at the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) jointly with the Joint Committee on European Scrutiny;

and shall report thereon to both Houses of the Oireachtas in consultation with the Joint Committee on European Scrutiny.

- (b) The Joint Committee shall have:
  - (i) the powers defined in Standing Order 70(1) to (9) inclusive;
  - (ii) the power to refer a proposal for EU legislation which has been considered by it (and which has been concluded to be of sufficient importance to require additional scrutiny) to a Joint Committee on which has been conferred the power defined in Standing Order 70(4) to consider such proposals;
  - (iii) the power to request the attendance of Members of the Government (or Ministers of State nominated in their stead) (or, in the case of the European Council, the Taoiseach or Minister for Foreign Affairs) before the Joint Committee and provide, in private session if so desired by the Member of the Government or Minister of State, oral briefings in advance of Council meetings to enable the Joint Committee to make known its views; and
  - (iv) the power to make recommendations to the Minister for Foreign Affairs (or Minister of State) on European Union matters.
- (c) The following persons may attend meetings of the Joint Committee and may take part in proceedings without having a right to vote or to move motions and amendments—
  - (i) Members of the European Parliament elected from constituencies in Ireland (including Northern Ireland);
  - (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe; and
  - (iii) at the invitation of the Joint Committee, other Members of the European Parliament.
- (d) The quorum of the Joint Committee shall be five, of whom at least one shall

be a Member of Dáil Éireann and one a Member of Seanad Éireann.

(2) The Chairman of the Joint Committee, shall be a Member of Dáil Éireann.”.

**Seanad Éireann on 7 October 2008 ordered:**

That the Orders of Reference of the Select Committee on European Affairs be amended in paragraph (1)(a) by the deletion of ‘6 members’ and the substitution therefor of ‘9 members’.