



The added value of the European Citizens' Initiative (ECI), and its revision

STUDY

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Study

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In accordance with Article 225 of the Treaty on the Functioning of the European Union (TFEU), the European Parliament has the right to request the European Commission to take legislative action in a particular area. Such requests are based on a legislative own-initiative report drawn up by the parliamentary committee responsible, and are usually accompanied by a European added value assessment. On 1 February 2017, the Conference of Presidents of the European Parliament authorised its Committee on Constitutional Affairs (AFCO) to draw up a legislative own-initiative report on the revision of Regulation (EU) No 211/2011 on the European Citizens' Initiative (ECI). To support the legislative own-initiative report of the AFCO committee, the European Added Value Unit within the European Parliamentary Research Service began a European added value assessment of the ECI's revision. On 13 September 2017, however, the Commission published its proposal for a regulation on the ECI. As a consequence, the AFCO committee decided to stop working on its legislative own-initiative report on the ECI's revision. The European Parliament, in accordance with the ordinary legislative procedure, will prepare a legislative resolution on the Commission's proposal for the revision of the ECI, based on a report from the AFCO committee (Rapporteur: György Schöpflin, EPP, Hungary). Against this background, the present study aims to feed into the on-going discussions regarding the ECI's revision. It builds on expert research carried out by Carmen Gerstenmeyer, Julia Klein, Julian Plottka and Amelie Tittel from the Institute for European Politics (Institut für Europäische Politik: IEP), Berlin. The expert research paper by the IEP is presented in full in Annex I.

Abstract

The European Citizens' Initiative (ECI) aims to bring the EU closer to its citizens by enabling them to invite the European Commission to make a proposal for a legal act. Introduced by the 2007 Treaty of Lisbon and made operational on 1 April 2012 by EU Regulation No 211/2011, the ECI should help to ensure, as the regulation states, 'that every citizen is to have the right to participate in the democratic life of the Union'. According to the regulation, the ECI procedure, including the collection of one million statements of support in at least seven Member States, was originally designed to be 'clear, simple, user-friendly and proportionate to the nature of the citizens' initiative so as to encourage participation by citizens and to make the Union more accessible'. However, the ECI turned out to contain various procedural hurdles, preventing the fulfilment of the objectives of both the Treaty and the regulation, as proved by the fact that requests for registering an ECI had constantly decreased between its launch in 2012 and 2016. Therefore, the ECI is not fulfilling its potential with regard to bringing the EU closer to its citizens. Against this background, the present study outlines the weaknesses in the existing ECI procedure and assesses the added value of the main reform proposals put forward by various stakeholders to improve the ECI's functioning.

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Executive summary

Introduced by the 2007 Treaty of Lisbon and made operational on 1 April 2012 by EU Regulation No 211/2011, the European Citizens' Initiative (ECI) is aimed at bringing the EU closer to its citizens by enabling them to invite the European Commission to make a proposal for a legal act. Yet, the ECI's track record has been rather poor so far. To date, of the 67 ECIs that have been launched in total, only four have reached the final step after having collected the sufficient number of more than one million statements of support. However, none of these four ECIs has resulted in a legal act. In addition, requests for ECI registration decreased from the ECI's first year of existence in 2012 until 2016, with a slight increase only in 2017. As a consequence, numerous stakeholders, such as the European Parliament, the European Ombudsman, the European Committee of the Regions, the European Economic and Social Committee, ECI organisers and scholars, have called for a revision of the ECI. The proposals for reform aim at overcoming the existing weaknesses of the ECI procedure in order to make it fit for its initial aim of bringing the EU closer to its citizens. The European Commission has reacted only recently to this call (in September 2017), by publishing a proposal for a revision of the ECI.

The identified ECI weaknesses concern each of the five consecutive steps of the ECI procedure, notably: i) establishment of a citizens' committee; ii) registration of an ECI; iii) collection of statements of support; (iv) verification of the statements of support; and (v) submission and follow-up procedure. The most serious weaknesses, one for each of the above steps, are:

1. no legal status for the ECI citizens' committee;
2. a rigid and non-transparent admissibility check;
3. difficult conditions for the collection of signatures;
4. a high number of invalid signatures;
5. the European Commission's weak follow-up provisions for successful ECIs.

Against this background, the present study assesses the main reform proposals that have been put forward by various stakeholders, as regards their added value and the ECI's aim to bring the EU closer to its citizens. In order to do so, the study establishes a set of specific forms of added value along the lines of the two dimensions of political added value and policy added value. For instance, while political added value is generated when the ECI enhances the legitimacy of democracy and increases support for the EU multi-level governance system, policy added value is generated when the ECI is able to improve policy-making at the European level. The related specific forms of added value involve enabling EU citizens to participate in EU politics, developing and fostering the European public spheres, strengthening trans-European society and trans-European civil society, and contributing to better EU law-making.

The study argues that if the ECI creates these specific forms of added value it will, in turn, contribute to further solidifying the EU's democratic basis, as it would not only bring the EU closer to its citizens but would also give them a greater say in policy- and decision-making processes at the European level.

Introduction

Many observers of the present day's EU are critical of the role attributed to European citizens in the EU's democratic life. The German philosopher Jürgen Habermas, for example, points to the distance between the EU institutions' policy-making processes and the shaping of the EU citizens' political will in their respective national arenas. Furthermore, Habermas assumes that European citizens misunderstand the relevance of EU politics and policy-making, because they lack a more structured communication with EU institutions. He identifies the gap between EU policy- and decision-makers and EU citizens as the EU's democratic deficit.¹

Habermas's reflections on the EU democratic deficit are underpinned by the sentiments of many EU citizens, who believe that their voice does not count in the EU. These sentiments were captured by the standard Eurobarometer survey from the autumn of 2017, which revealed that 50 % of Europeans feel that they have no influence on EU policy- and decision-making, while 44 % feel they do, and 6 % say that they do not. Although such a record-high result for this survey indicator had not been obtained since the autumn of 2004, the opinion ratio remained negative,² pointing to a gap between EU institutions and citizens.

The European Citizens' Initiative (ECI) is an instrument that aims to contribute to bridging the gap mentioned above by enabling EU citizens to invite the European Commission to make a proposal for a legal act. To this effect, the ECI is improving the EU's democratic institutional set-up and hence, for addressing the EU's democratic deficit. Introduced by the 2007 Treaty of Lisbon and made operational on 1 April 2012 by EU Regulation No 211/2011, the ECI's objective is to ensure 'that every [EU] citizen is to have the right to participate in the democratic life of the Union'.³ The regulation further states that the instrument's procedure should afford 'citizens the possibility of directly approaching the Commission with a request inviting it to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties similar to the right conferred on the European Parliament under Article 225 of the Treaty on the Functioning of the European Union (TFEU) and on the Council under Article 241 TFEU'.⁴

In tangible terms, the ECI entails a procedure of five consecutive steps. In the first step, the organisers of an ECI set up a citizens' committee, made up of at least seven EU citizens residing in at least seven different EU Member States. In the second step, the European Commission runs an admissibility check within two months and registers the initiative, provided the latter falls within its competences. The third step requires that

¹ See, for example, Jürgen Habermas, [Wie demokratisch ist die EU? Die Krise der Europäischen Union im Licht einer Konstitutionalisierung des Völkerrechts](#), in: *Blätter für deutsche und internationale Politik*, 8/2011.

² European Commission, [Standard Eurobarometer 88](#). First results. Public opinion in the EU, autumn 2017, p. 18ff.

³ Full title: [Regulation \(EU\) No 211/2011](#) of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative. In fact, the regulation reiterates the wording of Article 10(3) of the [Treaty on European Union](#) (TEU).

⁴ Ibid.

organisers collect at least one million statements of support in total in at least a quarter of the Member States within no more than twelve months. Provided there is a sufficient number of signatures on paper or in electronic form, in the fourth step, the national authorities verify the collected statements of support within three months. The fifth step is naturally only triggered when the threshold of one million statements of support and the national quorums have been reached. During this fifth step, which also lasts three months, the Commission examines the initiative, the initiative is published in the ECI register, a meeting is held between the organisers and Commission representatives at an appropriate level, a public hearing is held in the Parliament to allow the organisers to present their initiative, and a communication is published by the Commission outlining its decision to take legislative action or not.⁵

According to Regulation No 211/2011, the procedure outlined above was originally designed to be 'clear, simple, user-friendly and proportionate to the nature of the citizens' initiative so to encourage participation by citizens and to make the Union more accessible'.⁶ In practice, however, the instrument turned out to contain various procedural hurdles preventing the fulfilment of the regulation's objective. As a consequence, numerous stakeholders, such as the Parliament, the European Ombudsman, the European Committee of the Regions, the European Economic and Social Committee, ECI organisers and scholars, raised various concerns regarding the ECI's functioning; their calls for a revision of the ECI were accompanied by a wide range of reform proposals.⁷

Demands for ECI reform increased in number as the number of initiatives continued to plummet. While in the ECI's first year of existence (2012) the Commission received 23 requests for registration, only three such requests were submitted in 2016 (a slightly higher number was only recorded in 2017, with nine registration requests).⁸ In addition, so far, only four initiatives have successfully obtained the required number of signatures.⁹ Referring to the decrease in registration requests and the low number of successful initiatives, many assume that the objective of EU Regulation No 211/2011 to foster participation in the EU's democratic life, has not yet been achieved. In other words, the ECI's full potential to close the existing gap between EU institutions and citizens remains to be developed.

Moreover, there are different standpoints about the ECI's political character, given the fact that it combines elements of both direct and participatory democracy at the European

⁵ For a short description on the ECI's legal framework and procedure, its course of development since 2012 and the debate surrounding it, see Nikolai Atanassov, [European Citizens' Initiative, At a Glance](#), EPRS, January 2018.

⁶ EU Regulation No 211/2011.

⁷ See, for example, Laura Tilindyte, [Revising the European Citizens' Initiative](#), Briefing, EPRS, December 2017.

⁸ See Annex I to this paper, setting out the study conducted by Carmen Gerstenmeyer, Julia Klein, Julian Plottka, and Amelie Tittel, p. 71.

⁹ As of March 2018, the four initiatives are: 'Ban glyphosate and protect people from toxic pesticides', 'Stop vivisection', 'One of us' and 'Water and sanitation are a human right! Water is a public good, not a commodity!' See European Commission, the European Citizens' Initiative. Official register: <http://ec.europa.eu/citizens-initiative/public/welcome>.

level in a unique way. For example, some believe that complementing representative democracy with elements of direct democracy would enable citizens to participate more in the EU's democratic life. Conversely, others think that giving citizens a direct say would undermine representative democracy at the European level.¹⁰ Yet others argue that the ECI has its very own hybrid character.¹¹ Inspired by this latter assumption, the expert research presented in full in Annex I has extracted the two most dominant ideal-type functions of the ECI from the varying standpoints about the ECI's political character. These two functions are:

- i) that the ECI could serve a *consultative function* with a focus on improving EU legislation, providing new expertise and involving civil society organisations that are new to EU politics; and
- ii) that the ECI could serve a *politicising function*, thus constituting an additional driver of politicisation of EU politics.¹²

Crucially, while it is undecided which of these two ideal-type functions will prevail in a revision of the ECI, both entail different forms of added value.

Against this background, the study analyses the added value of the ECI's revision. It does so by following a four-fold strategy. First, it sketches the policy context of the topic. Second, it outlines the weaknesses in the existing ECI procedure. Third, it analyses the specific added value of the main reform proposals, while referring to the above-mentioned two ideal-type functions of the ECI. And fourth, by drawing on the results of this analysis, the study describes the overall European added value of the ECI and its revision.

¹⁰ For a description of the positions and arguments on direct democracy, see, for example, Wolfgang Merkel, [Direkte Demokratie. Referenden aus demokratietheoretischer und sozialdemokratischer Sicht](#), FES Internationale Politikanalyse, March 2014; Tobias Montag, ["Direkte Demokratie" und Parlamentarismus. Argumente und Positionen](#), KAS Zukunftsforum Politik, 2011.

¹¹ See, for example, Marie Dufrasne, The ECI as a Hybrid Participatory Genre, in: Maximilian Conrad, Annette Knaut, Katrin Böttger (eds), *Bridging the Gap? Opportunities and Constraints of the European Citizens' Initiative*, Baden-Baden: Nomos, 2016, pp. 95-111.

¹² Annex I of this paper, p. 61f.

Policy context

The debate about the ECI's political character, its functions and impact goes back to the 2002-2003 convention to draft a new constitutional treaty for Europe. The ECI, as an instrument intended to bring the EU closer to its citizens, was formulated at the end of the convention and included in the unratified European Constitution of June 2003. The debate continued after the ECI acquired full legal status by force of the Lisbon Treaty and EU Regulation No 211/2011, and through the implementation of relevant aspects at the national level in 2012.¹³ At the core of the debate lie procedural issues affecting the ECI's functioning and therefore the ECI's effectiveness in bridging the gap between EU institutions and citizens.

Right from the start of the ECI, stakeholders called for simplification of the instrument's procedures in order to make it more effective and easier to access for EU citizens. After having received complaints from ECI organisers, in December 2013 the European Ombudsman, Emily O'Reilly, opened an own-initiative inquiry to encourage and support efforts to improve the ECI. In the course of the inquiry, the Ombudsman identified various weaknesses in the ECI procedure and called on the Commission to take action to address them. With the closure of the inquiry in March 2015, the Commission was provided with several guidelines on how to improve the ECI procedure. In addition, the Ombudsman called on the Commission to make the ECI more politically relevant.¹⁴

In the same month as the Ombudsman closed the own-initiative inquiry, the European Commission published its first stock-taking report on the ECI's application.¹⁵ The report stated that the Commission "considers that the ECI has been fully implemented", but at the same time "is aware that there is still room for improvement".¹⁶ The Commission's report picked up some challenges, ranging from procedural to more political issues, which were identified by stakeholders during the ECI's first three years of existence. Although the proposals for improving the ECI's functioning were limited in number, the report as such raised expectations on a revision of the institutional and legislative framework formulated in the instrument's Regulation 211/2011.¹⁷

The demand for revising the ECI regulation was also at the heart of the Parliament's resolution, based on an own-initiative report (Rapporteur: György Schöpflin, EPP,

¹³ For a description of the early debate on the ECI in the context of the European Convention and the Lisbon Treaty, see, for example, Luis Bouza García, [The Significance of the European Citizens' Initiative for Pan-European Participatory Democracy](#), Discussion paper of the International Institute for Democracy and Electoral Assistance (IDEA), 2013.

¹⁴ For the decision of the European Ombudsman close her own-initiative inquiry OI/9/2013/TN concerning the European Commission and related documents, see <https://www.ombudsman.europa.eu/en/cases/decision.faces/en/59205/html.bookmark>.

¹⁵ Article 22 of EU Regulation No 211/2011 foresees that the European Commission shall present every three years a report to the European Parliament and the Council on the application of the ECI.

¹⁶ European Commission, [Report](#) on the application of Regulation (EU) No 211/2011 on the citizens' initiative. COM(2015) 145 final, 2015.

¹⁷ See, for example, Irmgard Anglmayer, [The European Citizens' Initiative: the experience of the first three years. European Implementation Assessment](#), EPRS, April 2015, p. 6.

Hungary), adopted in October 2015. It included a series of proposals for improving the ECI's functioning.¹⁸ Furthermore, in January 2016, in its resolution on the activities of the Committee on Petitions, the Parliament underlined the ECI's importance for enabling citizens to participate in EU policy- and decision-making processes. The resolution stressed the 'need for a new regulation in order to eliminate its many deficiencies, obstacles and weaknesses, and the cumbersome nature of the existing legal framework'.¹⁹ Likewise, the European Committee of the Regions and the European Economic and Social Committee demanded improvement of the ECI's functioning.²⁰

It was only recently, in September 2017, that the European Commission adopted a proposal for a new ECI regulation.²¹ Providing a set of suggestions for improving the ECI's institutional and legislative framework, the proposal's main aim is to 'make the ECI more accessible, less burdensome and easier to use for organisers and supporters; and to achieve the full potential of the ECI as a tool to foster ... citizens participation at European level and to bring the EU closer to its citizens'.²² In other words, the Commission's proposal is aimed at addressing the procedural weaknesses identified in the ECI, which undermine the achievement of its objectives. These weaknesses will be outlined in greater detail in the section below.²³

In order to react to the Commission's proposal in the context of an ordinary legislative procedure, the European Parliament's Committee on Constitutional Affairs is currently preparing a report (Rapporteur: György Schöpflin, EPP, Hungary). The draft report reiterates previous calls on the Commission to revise the ECI in a way that would make its procedures easier and thereby render it more user-friendly.²⁴ In addition, the Parliament has been calling on the Commission to make the ECI more visible and credible.

¹⁸ European Parliament [resolution](#) of 28 October 2015 on the European Citizens' Initiative (2014/2257(INI)).

¹⁹ European Parliament [resolution](#) of 21 January 2016 on the activities of the Committee on Petitions 2014 (2014/2218(INI)).

²⁰ European Committee of the Regions, [Resolution](#) - Improving the functioning of the European Union: Lisbon Treaty and beyond (2015/C 313/03). [Opinion](#) of the European Economic and Social Committee on The European Citizens' Initiative (review) (own-initiative opinion) (2016/C 389/05).

²¹ Before the current proposal, the Commission took various practical steps within the existing framework to improve the ECIs functioning, such as providing a better online signature collection system.

²² European Commission [Proposal](#) for a Regulation of the European Parliament and of the Council on the European citizens' initiative, COM(2017) 482 final.

²³ In addition to the Commission's proposal, see European Commission Staff [Working Paper](#), Accompanying the document, Proposal for a Regulation of the European Parliament and of the Council on the European citizens' initiative, SWD(2017) 294 final.

²⁴ European Parliament Committee on Constitutional Affairs, [Draft report](#) on the proposal for a regulation of the European Parliament and of the Council on the European citizens' initiative (COM(2017)0482 - C8-0308/2017 - 2017/0220(COD)), 9 March 2018.

Weaknesses in the ECI procedure

In 2015, in the form of a backward-looking (ex-post) analysis of the ECI's first three years, the European Parliamentary Research Service produced an implementation assessment providing a systematic overview of the weaknesses in the ECI procedure.²⁵ The main identified weaknesses, which correspond to the procedure's five consecutive steps, are:

1. no legal status for the ECI citizens' committee;
2. a rigid and non-transparent admissibility check;
3. difficult conditions for the collection of signatures;
4. a high number of invalid signatures;
5. the European Commission's weak follow-up provisions for successful ECIs.²⁶

The first main weakness, the fact that the ECI citizens' committee does not have legal status, is associated with Article 3(1) of the ECI's underlying EU Regulation No 211/2011. According to this article, the at least seven members of the citizens' committee from at least seven different Member States, organising an ECI, have to act as natural persons. Consequently, the citizens' committee individual members can be held personally liable for any kind of damage caused during an ongoing ECI, such as damage resulting from the incorrect handling and processing of supporters' personal data (data protection). Moreover, the fact that ECI citizens' committee members have the legal status of natural persons could impede fundraising for an initiative. Together, these and other legal and practical issues due to the lack of legal status for the ECI citizens' committee may deter potential organisers from starting an ECI.

The second main weakness, a rigid and non-transparent admissibility check, results especially from the fact that EU Regulation No 211/2011 does not expressly state what kind of ECIs are considered to manifestly fall outside the Commission's competence. Article 4(2) of the regulation only stipulates, as a condition for registering an ECI, that 'the proposed citizens' initiative does not fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties'.²⁷ As the Commission has discretion with regard to the interpretation and

²⁵ Irmgard Anglmayer, [The European Citizens' Initiative: the experience of the first three years. European Implementation Assessment](#), EPRS, April 2015. Another study providing an overview of the obstacles and difficulties faced by organisers when setting up and running an ECI is: [European Citizens' Initiative. First lessons of implementation](#) - Study for the Committee on Petitions and Committee on Constitutional Affairs, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2014.

²⁶ Comparative studies of the ECI and national level-instruments reveal that they face similar problems. See, for example, Eleftherios Petropoulos, [Die Europäische Bürgerinitiative im paneuropäischen Vergleich Kontext: Wo steht die direkte Demokratie in der EU im Vergleich zu ihren Mitgliedstaaten?](#), Saar Blueprints, 11/2016 DE, or Daniel Kübler, Fernando Mendez, Roman Zwicky, [Tacking Stock of the European Citizens' Initiatives: Current dynamics and possible institutional trajectories](#), Barriers towards EU Citizenship (BEUCITIZEN), 2016.

²⁷ Other condition for the registration of an ECI are that: i) the citizens' committee must have been formed; ii) the proposed citizens' initiative is not manifestly abusive, frivolous or

application of this provision, it has applied a rather passive and restrictive interpretation of its powers regarding an ECI's legal admissibility at the registration step. Moreover, the Commission often fails to provide sufficient explanation for the reasons why it rejects one or another proposed ECI. In addition, such competence issues can significantly hamper many organisers from registering an ECI, as they do not necessarily have a background in EU law. Furthermore, refusals to register an entire ECI when only some of its aspects fall outside the Commission's competence also contribute to the second main weakness. This is reflected in the high dropout rate of ECIs during the Commission's admissibility check.

The third main weakness, difficult conditions for the collection of signatures, has several dimensions. First, the amount and complexity of the personal information required to sign an ECI may deter potential supporters due to privacy concerns. Second, there are differing personal information requirements across the EU Member States as, for example, some ask for a personal ID number and others do not.²⁸ Third, EU citizens living abroad are sometimes excluded from signing an ECI, as some Member States' national rules only allow citizens to sign an ECI in their country of origin, but not in their country of residence. Fourth, as the EU-wide age limit of 18 years for signing an ECI is not applied in Austria (where the limit is 16 years of age), the resulting two different age limits create incoherence. Fifth, ECI organisers face practical and legal challenges to store the large number of personal data, especially with a view to online signature collections that require suitable and affordable hosting providers, which are not easy to find. Sixth, setting up online collection systems can be very time-consuming, as organisers need at least two months to prepare for the personal data requirements and to have the systems certified by a competent authority. Even though the Commission provides an online collection system, it is rather unsuitable for effective campaigning as, for example, the collection of emails is not allowed. Seventh, the time limit of twelve months for signature collection after an ECI has been registered is rather short, especially with regard to the time-consuming tasks of setting up an online collection system and finding a web hosting service. The above-mentioned European implementation assessment argues that for ECIs, vital 'Europe-wide campaigning requires time, due to language barriers, different cultures, the physical distance, and the cross-border dimension of the project'.²⁹

The fourth main weakness, a high number of invalid signatures, is linked to the step where the Member States' authorities verify and certify the collected statements of support. In the case of the four initiatives that reached the verification of signatures step, a good proportion of signatures was declared invalid by the national authorities. Therefore, to mitigate the risk of failing at this step, ECI organisers need to secure 10-20 % more signatures than the established threshold of one million. In addition, there are differing signature verification rules across Member States, the main difference being that some use random testing, while others verify all of the signatures.

vexatious; and iii) the proposed citizens' initiative is not manifestly contrary to the values of the Union as set out in Article 2 TEU.

²⁸ At present, the personal identification number is required in Austria, Bulgaria, Croatia, Cyprus, the Czech Republic, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Romania, Slovenia, Spain and Sweden.

²⁹ Irmgard Anglmayer, *op.cit.*, p. 22.

The fifth main weakness, the European Commission's weak follow-up provisions for successful ECIs, stems from the fact that Regulation No 211/2011 respects the fact that the right to initiate legislation is reserved almost entirely for the Commission (Article 17(2) TFEU),³⁰ as do the European Parliament's Rules of Procedure. Although the regulation specifies measures, such as the Commission's obligation to consider a successful ECI as increasing the ECI's binding character, there are no ensuing direct legal consequences. In other words, there is considerable uncertainty as to whether a successful ECI would lead to any policy change at all, either in a mid-term or in a long term perspective.³¹

There are various reform proposals addressed to overcoming the identified weaknesses. To what extent they would generate added value, however, is a rather open question to be answered, especially with a view to increasing citizen participation in the EU policy- and decision-making processes.

³⁰ Consolidated version of the [Treaty on the Functioning of the European Union](#).

³¹ While initially not considering taking legislative action as a follow-up to a successful initiative, on 1 February 2018 the Commission published a proposal to revise the Drinking Water Directive ([Proposal](#) for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast), COM(2017) 753 final.

ECI reform proposals and their added value

The expert research annexed to this study analysed a variety of major reform proposals that were put forward for improving the ECI's functioning. Amongst others, the analysis includes the main reform proposals by the European Parliament, the European Commission, and stakeholders.³² Furthermore, in order to assess the added value of the ECI and the main proposals for reforming it, the expert research team developed five potential specific forms of added value.

The starting point for developing these forms of added value is the distinction drawn between political added value and policy added value. According to the expert research, political added value is generated when the ECI enhances the legitimacy of democracy and increases support for the EU multi-level governance system, while policy added value is generated when the ECI is able to improve policy-making at the European level. The five potential specific forms of added value of the ECI are developed along the lines of these two dimensions. Crucially, these forms of added value either reinforce each other or are mutually exclusive. Furthermore, they remain to a certain extent theoretical in nature, given that the ECI is not making full use of its potential. They are:

1. Enabling participation in EU politics

ECI-enabled participation in EU politics offers EU citizens the potential opportunity to exercise influence in EU policy-making. In addition, the ECI could trigger political mobilisation at the European, national and regional levels. In this sense, the ECI may contribute to consolidating the foundations of EU democracy by increasing the EU's legitimacy and the inclusiveness of its policy-making processes. In terms of policy added value, the ECI therefore carries the potential to create it by giving citizens a say in EU policy-making, voicing their preferences with regard to proposed policy solutions and tapping into their technical expertise on different subjects. Political added value, in turn, would be generated by the ECI's potential to trigger political mobilisation and increase the inclusiveness of EU policy-making as a new way of political participation, marked by the capability to react to changing participatory demands and to remedy the perceived lack of citizen influence on EU policy-making.

2. Developing and fostering European public spheres

The ECI has the potential to provide fora for public deliberation on issues of common concern and to foster European public spheres by connecting existing yet scattered discursive spaces. By collecting one million statements of support in at least seven different Member States and by serving as a platform for information, the ECI could trigger Europe-wide discussions about topics of concern to all EU citizens and about the European policy-agenda. Moreover, by doing so, the ECI has the potential to address a central criticism of the EU's democratic deficit, namely the lack of European public spheres. Thus, in terms of political added value, the ECI could generate and facilitate Europe-wide public debates, and thus contribute to developing and fostering transnational public spheres in the EU. With regard to policy added value, strong public

³² For the full list of the main reform proposals considered, see Annex I to this paper, p. 66.

deliberation through European public spheres would increase the need for the EU institutions to justify their policy options and decisions to the European public.

3. Strengthening trans-European society

Beyond linking scattered discursive spaces, the ECI has the potential to contribute to engaging EU citizens across borders on the basis of transnational issues of common concern and to connecting them, also across borders, while networking, campaigning and collecting statements of support for an ECI. It could thus help to strengthen trans-European society. While the potential political added value of a strengthened trans-European society would consist of connecting EU citizens across borders, the potential policy added value would exist in the form of a stronger European consciousness and a heightened perception of European community that would allow EU citizens to hold the EU institutions accountable.

4. Strengthening trans-European civil society

Civil-society organisations working on the ground and close to EU citizens are better equipped to campaign for an ECI than Brussels-based umbrella organisations. The latter often lack the resources to raise awareness for an ECI or to collect statements of support from at least one million EU citizens in seven Member States, the former are familiar with the situation on the ground. However, civil-society organisations working on the ground need to establish networks of civil society (organisations) across the EU that are willing to support an ECI. The setting-up of civil society networks across the Member States, may also include the ECI's political added value, by contributing to strengthening the trans-European civil society. Moreover, it could integrate new civil society actors from the Member States in EU politics. The policy added value from strengthening trans-European civil society by means of the ECI may come in the shape of better access to, and increased inclusiveness of, EU policy-making.

5. Contributing to better law-making and policy-making at the European level

By increasing the EU's democratic legitimacy, inclusiveness and transparency, the ECI has the potential to contribute to better law-making and policy-making at the European level. It could do so in terms of policy added value by providing ECI organisers and supporters with various policy-making functions for contributing to better law-making, such as agenda-setting, vetoing or functioning as a valve for new policy ideas, and fine-tuning existing legislation. Finally, political added value could be generated as a result of the equal opportunities the ECI provides to external actors, such as individual citizens and grass-root movements, along with well-established organisations and business lobbyists, for shaping EU policy-making and law-making.

Table 1: Overview of the specific added value of the ECI

Specific added value	Policy added value	Political added value
1. Enabling participation in EU politics	<ul style="list-style-type: none"> could provide better information on constituencies' could provide technical expertise to EU decision-makers could give citizens a say in EU policy-making 	<ul style="list-style-type: none"> could trigger political mobilisation could increase inclusiveness of EU policy-making suits changing demands for political participation could remedy the perceived lack of influence on EU-level policy-making
2. Developing and fostering European public spheres (reducing the public sphere deficit)	<ul style="list-style-type: none"> could foster trans-national public deliberation on ECI-related subjects 	<ul style="list-style-type: none"> could foster European public spheres could improve the responsiveness of EU institutions
3. Strengthening trans-European society	<ul style="list-style-type: none"> could allow citizens to hold EU institutions accountable 	<ul style="list-style-type: none"> could link citizens could foster citizens' European consciousness
4. Strengthening trans-European Civil Society	<ul style="list-style-type: none"> could grant civil society direct access to the Commission 	<ul style="list-style-type: none"> could link civil society organisations across national borders could increase civil society organisations' awareness of the EU
5. Better law-making and policy-making	<ul style="list-style-type: none"> could function as an agenda-setting tool could function as a veto instrument could function as a valve 	<ul style="list-style-type: none"> equal opportunities for different types of actors to participate in EU policy-making

Source: Annex I to the present document, pp. 26, 52.

Below, these specific forms of added value will be used to analyse those main reform proposals that are at the heart of the policy debate on the ECI's revision.³³ In addition, the analysis will point out to which of the above-mentioned ideal-type functions – *consultative function* or *politicising function* – the main reform proposals belong.

To address the lack of legal status for the ECI citizens' committee (weakness 1), there is a broad consensus on the need to establish a legal entity for the purpose of organising an ECI. Naturally, this would limit the organisers' personal liability and ease legal and practical issues, such as fundraising for an initiative. In other words, giving citizens' committees legal status could significantly help to make the ECI procedure more organiser-friendly and may increase participation. Crucially, since citizens' committees, once they acquire legal status, could turn into organisations active in the entire EU even beyond the duration of an ECI, this could strengthen trans-European civil society. Finally, establishing a legal entity for citizens' committees would contribute to the development of both ideal-type functions of the ECI. With regard to the ECI consultative function, civil

³³ For a broader discussion of the main reform proposals and their added value, see Chapter 3 in the Annex I to this paper, pp. 65-95.

society organisations, having easier access to the ECI, could give their expertise on the subject matter. Alternatively, civil society organisation, including new ones without experience at the European governance level, would foster the politicising function, as they could openly criticise the EU.

In particular, four reform proposals have been put forward to eliminate the rigidity and non-transparency of the admissibility check (weakness 2). They include:

- i) a clear and easy to understand definition of what is meant by the wording 'manifestly outside' its competences, and a clarification of the EU's competences as regards a proposed ECI;
- ii) legal advice and help to ECI organisers on the legal basis and on how to frame a proposal for an ECI;
- iii) more transparent, detailed and consistent explanations for its decision to allow or refuse to register an ECI;
- iv) the possibility for partial registration of ECIs.

Together, these reform proposals could make the admissibility check more transparent and may promote more political participation. Moreover, a more transparent and less restrictive registration policy could allow more initiatives to actually make it to the step at which EU citizens can express their opinion. This may contribute to a strengthened European public sphere. In addition, a clear definition of the Commission's actions on ECIs could activate more action by civil society organisations, and thus strengthen trans-European civil society. Furthermore, more detailed explanations on decisions to accept or refuse as well as on the options of partial registration of initiatives could create a more consensual style between ECI organisers and the Commission. This may generate or support better law-making. In terms of the ECI's two ideal-type functions, a reformed registration step along the lines of the above proposals would contribute to the ECI's politicising function, as the Commission's gatekeeping role of controlling EU agenda-setting would be limited through the ECI. At the same time, a more constructive dialogue between ECI organisers and the Commission as a result of the reform proposals would serve the consultative function.

There are five reform proposals to remove the difficult conditions in which the collection of signatures takes place (weakness 3). These are:

- i) to limit to a minimum the amount and sensitivity of the personal data required for Member States to verify citizens' statements of support, and to harmonise personal data requirements across Member States;
- ii) to give EU citizens the opportunity to sign an ECI independently of their place of residence;
- iii) to lower the age limit for signing an ECI to 16 years throughout the EU;
- iv) to offer free of charge and permanent hosting for online collection systems on a server of the European Commission;
- v) to set aside at least twelve full months for collecting signatures or to extend this time span to 18 months.

The implementation of these reform proposals could facilitate citizens' participation and boost their chances of having a say in EU policy- and decision-making processes. In addition, the opportunity to increase direct participation and influence on EU policy- and decision-making could trigger more awareness and consciousness of EU policies among EU citizens, including young people, if the minimum age is lowered to 16 throughout the EU. As a result, these reform proposals could lead to a strengthened trans-European society, given that participation in EU politics would be easier and there would be more opportunities for inter-linking with other citizens and civil society organisations across the EU. Likewise, this may potentiate the creation of European public spheres, accelerated by mobilisation efforts to increase transnational communication. Moreover, equal opportunities for all EU citizens to sign an ECI could provide the EU institutions with a better picture of the public opinion trends in the Member States, which could be used for better law-making. With regard to the ECI's ideal-type functions, equal opportunities for EU citizens and a lower amount of personal data required for the statements of support would be important to develop the politicising function. Lowering the minimum age for signing an ECI would enhance both the politicising function and the consultative function.

For improving the situation regarding the high number of invalid signatures (weakness 4), reform proposals earmark a single collection point and use of software for the verification of signatures delivered on paper or in online forms. Decreasing the high percentage of invalid statements of support could motivate political participation. While the verification of signatures is less crucial for the ECI's consultative function, it is more important for its politicising function, since the exclusion of signatures has to be well-justified, especially when national quorums are not met.

Reform proposals to revise the European Commission's weak follow-up provisions for successful ECIs (weakness 5) are closely connected with the demand to give the ECI a much more binding character than is currently the case. However, as direct legal consequences would require treaty changes, most of the reform proposals addressed to this weakness envisage a stronger involvement and obligation of the EU institutions to deal with successful ECIs. The reform proposals include:

- i) action by the Commission within 12 months, once it has given its agreement to the aims of an ECI;
- ii) setting-up expert groups to advise the Commission on possible action;
- iii) a stronger role of the Parliament, for example by establishing an obligatory plenary debate on successful ECIs, to be followed by a vote on a resolution;
- iv) defining the aim and structure of the public hearings, for example, in the form of a balanced representation of stakeholders and experts;
- v) improving the ex-ante assessments;
- vi) defining standards for the Commission's communication on successful ECIs;
- vii) improving the reaction to unsuccessful ECIs, for example, in the form of plenary debates in Parliament or appropriate responses by the Commission.

The establishment of an expert group featuring ECI organisers, among others, could contribute to strengthening trans-European civil society, as they would be directly

engaged in EU politics. Moreover, ECI organisers, if included in an expert group, may continue their engagement in terms of further civic transnational discussions and mobilisation and could thereby support the creation of European public spheres, respectively reducing the European public sphere deficit. One may also argue that the development of a European public sphere could be substantiated through European Parliament plenary debates and public hearings with the participation of various stakeholders and experts. On the other hand, expert groups and stakeholder participation in public hearings might contribute to better law-making. Finally, these reform proposals could lead to better participation, given that the voices of EU citizens would be heard more. In terms of the ECI's two ideal-type functions, these reform proposals would have different effects. Setting up expert groups to advise the Commission and holding public hearings with experts would serve the consultative function. On the other hand, the opportunity to have plenary debates in Parliament and public hearings with controversial discussions between various stakeholders, would provide for the politicising function.

European added value

As seen from the results of the 2015 EPRS European implementation assessment on the first three years of the ECI mentioned above, the ECI framework has various weaknesses that could be addressed by the main reform proposals discussed above. Moreover, as the present study demonstrates, the implementation of reform proposals would present specific normative added value in terms of enabling EU citizens to participate in EU politics; developing and fostering European public spheres; strengthening trans-European society and trans-European civil society; and contributing to better EU law-making.

Furthermore, these specific forms of added value of the ECI and its revision are closely connected with political added value and policy added value. For instance, strengthened trans-national public deliberations, improved information on EU citizens' preferences and the possibility to benefit from civil society expertise via better functioning ECIs would help to build policy added value in the sense of more strategic and better policy-making. In contrast, increased political participation of EU citizens and transnationally organised civil society in EU policy-and decision-making processes would generate political added value in terms of enhancing the EU's legitimacy.

More generally, the revision of Regulation 211/2011 on the functioning of the ECI along the lines of the discussed reform proposals, with their potential to create added value as described above, would make the ECI's procedural steps less burdensome. Moreover, it would revise the ECI in a way as would bring it closer to its initial aim of serving as an instrument that would foster citizens' participation in policy- and decision-making processes at the European level and would bring the EU closer to its citizens. In other words, the ECI would be fine-tuned for making the voices of the EU citizens heard at the European level. It would thus contribute to improving EU democratic life, which would constitute a European added value for the EU citizens.

Annex 1

Study on the European added value of the European Citizens' Initiative

Research paper

by

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Abstract:

The European Citizens' Initiative (ECI) has a huge potential to create an added value for the EU and its citizens: it can enable citizens to participate in EU politics, reduce the public sphere deficit, and contribute to better EU legislation. Furthermore, the ECI can strengthen trans-European (civil) society. However, its institutional design is incoherent and, therefore, disadvantageous for the functioning of the ECI. Some features serve a consultative function, like instruments of participative democracy, while others position the ECI as a driver of politicisation of the EU. This study argues that EU legislators should opt for one of these two objectives (the ECI as a consultative or politicising instrument), and design a coherent ECI procedure in accordance with the chosen objective in order to fully exploit the ECI's potential to create a European added value. Against the backdrop of these two ideal type functions, the study reviews reform options currently discussed and shows how they fit with one of the functions and how they would produce an added value for EU citizens.

AUTHORS

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Executive summary

The present study has been carried out at the request of the European Added Value Assessment Unit of the Directorate for Impact Assessment and European Added Value, within the Directorate General for Parliamentary Research Services (DG EPRS) of the General Secretariat of the European Parliament.

The general goal of the study is to point out how the European Citizens' Initiative (ECI) can potentially generate **policy added value** and **political added value** for the European Union (EU) and its citizens by enabling them to **participate in EU politics**, reducing the **public sphere deficit, strengthening trans-European (civil) society** and contributing to **better EU legislation and policy-making**. Furthermore, the study underlines how the ECI's current institutional design is disadvantageous to its functioning, as some features have a **consultative** effect like instruments of participative democracy, while others serve as drivers of the **politicisation** of EU politics. The study argues that EU legislators should opt for one of these two objectives and, accordingly, **design a coherent ECI procedure** in order to fully exploit the ECI's potential with regard to identified European added values. It then **reviews currently discussed reform options**, examining how they would serve the two possible functions of the ECI (consultative or politicising) and contribute to the ECI's added value for the EU and its citizens.

I. Potential Added Value of the ECI for the EU and its Citizens

The concept of "added value" for the EU and its citizens is the yardstick to evaluate the ECI from different angles. "European added value" has become a central and prominent term in contemporary debates, despite the fact that its use has been rather economically-biased. In this study, the focus lies on the immaterial and normative added value for the EU and its citizens, which contribute to the major objective of the ECI: bridging the gap between EU institutions and citizens, as well as strengthening EU citizenship and democracy. Two dimensions of added value for the EU and its citizens are differentiated here in order to discuss the concrete added values of the ECI:

- **Political added value** is generated when the ECI enhances the legitimacy of democracy and increases support for the EU multi-level system;
- **Policy added value** is generated when the ECI is able to achieve strategic improvements with regard to policy-making

The concrete added values of the ECI which are discussed in the study, and which also touch upon the two previously mentioned dimensions, are:

Overview of Concrete Added Values of the ECI

Concrete added value	Policy added value	Political added value
Enabling Participation	<ul style="list-style-type: none"> • Could provide better information on constituencies' preferences • Could provide technical expertise to EU decision-makers • Could give citizens a say in EU policy-making 	<ul style="list-style-type: none"> • Could trigger political mobilisation • Could increase inclusiveness of EU policy-making • Suits changing demands for political participation • Could remedy the perceived lack of influence on EU-level policy-making
Reducing Public Sphere Deficit	<ul style="list-style-type: none"> • Could foster trans-national public deliberation on ECIs' subject matters 	<ul style="list-style-type: none"> • Could foster European public spheres • Could improve the responsiveness of EU institutions
Strengthening trans-European Society	<ul style="list-style-type: none"> • Could allow citizens to hold EU institutions accountable 	<ul style="list-style-type: none"> • Could link citizens • Could foster citizens' European consciousness
Strengthening trans-European Civil Society	<ul style="list-style-type: none"> • Could grant civil society direct access to the Commission 	<ul style="list-style-type: none"> • Could link civil society organisations across national borders • Could increase civil society organisations' awareness of the EU
Better Legislation and Policy-Making	<ul style="list-style-type: none"> • Could function as an agenda-setting tool • Could function as a veto instrument • Could function as a valve 	<ul style="list-style-type: none"> • Equal opportunities for different types of actors to participate in EU policy-making

1. Enabling Participation in EU Politics

The ECI was intended to foster public participation in European politics. By *enabling EU citizens to exercise their right of political participation and to influence European-level policy-making*, it bears the potential to strengthen the added value of EU citizenship and to trigger political mobilisation. It can contribute to consolidating the foundations of the EU's representative democracy by increasing the EU's legitimacy and the inclusiveness of its policy-making with regard to individual citizens, stakeholders and civil organisations in the function of organisers or supporters of an ECI.

2. Reducing the Public Sphere Deficit

Collecting 1 million statements of support in at least seven different Member States for an ECI requires broad civic-transnational awareness for the instrument in general, as well as public debates on and mobilisation around the subject matter addressed by a specific ECI. In this way, the instrument can develop the potential to provide fora for public deliberation on issues of common concern and *to foster European public spheres* by connecting already existing, but spatially scattered, discursive spaces. ECIs serve as platforms for information, exchange and participation centred on the subject matter

addressed by an ECI, trigger discussions about the European policy agenda among civil society in different Member States and contribute to transnational will-formation. Thus, the ECI can serve as an example when counteracting a central criticism of the EU's democratic deficit, namely the lack of public spheres in the EU.

3. Strengthening Trans-European (Civil) Society

The ECI has the *potential to strengthen trans-European society* by engaging like-minded individuals and civil society at the Member State-level in EU politics around transnational issues of common concern and connecting them across borders during the ECI networking, campaigning and collecting of statements of support. As a consequence, the ECI bears potential to influence the perception of a common European consciousness and a feeling of community.

4. Contributing to Better Legislation and Policy-Making on the European Level

The ECI has the potential to *improve European legislation and governance* by increasing the democratic legitimacy, inclusiveness and transparency of the EU and its policy-making process. Therefore, the ECI provides various functions to organisers and supporters to be used as an agenda-setting tool, as a reactive veto instrument or as a valve aiming at fixing concrete deficits by improving or correcting existing EU law. By granting external actors direct access to the European Commission, the ECI can provide equal opportunities for individual citizens and European grass-root movements to shape EU legislation and policy-making, alongside well-established organisations and business lobbyists. Furthermore, it can transfer expertise and information on the preferences of Member State-level constituencies to EU legislators.

II. The Incoherence in the Current ECI Procedure

In this study, it is highlighted that the ECI can be characterised neither as an instrument of direct democracy on the EU-level, nor as an instrument of representative (participatory) democracy; instead, it is an instrument *sui generis*. There are different interpretations of the ECI's character and diverging expectations with regard to its potential benefits due to the fact that the ECI combines elements of direct and participatory democracy in a unique way. The lack of a common understanding – of what the ECI is or should be – has resulted in *an incoherent ECI procedure* which constitutes a compromise between actors representing different readings of the ECI. On the basis of the different interpretations of the instrument discussed during the legislative process on the ECI regulation, the two consultations and the recent public hearings, two ideal type functions of the ECI are developed here:

- ➔ The ECI could serve a *consultative function* with a focus on improving EU legislation, providing new expertise and involving civil society organisations which are new to EU politics.
- ➔ The ECI could serve a *politicising function*, thus constituting an additional driver of politicisation of EU politics.

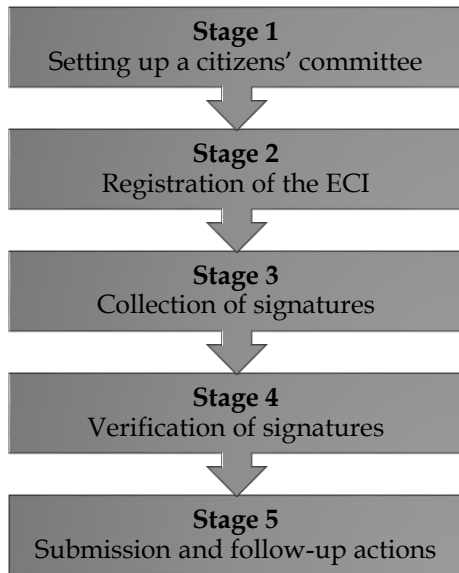
In order to fully exploit the potential added value of the ECI for the EU and its citizens, this study suggests that *EU legislators must clearly define the objective of the ECI and design the procedure* accordingly, in a coherent way, in order to enable either a consultative or a politicising function of the ECI.

III. Main Reform Proposals for the ECI Regulation

In light of the multiple conceptual deficiencies of the current ECI procedure, various reform proposals by different national, Brussels-based and European stakeholders, ECI organisers, EU institutions and researchers are evaluated with regard to their effect on the added value of the ECI for the EU and its citizens and their classification among the two ideal types of the ECI: having either a *politicising* or *consultative* function.

The assessment is structured along the five consecutive stages of the ECI procedure: (1) setting up of a citizens' committee of at least seven EU citizens from seven different Member States; (2) registering the ECI with the European Commission by providing the required information on the ECI, followed by an admissibility check by the European Commission; (3) collecting statements of support online and offline within twelve months following the registration of the ECI; (4) verification of signatories' identities and certification of the number of collected signatures by national authorities; and (5) the follow-up procedure involving the European Commission and the European Parliament, which includes the publication of the ECI in the register, the reception of the organisers by the European Commission, a public hearing organised by the European Parliament, followed by a communication of the European Commission in which it justifies whether it will become active or not with regard to the ECI's subject matter. Furthermore, the assessment covers six horizontal issues: awareness of the ECI instrument, provision of information and advice for organisers, translation of ECIs, funding for the organiser, transparency of funding collected by organisers, and the conflict of interest at the Commission.

Overview of the Five Stages of the ECI Procedure



The results of the assessment are summarised in the following overview.

Overview of Deficiencies in ECI Procedure, Reform Proposals and their Classification amongst the Ideal types and Contribution to Added value

Stage	Deficiency	Reform proposal	Ideal type		Added value: Proposal contributes to...			
			Con-sultative	Politi-cising	Participation	Public spheres	Trans-European (civil) society	Better legislation
1	Personal liability of ECI organisers	Legal personality for citizens' committees	X	X	Mobilisation/ inclusiveness		link citizen and civil society organisations	equal opportunities
2	Refused registrations <ul style="list-style-type: none"> Restrictive interpretation of admissibility Lacking definition of Commission's competences No partial registration 	Better information and advice for organisers	X	X	mobilisation/ inclusiveness		link citizen and civil society organisations	equal opportunities
		Increased transparency on reasons for refused registration		X	mobilisation/ inclusiveness	trans-national public deliberation		equal opportunities/ transparency
		Partial registration when some aspects fall outside the Commission's powers		X	better information on preferences/ mobilisation/ inclusiveness	responsiveness of EU institutions	hold EU institutions accountable	equal opportunities/ agenda-setting tool
3	High and differing requirements for personal data	Limiting and harmonising data required for statements of support	X		Mobilisation/ inclusiveness		hold EU institutions accountable/ European consciousness	equal opportunities
	Diverging minimum age 16/18	Lowering the minimum age to 16	X		mobilisation/ inclusiveness/ changing demands for participation	trans-national public deliberation	European consciousness	equal opportunities
	Challenge of storing statements of support	Free hosting of the OCS on Commission servers	X		mobilisation/ changing demands for participation			
4	High numbers of invalid signatures	Electronic signatures on Commission-run centralised OCS	X		changing demands for participation			
5	Lack of direct legal effect	<ul style="list-style-type: none"> Setting timeframe for Commission to become active Stronger role for European Parliament, e.g. mandatory plenary debate 		X	remedy perceived lack of influence	foster trans-national public deliberation/ responsiveness of EU institutions	hold EU institutions accountable / European consciousness	equal opportunities
		<ul style="list-style-type: none"> Expert group advising the Commission 	X		provision of technical expertise		grant direct access to the Commission	

	Public hearing lacking purpose and structure	<ul style="list-style-type: none"> Organise the public hearing as an expert hearing 	X		provision of technical expertise/ remedy perceived lack of influence	foster transnational public deliberation/ responsiveness of the EU institutions	hold EU institutions accountable/ European consciousness	equal opportunities
		Organise controversial debate and make it more public		X	provision of technical expertise/ remedy perceived lack of influence	foster transnational public deliberation/ responsiveness of the EU institutions	hold EU institutions accountable/ European consciousness	equal opportunities
Horizontal issues	Lacking public awareness about the ECI	<ul style="list-style-type: none"> EU-wide campaigns by EU institutions and national authorities Better information about ongoing ECIs contact points in Member States to support organisers 	X	X	mobilisation / inclusiveness/ information on preferences		hold EU institutions accountable	equal opportunities/ transparency
	Lack of information and advice for ECI Organisers	<ul style="list-style-type: none"> Collaborative platform Commission representative for the ECI 	X	X	Mobilisation/ inclusiveness/ information on preferences		hold EU institutions accountable	equal opportunities/ transparency
	High cost and effort of translating ECIs	<ul style="list-style-type: none"> Free provision of ECI translation by language services of European Commission, Parliament or Economic and Social Committee 	X	X	mobilisation inclusiveness			equal opportunities/ transparency
	Lack of funding for ECIs	<ul style="list-style-type: none"> Provision of a centralised basic EU funding pot of ECIs Covering expenses for registered ECIs 	X	X	mobilisation/ inclusiveness			equal opportunities
	Low transparency requirements on funding of ECIs	<ul style="list-style-type: none"> Increased Commission controls on funding information provided by organisers 	X	X				equal opportunities/ transparency
	Conflict of interest at the Commission	<ul style="list-style-type: none"> Support and information to ECI organisers independently of Commission Separating registration of ECIs and the follow-up to a successful ECI 	X	X	mobilisation/ inclusiveness/ remedy perceived lack of influence			equal opportunities/ transparency

Source: Own table.

Introduction

The European Citizens' Initiative (ECI) has been established by the Treaty of Lisbon in December 2009 as a new right for citizens of the European Union (EU) to participate in EU policy-making. Art. 11(4) Treaty on the European Union (TEU) codifies the right of 1 million citizens of the EU coming from a significant number of Member States to invite the European Commission to propose a legal act on a subject matter that should be regulated on the EU-level. This subject matter has to be within the area of competence of the Commission in order for this body to propose secondary law. As a successful ECI does not directly launch a legislative process, the Commission's monopoly of initiative remains unaffected and the ECI is a mere agenda-setting tool.¹

Already in 2009, the European Parliament (2009) acted as a driver for the implementation of the new treaty provision on the ECI in EU secondary law and demanded the establishment of an ECI procedure without delay. The European Commission (2009) published a green paper concerning the ECI in the same year. However, the legislative process (in accordance with Art. 11(4) TEU and Art. 24 TFEU) took until 2011 and EU citizens could not make use of the instrument before 1 April 2012, following a transition period² after Regulation No. 211/2011 (ECI regulation) entered into force one year before.

Since then the interest in the instrument has been modest at best, with a total of just 66 requests for registration. Following a peak in the number of registrations in 2012, the annual number fell and did not resume to higher levels until 2017. The low figures of just 13 registration requests per year and four successful ECIs in five years are the results of the considerable practical problems which ECI organisers are faced with. The restrictive registration policy of the European Commission, technical difficulties with implementing the online collection software, the various data required to support an ECI and the lack of any direct effect following successfully completed ECIs are just some of the issues which were discussed most prominently among stakeholders. Thus, its initial aims to strengthen EU democracy and to narrow the gap between EU citizens and institutions have been far from achieved. As a result, the ECI has thus fallen short of its potential to engage citizens in EU policy-making, to stimulate public debates, strengthen transnational civil society and to improve EU-level legislation. The key to unfolding these added values of the ECI for the Union and its citizens is making the instrument more user-friendly in order to stimulate more citizens to organise or sign ECIs and to encourage more civil society actors to support ongoing ECIs.

Against this backdrop, György Schöpflin was appointed rapporteur for a self-initiated report of the Committee for Constitutional Affairs demanding a reform of the current ECI

¹ It is comparable with the European Parliament's and the Council's rights to request the Commission to submit a legislative proposal (art. 225 and 241 Treaty on the Functioning of the European Union, TFEU).

² Within this year the European Commission and the Member States had time to agree on the delegated legal acts and national legislation respectively as well as to establish the new procedures (e.g. ECI register with the Commission or verification of signatures on the national level).

procedure in December 2016 (European Parliament 2016: 2-3). The political pressure from the Parliament and other EU institutions also requesting a reform (European Economic and Social Committee 2016; Committee of the Regions 2015; European Ombudsman 2017) forced the European Commission to begin reform of the ECI regulation in Spring 2017. The Commission's announcement concerning the revision of the regulation on the ECI Day in April 2017 was followed by a feedback loop on the roadmap for the revision process (European Commission 2017h) and an open public consultation (European Commission 2017f, 2017j). Based on the input from stakeholders and interested citizens and its 2015 report on the application of the ECI (European Commission 2015b), the European Commission (2017e) published its proposal for a new regulation on the ECI. In November 2017, the ordinary legislative process (2017/0220(COD)) awaits its first reading in the European Parliament following the ongoing consideration of the proposal in the Council of the EU.

I – Background

During the creation of the ECI in the Convention on the Future for Europe (European Convention) and also during the ongoing revision of the ECI regulation, the instrument has been framed as a response to the “need to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, in order to bring them closer to the citizens of the Member States”. This necessity was recognised by the heads of state or government in the “Laeken Declaration on the future of the European Union” annexed to the Treaty of Nice. It defines the objectives for the then up-coming revision of the EU primary law by the European Convention, during which the ECI was developed. It was transferred to the Treaty of Lisbon following the failed ratification of the Treaty establishing a Constitution for Europe (Constitutional Treaty).

The ECI, as a new kind of instrument for political participation on the EU-level, is suited for bridging the gap between citizens and EU institutions in a number of ways. It offers a new channel to influence EU-level policy-making and can thus increase political participation of EU citizens. Being transnational in its character (supporters have to come from at least seven different Member States), it entails the potential to stimulate public debates across Member States' borders. Bringing together EU citizens during the organisation of an ECI and civil society organisations, which support an ongoing initiative, the ECI also contributes to the emergence of European (civil) society. Furthermore, by involving more stakeholders and citizens in EU policy-making, the ECI is a means to improve EU legislation. In this way, the ECI also has the potential to reduce the so-called democratic deficit of the EU. It addresses both the institutional as well as the substantial deficit of EU-level democracy. Representatives of the thesis of an institutional deficit (e.g. Føllesdal/Hix 2006) argue that the political system of the EU has to be reformed in order to bring EU-level democracy to life. As soon as there are opportunities for citizens to participate which provide them with direct impact on EU policies, citizens will participate. The ECI is one of these opportunities, if the instrument allows citizens to influence EU policies. Critiques representing the substantial deficit thesis argue that reforming EU-level institutions is no suitable way to democratise the EU as it lacks some necessary prerequisites to become democratic, such as a demos and a public sphere

(Grimm 1995; Kielmansegg 1996). The ECI has the potential to contribute to generating these prerequisites for EU-level democracy (public spheres and civil society).

However, due to the previously described practical problems, the core aims of the ECI—to bring the EU institutions and the citizens of the Union closer together and to reduce the democratic deficit—have not really been achieved since 1 April 2012. EU citizens have had hardly any direct say in EU politics via the ECI. The communication on EU policies has not been improved and in turn the ECI has not contributed to the reduction of the Union’s public sphere deficit.³ Moreover, effects on the trans-European (civil) society and legislation are so far very limited. The low numbers of registered and especially successful ECIs (see Table 1) are a strong indicator that the aforementioned potentials of the ECI to produce an added value for the Union and its citizens have not been sufficiently utilised in any significant way.

Against this backdrop, some authors consider the ECI as “buried alive” (Schmidt/Breinschmid 2017). Reasons for the rather unsuccessful usage of the ECI in the last five years can be found in the design of the ECI procedure, whose major inconsistencies result in practical problems for organisers. To achieve the ECI’s major aim and create added values, the ECI procedure must become more user-friendly and the number of citizens involved in an ECI has to increase. In order to allow for a discussion of the deficiencies of the process in Chapter 3 of this study and how these objectives can be achieved by reforming the ECI procedure, the following section provides an overview of the details of the current ECI procedure.

Table 1: Overview of Initiatives

Status	Number
Open	8
Withdrawn	14
Insufficient support	21
Registration denied	19
Successful	4
Sum	66

Source: Own calculations on 6 December 2017 based on European Commission (2017k).

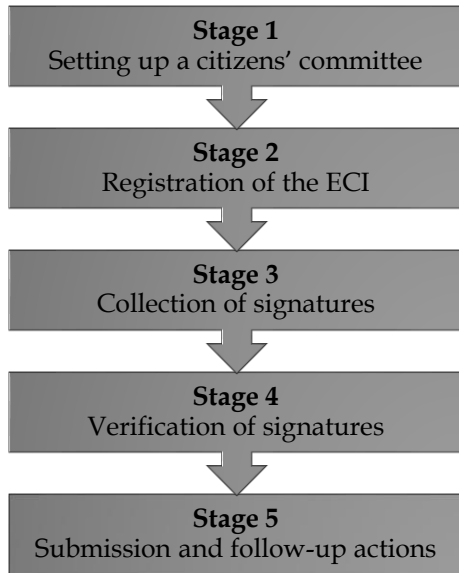
II – Overview of the ECI Procedure

The procedure consists of five consecutive stages (see Table 2): (1) setting up of a citizens’ committee; (2) registering the ECI with the European Commission; (3) collecting statements of support online and offline; (4) verification of signatories’ identities and

³ Following Neidhardt and Risse, we apply a minimalist understanding of public sphere, which they define as “an open forum of communication for everybody who wants to say something or listen to what other speakers have to say” (Risse 2015b: 6). This definition is close to Luhmann’s (1971) definition of a public sphere as a subsystem, which connects actors from society and politics. Habermas’ (1992) applies in his concept of public sphere higher standards with regard to the quality of the discourse taking place within it.

certification of the number of collected signatures by national authorities; and (5) the follow-up procedure involving the European Commission and the European Parliament.

Table 2: Overview of the Five Stages of the ECI Procedure



Source: Own table.

In the first stage, at least seven citizens of the EU residing in at least seven different Member States must set up a so-called citizens' committee.⁴ Although it is the formal organiser of the ECI, it does not have a legal personality. Thus, individual members are personally liable. Two members of the committee, a representative and a substitute, are the contact persons for the Commission for the ECI (Art. 3 ECI regulation). Legal entities may not become members of the committee, but they are allowed to support an initiative.

In the second stage, the ECI has to be registered with the European Commission. For this purpose, the organisers have to provide the information listed in Table 3.

⁴ MEPs may become members of the committee, but they are not counted with regard to the quorum of seven.

Table 3: Information Required to Register an ECI with the Commission

- Title of the initiative (max. 100 characters)
- Subject matter (max. 200 characters)
- Treaty provisions considered to be relevant
- Information on the citizens' committee
- Information on all sources of funding
- Additional material and/or a complete legislative proposal (optional)

Source: Annex II ECI regulation.

Within two months following the provision of this information, the Commission has to complete an admissibility check. If one of the following criteria presented in Table 4 applies, the Commission is bound to refuse the registration. Otherwise it is obliged to register the initiative.

Table 4: Criteria that Result in Non-registration of an ECI

- The provided information is incomplete
- The ECI is "manifestly abusive, frivolous or vexatious"
- The ECI is "manifestly contrary to the values of the Union as set out in article 2 TEU"
- The ECI falls manifestly outside the framework of the Commission's powers to implement the Treaties

Source: Art. 4(2) ECI regulation.

In the third stage, following the registration, the ECI's organisers have twelve months to collect the required number of statements of support. Reaching a total number of at least 1 million signatures, an ECI also has to meet national quorums in one quarter of the EU Member States (currently seven) in order to be successful.⁵ Organisers can collect the statements of support either on paper or online. The latter requires an online collection system that is certified by a responsible national authority to confirm its compliance with all requirements pertaining to data protection and security (art. 6 ECI regulation; Commission Implementing Regulation No. 1179/2011).

The fourth stage starts after twelve months, or when the organisers have collected a sufficient number of signatures. The signatures have to be verified by the responsible national authorities (art. 8 ECI regulation) and the number of valid statements of support collected per Member State has to be certified. For this process, the authorities have three months after the organisers submitted the statements of support on paper or

⁵ The national quorum is calculated by multiplying the number of MEPs elected in a country by 750, ranging from 4,500 signatures in Malta and other Member States to 72,000 in Germany (art. 7 ECI regulation; Commission Delegated Regulation No. 268/2012).

electronically. The national authorities can either check all statements or simply verify a random sample of signatures.

The fifth stage begins if the number of verified signatures is at least 1 million in total and the national quorums are reached in not less than seven Member States. The organisers can then submit their ECI to the Commission for examination, which will have to be completed within three months following the submission. However, the regulation does not define a deadline for the submission of an initiative to the Commission. Following the publication of a submitted ECI in the register, the examination process includes three other elements (see Table 5), before the Commission must draw its legal and political conclusions set out in a communication which justifies why it will or will not take actions (art. 9-11 ECI regulation).

Table 5: Follow-up Actions to Successful ECIs

- Publication of the initiative in the ECI register
- Meeting between the Commission and the organisers on an appropriate level
- Public hearing in the Parliament, where the organisers present the ECI
- A published communication of the Commission presenting the reasons why it will or will not take action

Source: Art. 9-11 ECI regulation.

III – State of Research

Parallel to the ongoing revision of the ECI regulation, public and academic interest has also risen. Nevertheless, the ECI remains a “niche topic” in the field of European integration research. The reasons lie above all, and again, in the practical problems of the ECI procedure, the resulting low number of successful initiatives (see Table 1), and its minimal impact on European politics so far (discussed in Chapter 4). Thus, previous research on the ECI has been severely limited by its poor empirical basis. However, some exceptions need to be mentioned: Besides studies concerning the initiatives’ subject matters and types of ECI organisers (Bouza García/Greenwood 2016; Conrad/Steingrimsdóttir 2016), other works discuss the role of the ECI within the political system of the EU mainly from a theoretical perspective and are based, at most, on explorative surveys. These topics include the following questions, which are discussed in more detail in Chapter 1: Is the ECI strengthening EU democracy (Plottka 2012)? Does it contribute to the establishment of European public spheres (Knaut 2016; Leinen 2012)?⁶ Regarding the second question, the previous literature addresses both the possibility that the ECI generates an EU-wide public sphere (Conrad 2016) as well as topic-specific, cross-border public spheres (Greenwood/Tuokko 2016; Knaut 2016). Further studies

⁶ A panel at the 2016 General Conference of the European Consortium for Political Research especially addressed these two questions. Unfortunately, the papers presented at the conference have not yet been published.

elaborate on EU citizens' willingness to support or initiate ECIs, and the impact of initiatives on attitudes with regard to European politics (Gherghina/Groh 2016). Furthermore, comparisons of ECIs with national instruments of direct and participative democracy (Petropoulos 2016) reveal that the ECI are not unique and the problems it faces are similar to those faced by national instruments (Kübler/Mendez/Zwicky 2016).

Several papers suggesting reform options for the ECI instrument are published by researchers and actors from civil society organisations (Institut für Europäische Politik 2017). In addition, publications from stakeholders, particularly concerning the two consultations on the revision of the ECI, constitute the biggest part of all works dealing with the ECI (e.g. the anthology Berg/Thomson 2014). However, their authors are biased and, thus, the papers hardly fulfil scientific standards. They rather serve as position papers and will be taken into account as primary sources in this study.

IV – Objective and Structure of the Study

While a number of practical obstacles could be solved without changing the ECI regulation – e.g. as the European Economic and Social Committee provides translation for ECIs free of charge (Dialer 2017) and the European Commission voluntarily offers the online collection software implemented on a server – “a substantial set of identified bottlenecks stem from provisions in the [ECI] Regulation” (Commission 2017e: 3). The ongoing revision of the ECI regulation is a chance to make the instrument more citizen-friendly and to fully exploit the potential added value that could be created for the Union and its citizens.

While most contributions to consultation on the revision of the ECI regulation focus on practical problems in the process, the objectives of the instrument should not be forgotten either. As mentioned before, the ECI was created to strengthen the democratic legitimacy of the EU as well as to narrow the distance between EU institutions and the citizens of the Union. However, these objectives have hardly been achieved in the five years that the ECI has been in effect. Therefore, the revision of the ECI regulation should be guided by these major objectives and all reform steps should be reviewed with regard to their potential to achieve them.

Against this backdrop, the study's first chapter explores which potential added values could be created through the ECI. It discusses the ECI's potential to foster the political participation of EU citizens, to reduce the EU's public sphere deficit, to strengthen trans-European society and trans-European civil society, as well as to contribute to better legislation and EU policy-making.

Chapter 2 explains why these potential added values have hardly been attained so far. The basic assumption is that there is no agreement on what kind of instrument the ECI should be. Accordingly, its procedure as described above constitutes an incoherent compromise between different interpretations and needs to be streamlined. Looking at the debates in the European Convention on establishing the ECI, the legislative procedure on the ECI regulation, and the two public consultations on the ECI, the study deduces two ideal type functions the ECI could fulfil: It can either have (1) a consultative function, with a focus on improving EU legislation, providing new expertise and

involving civil society organisations (at Member State-level) which are new to EU politics. Or it could serve (2) a politicising function constituting an additional driver of the politicisation of EU politics. The study does not argue in favour of one of the two ideal types, but points out that the EU legislators should do so in order to design a coherent ECI procedure and to better exploit the ECI's potential to create added value.

For all five stages of the ECI procedure as well as for cross-cutting issues, Chapter 3 discusses concrete reform proposals and presents the current state of affairs, outlines the procedure's deficiencies, presents reform proposals and evaluates them with regard to their potential to create added values for the EU and its citizens, as well as whether they fit one of the two ideal type functions of the ECI. With a view to contributing to the identified added values, the chapter will also discuss the following horizontal issues: raising public awareness for the ECI, providing information and advice to organisers, translating the ECI in other official languages of the EU and the funding of initiatives.

Finally, the conclusion summarises how the ECI could be developed either towards increasing its consultative or its politicising function and presents a set of reform steps that should be taken in order to streamline the procedure and make it more user-friendly.

Chapter 1

Key findings

- The ECI *can enable EU citizens to participate in EU politics* by offering a new instrument that suitably fits changing expectations and practices towards political participation.
- The ECI has the *potential to reduce the EU public sphere deficit* by creating transnational publics centred on the subject matter addressed by an ECI.
- The ECI has the *potential to strengthen trans-European society* by engaging citizens of the Union in EU politics and connecting them across borders.
- The ECI has the *potential to strengthen trans-European civil society* by engaging Member State-level civil society in EU politics and connecting them across borders during an ECI campaign.
- The ECI has the *potential to improve European legislation and EU policy-making* by offering expertise and information on preferences of Member State-level constituencies to EU legislators.

I – European Added Value

In the following, the concept of “added value” for the EU and its citizens shall provide a yardstick to evaluate the ECI from different angles. “European added value” has become a central and prominent term in contemporary debates, especially with an economic connotation (Rubio 2011). In the context of the EU budget, arguments involving a European added value are often used to justify specific actions and measures suited for EU funding. Thus, the term often describes material, but in recent times also increasingly immaterial, assets for the EU and especially its citizens deriving from common action at the EU-level (Jopp/Tekin 2014). Such assessments are mostly based on a cost-benefit-analysis. As the administrative costs for the ECI are marginal at the EU and Member State-level, the cost analysis is negligible, and the study focusses instead on the immaterial and normative dimensions of European added value.

To allow for an adequate and not only economically-oriented assessment, the study addresses the following dimensions while discussing the added value of the ECI:

- *Political added value:* Is the ECI an instrument that enhances the legitimacy of democracy and increases support for the EU multi-level system? Decreasing support for political systems is not a genuine phenomenon at the EU-level; all levels of the EU’s multi-tiered system are confronted with populism and a loss of trust in the established decision-making procedures. Therefore, increasing the legitimacy of one level by restoring citizens’ confidence in decision-making is contributing to the legitimacy of the whole system. The ECI as a new instrument of political participation addresses an increasing demand for alternative forms of

political participation among citizens, which is hardly satisfied at the national level due to some Member States' reluctance to complement representative democracy with instruments of direct and participative democracy. Opening up such new opportunities for citizens strengthens EU citizenship and contributes to the political added value.

- *Policy added value:* Is the ECI an instrument capable of achieving strategic improvements with regard to policy-making? If EU legislation is improved by the ECI, it clearly provides an added value to the EU and its citizens. Here it is important to keep in mind that Member States or regions in the 21st century are incapable of dealing with certain challenges – such as climate change, tax fraud and tax evasion – evoked by globalisation and modernisation processes on their own. The ECI is of crucial importance for improving EU legislation in these areas, as political participation in dealing with these issues on the national or regional level can no longer result in effective problem-solving, even when the formal competence lies with other levels of the EU's multi-tier system.

Along these two dimensions, the following section discusses five concrete added values which the ECI could, in theory, generate. However, demonstrating the potential of the ECI for such added values does not mean the instrument as it exists does in fact create these values at the current time. The discussion of deficiencies of the current ECI procedure in Chapter 3 will reveal that the potential for added values described in this Chapter has not been made of use to full extent, yet.

II – Potentials Regarding the European Added Value of the ECI

1. Enabling Participation in EU Politics

According to the Treaty on the European Union, the functioning of the EU is founded on representative democracy (art. 10 TEU) and the involvement of Member States' institutions, which was later complemented by several instruments of participatory democracy such as consultations and expert hearings (Art. 11 TEU).⁷ Having already been used before, most instruments gained constitutional status (Art. 11 (1-3) TEU) during the latest revision of the EU primary law (EU treaties) in 2009, while the ECI was newly created and integrated under the provisions on democratic principles of the EU (Art. 11 TEU).

The ECI was intended to allow public participation in European politics. By enabling EU citizens to become politically active and to influence European-level decision-making, it bears the potential to strengthen the political added value for EU citizens and to trigger political mobilisation. If the ECI's potential to bridge the (emerging) gap between citizens and EU institutions is fully exploited in the future, it will help to consolidate the

⁷ For comprehensive overview of EU-level instruments of 'participative governance' see Kohler-Koch/Quittkat 2011; European Commission 2001.

democratic foundations of the EU (European Commission 2015a: 2). It has the potential to strengthen the legitimacy of the EU's political system, in the sense of Vivien Schmidt's concept of throughput legitimacy.⁸ Throughput legitimacy is a performance criterion centred on what happens inside the political system and focuses on the quality of EU governance, including components such as accountability and openness to civil society (Schmidt 2010: 7). The basic assumption is that democratic quality increases with the number of citizens participating in decision-making; inclusiveness is a criterion for democratic quality (Plottka 2012: 336f.). Higher numbers of participating citizens provide more expertise and present a more precise picture of preference distributions. Both of these aspects can generate input legitimacy, which is created when policies reflect the constituency's interests (for details see below). Giving citizens a direct say in EU policy-making contributes to the policy added value. Citizens who have a say in politics are more likely to consider decisions to be legitimate than citizens who were not heard (Plottka 2012: 337). Thus, throughput legitimacy as well as political added value increases with higher inclusiveness of decision-making procedures. The ECI has the potential to increase the inclusiveness of EU-level policy-making with regard to individual citizens and civil society organisations.

First, the instrument addresses individual EU citizens in their role as organisers and/or signatories. Consequently, it broadens the right of political participation, which is closely linked to European citizenship (Kaufmann/Plottka 2012; Plottka/Repasi 2014; Behringer 2016). With regard to changing demands for political participation among EU citizens (from party-based engagement to more issue-oriented instruments), the ECI is an additional EU citizens' right for a new manner of political participation, which citizens of just some EU Member States enjoy on the national and/or regional political level. So far, all nationals of an EU country who are old enough to vote in European parliamentary elections (18 years; except for Austria, where the minimum age is 16) are entitled to organise and support an initiative, regardless of their qualification or memberships in any organisation.

Despite being designed *de jure* as an agenda-setting tool for ordinary citizens with little or no visibility at the EU-level (Angelmayer 2015: 5), past ECIs have illustrated that the current design of the ECI *de facto* enables civil society organisations (CSOs) and European stakeholders to participate (see below). In short, there are three different types of ECIs: citizen-driven, organisation-supported and organisation-driven initiatives (Conrad/Steingrimsdóttir 2016: 117). Among the 27 ECIs registered between 2012 and 2015, the majority were citizen-driven, with little or no involvement from civil society or other organisations. However, not a single one of the citizen-driven initiatives came close to success, pointing to a certain need for organisational help among organisers. Numerous ECIs were also initiated and supported by Members of the European Parliament (MEPs), thus leading to coalitions between established EU-level actors and civil society organisations – notably from the Member State-level – which are new to EU politics (Plottka 2012). Likewise, the rather burdensome ECI procedure gave rise to the suspicion that national or transnational organisations might be favoured over individual citizens. In line with the previous section, experience has shown that ECIs are more

⁸ The ECI's contribution to increasing input and output legitimacy (Scharpf 1999, 2005) is discussed in a later section of Chapter 2.

accessible for organised civil society than ordinary citizens, which points to a certain professionalisation among organisers.

In 2017, the open public consultation by the Commission on the revision of the ECI regulation between 24 May and 16 August, revealed, however, that respondents were mostly individuals (5,199 replies, against 124 replies from organisations; see European Commission 2017b), thus reflecting a great interest in the instrument and the reform process on the part of a non-organised civil society.

Through the ECI regulation, EU citizens were granted two new political participation rights, namely setting up an initiative as a member of a citizens' committee (organiser) and/or signing an ongoing ECI (signatory) (Plottka/Repasi 2014). Collecting statements online and offline allows ECI organisers to widen the outreach of the initiative to internet-savvy citizens (Carrara 2012). Next to the European Parliament and the Council of the EU as co-legislators (art. 225 and 241 TFEU), EU citizens can therefore benefit from a similar political right. It consists in requesting the Commission to propose a specific legal act on matters falling within its competences and – in the case of a successful ECI – obliging the Commission to at least enter into a constructive dialogue with the ECI organisers (Kaufmann 2012: 15). In other words, the ECI permits citizens of the EU Member States to regain rights of political participation on matters they can no longer influence on a national level, as Member States' competences were gradually transferred to the supranational level over the course of European integration (Plottka/Repasi 2014).

Second, political participation rights for organisers and supporters of an ECI might strengthen the vertical tie between the EU institutions and citizens. Hailed as innovative, the instrument is intended to render civic participation more attractive to actors which are not yet established at the European level. Therefore, the ECI has the potential to strengthen the EU's legitimacy by offering more inclusive access to European politics. It could remedy the perceived lack of influence on EU-level decision-making. A political added value of the ECI would emerge if the instrument enables those civil society actors who have not been yet active at EU-level to enter the European political arena (Plottka 2012). However, previous ECIs confirmed that civic inclusion does not necessarily result from a direct reconnection between EU institutions and individual citizens, but rather from an extended circle of CSOs being involved in European politics. Such a dominance of CSOs in the ECI process could also represent an advantage insofar as, through representative claims by CSOs based on aggregated citizens' preferences, such organisations can gather constituencies of EU citizens and activate their citizenship, leading to increased participation and mobilisation. As a positive side-effect, this process could also contribute to a Europeanisation effect on national civil societies (for details see below), resulting in policy added value, if increased inclusiveness contributes to better legislation, as mentioned before.

Based on the idea that democracy requires responsible and democratic individuals using various methods of political participation at the national and European-level, the ECI represents an instrument with high consultative value. It provides EU citizens with an indirect right of legislative initiative and can raise public and political awareness for specific policy issues and participative processes at the EU-level (Angelmayer 2015). It can thus minimise the gap between the impact of European decisions on citizens' everyday

life and the perceived lack of opportunities to actively participate and influence EU decision-making (Behringer 2016: 86). Though the Commissions' exclusive right of legislative initiative remains unaffected by the ECI, it is nonetheless obliged to react by publishing its legal and political conclusions on successful ECIs within three months. Furthermore, the Commission is required to explain the actions it intends or does not intend to take, as well as the reasons for taking or not taking that action (Art. 10 (1) of the ECI regulation).

Finally, a 2016 Eurobarometer revealed that only two thirds of the survey's respondents were aware of their right to participate in a citizens' initiative at that time (European Commission 2016: 5). Citizens familiar with the instrument and their right to participate in an ECI were most likely to be men (69%) between 15 and 24 years of age (70%) who either completed their education at the age of 20 and over (71%) or were still studying (72%) and whose professional occupation was employment (70%) or self-employment (71%). Hence, as knowing the ECI is a necessary condition for participation, there is still a margin for improvement to make the instrument more well-known among EU citizens.

In sum, the ECI has the potential for generating *policy added value* by giving citizens a say in EU policy-making and providing information on citizens' preferences with regard to the proposed policy solution and technical expertise on the subject matter. If the ECI triggers political mobilisation and increases the inclusiveness of policy-making on the EU-level (more citizens and civil society actors participate), it also creates *political added value* by offering a new method of political participation which suits changing participatory demands and by reducing the perceived lack of influence on EU legislation.

2. Reducing the Public Sphere Deficit

Collecting 1 million statements of support for an ECI would not succeed without broad civic transnational discussion and mobilisation. The ECI, therefore, could not only hold the potential to bridge the vertical gap between citizens and the EU institutions through civic participation (see before), but also to provide fora for public deliberation on issues of common concern and to foster European public spheres (Habermas 1962, 1996; Risse 2010), thus creating political added value. Furthermore, a central criticism of European integration, stating that the growing power of EU institutions does not go along with a publicly expressed collective will and that a public sphere is lacking (Gerhards 1993; Conrad 2014), could be remedied by the ECI, too. The latter is also one of the main arguments supporting the general thesis of the democratic deficit of the EU, arguing that the whole political system lacks democratic accountability without a public sphere.

A European public sphere is not to be understood as an homogeneous transnational communicative space with common language, history and collective identification (Grimm 1995; Kielmansegg 1996). Such a concept would be nothing more than a simple reproduction of national public spheres at a European level. It is nowadays widely accepted that European public spheres are first likely to exist (Risse/Van de Steeg 2004; Risse 2010) and second take the form of segmented, Europeanised national public spheres (Eriksen 2005). They can be conceived as polycentric, transnational discourse fora

scattered over the European territory which develop constantly in an ongoing, fluid process and are not confined to any national boundaries (Knaut/Keller 2012). The ECI thus serves as an imaginative platform for information, exchange and participation.

Furthermore, it triggers discussions about the European policy agenda among civil society in different Member States and contributes to transnational will-formation. The ECI, as a cross-border discourse platform, creates a window of opportunity for transnational discussions. Stemming from the pan-European characteristics of the ECI and especially the requirement for citizens' committee members and signatories to reside in at least seven different Member States (Art. 3(2) and Art. 7(1) ECI regulation) as well as multilingual ECI homepages⁹ or the Commissions' ECI website, the instrument can also link several geographically distant discourse communities with one another and facilitate pan-European debates (European Commission 2015a: 2). ECIs might therefore serve as catalysts for emerging European public spheres (Leinen 2012; Conrad 2016). If this is achieved, they would be of crucial importance for the democratic quality of the EU insofar as a central function of a public sphere is to legitimise a given political system by providing throughput-legitimacy for European decision-making. Public spheres are also a prerequisite for input legitimacy (Habermas 1996), for which a congruence between citizens' policy preferences and the actual policy is required. If the public deliberations on subject matters of an ECI provide such input on citizens' policy preferences for EU decision-making, the ECI will create policy added value. That is the case even for unsuccessful initiatives, which do not lead to a legislative proposal by the Commission but have the potential to generate, revive and link transnational discourse. The ECI may, therefore, still be deemed suitable to alleviate the democratic deficit of European decision-making (Conrad 2016; Knaut 2016). Likewise, even if the minimum threshold for collecting statements of support is not met by an ECI, organisers still raise (limited) public awareness for the specific topic of the ECI.

Transnational communication in the framework of an ECI can take place on several levels: On the one hand, discussions may arise on the policy level and be centred on the specific topic of an ECI, e.g. animal testing in the case of "Stop Vivisection!" or privatisation of water for "Water and sanitation are a human right! Water is a public good, not a commodity!" (Right2Water). Such discussions mostly require specific expertise on the topic or a certain level of interest and take place at different stages of the ECI procedure (e.g. registration, campaigning and collection of statements of support).

In addition, public discourse in the context of the ECI is also multi-directional: Prior to the introduction of the ECI, citizens only disposed of limited possibilities to influence EU agenda-setting (Conrad 2016). Since its introduction, citizens are able to be involved in the "democratic life of the European Union" (European Parliament 2015a: 1) and to directly approach the Commission. This can lead to vertical communication between European citizens and EU institutions, in particular during public hearings for successful ECIs in the European Parliament, which have thus far amounted to three.¹⁰ This vertical communication might increase the responsiveness of EU institutions and thus result in political added value and policy added value. With regard to horizontal communication,

⁹ "Right2Water", the first successful ECI, was available in 20 languages.

¹⁰ At the time of writing, the fourth successful ECI is awaiting its public hearing.

ECIs have, moreover, the potential of stimulating public debates and discussions among civil society by addressing topics of common concern. A positive example for both vertical and horizontal public discourse is the ECI “Right2Water”, leading to discussion both within the civil society and EU institutions (Plottka 2016).

Another level of influence of an ECI concerns the mediated public sphere. It comprises media discourse (reporting) on the initiatives themselves as well as communication between different ECI actors (organisers, signatories, opponents, EU institutions) as reflected by different media outlets and channels. Although the ECI “One of Us” represents a counterexample as a successful ECI with low media and public resonance (Conrad 2016), public discourse on the ECI and media attention can interact with each other. On the one hand, campaigning for an ECI and raising awareness to collect a sufficient number of statements of support can be facilitated by media visibility, which may, on the other hand, itself lead to increased media attention (Knaut/Keller 2012; Polchow 2016). Although both aspects are not a necessary key to successful ECIs *per se*, they can at least enhance the ECI’s visibility by taking advantage of various discourse arenas and channels. This assumption also holds true regarding communicative exchange in social media: the social media accounts of some ECIs remained active even after the submission to the Commission and became fora of transnational political discourse, thus creating new and inclusive public spheres. In the case of the ECI “Stop TTIP” inviting the European Commission to stop negotiations in the framework of the Transatlantic Trade and Investment Partnership (TTIP) as well as the Comprehensive Economic and Trade Agreement (CETA), a first attempt for registration was rejected by the European Commission, but gave rise to considerable public attention and discussion before being finally successfully re-registered on 10 July 2017.

Other than mediated public spheres based on mass media discourse, European public spheres might also emerge through active participation and mobilisation of EU citizens, e.g. in social or protest movements (Knaut/Keller 2012). In that sense, the ECI instrument has the potential to promote both inclusive public discourse and active civic participation in the democratic life of the European Union.

In sum, the *political added value* of the ECI would consist in generating and facilitating public debates on matters of European concern and in connecting already existing, but spatially scattered, discursive spaces. As such, the ECI could contribute to fostering transnational European public spheres which are based on various national, cultural, linguistic and historic backgrounds. This will also allow for increasing the responsiveness of EU institutions, which have to justify their decision in the public. If this is achieved, the ECI will, as a consequence, stimulate public deliberation on policy options and create *policy added value*.

3. Strengthening Trans-European Society

As a transnational instrument of civic participation, the ECI does not only bear the potential of linking discourses, but also individuals, across borders. According to the Commission’s report on the application of the ECI regulation three years after its entry

into force, the aim of the instrument consists in “forging links with like-minded people across the continent” (European Commission 2015a: 2). The ECI can strengthen a trans-European society in mainly two ways: first from an organisational point of view when it comes to concrete actions such as networking and campaigning; second from a content-based perspective concerning the ability to assemble like-minded people around transnational issues of common concern and to construct transnational coalitions to set up a citizens’ committee. In addition, the ECI can also influence the perception of a common European identity. All three elements would strongly contribute to creating political added value for EU citizens.

The ECI, given its various legal requirements, could contribute to connecting European citizens across borders and, therefore, to strengthening trans-European society. ECI organisers are required to form a citizens’ committee composed of individuals residing in different Member States (Art. 3(2) of the ECI regulation). This fosters individual contacts across borders and might also enhance a certain institutionalisation of such ad-hoc coalitions later on (Conrad 2011; Knaut/Keller 2012; Leinen 2012). Out of 51 ECIs between 2012 and 2015, eight initiatives have been organised by informal groups of citizens and all of them were registered by the Commission. For instance, an ECI on Ecocide named “End Ecocide in Europe: A Citizens’ Initiative to give the Earth Rights” was launched by a group of people who did not know each other prior to a conference after which they decided to set up an ECI. Having collected more than 100,000 signatures, the Ecocide ECI is therefore a good example of a successful ECI without organisational support from the beginning. The ad-hoc cooperation later became more institutionalised and led to the establishment of an NGO (Foley 2014: 53). As becomes clear in the previous paragraphs, some organisations use the ECI as a catalyst for cross-border coalition and network building, following a so-called “brother in arms”-approach (Kaufmann 2012: 21).

Once the citizens’ committee is established, its members have to agree on both the transnational issue of concern and the goal of the ECI, which requires a common trans-European understanding of the issue at stake through Europeanised meaning structures (Conrad 2016). Before starting an ECI, organisers need to perceive shortcomings and problems in EU legislation and policy-making similarly in order to pave the way for fruitful cooperation across borders. If not, organisers operating in different Member States risk working at cross purposes. Thus, the ECI will contribute to horizontal Europeanisation between societies in different Member States by fostering the diffusion of common meaning structures across borders, so long as citizens’ committees successfully agree on initiatives. Considering the ECI’s potential added value with regard to strengthening European publics as discussed in the previous Section 2 of this Chapter, such potential of Europeanisation effects is not limited to ECI organisers alone, but will also affect signatories and addressees of the ECI campaign. In the long-run, this could also contribute to a gradual Europeanisation of identities and collective identification with other like-minded Europeans. The previously described potential vertical link created by the ECI between EU institutions and citizens might also enable the latter to hold EU decision-makers accountable, which in turn contributes to increased consciousness for EU politics.

On the whole, the potential *political added value* of the ECI concerning trans-European society consists in the possibility of connecting like-minded individuals both across borders and on several levels, in particular with regard to transnational issues of common concern (content). As a by-product of the foregoing, ECIs moreover bear the potential to trigger and foster a certain European consciousness and a feeling of community. Holding EU institutions accountable by making use of the ECI further might create European consciousness among citizens and would increase the *policy added value* of the ECI

4. Strengthening Trans-European Civil Society

In order to raise awareness and collect statements of support from at least 1 million EU citizens in seven different Member States, cross-border networking and collective mobilisation is of utmost importance. Brussels-based umbrella organisations do not possess the necessary resources to complete these tasks successfully. Civil society organisations working “on the ground” and close to citizens are best equipped to campaign for an ECI as they are familiar with local settings. To pass the minimum threshold of signatories for each Member State, national activists have to cooperate and form a coalition for organising an ECI. On the one hand, this can result in the establishment of different actor networks of civil society across the EU and European citizens willing to support an initiative. On the other hand, organisations on a Member State-level which were not active in EU politics before might participate in EU-level politics. The ECI has the potential to grant new actors access to EU institutions, notably the European Commission. In both ways, the ECI has the potential to contribute to the added value of strengthening trans-European civil society and, in consequence, creating political added value. It has even been reported that, sometimes, the objective of ECI organisers did not necessarily consist in the ECI itself; they rather aimed at networking or setting up a formal organisation (Bouza García/Greenwood 2014). As temporary mobilisation and connection of civil society (both ECI organisers and supporters) can lead to long-term cooperation, the ECI bears a clear potential for strengthening trans-European actor networks in particular and civil society organisations in general. For instance, many ECIs were transformed into popular movements once the collection of signatures had ended, which was partly due to technical constraints by the limited 12-month collection period. This also points to ECIs as a springboard for engagement.

Pursuant to the European motto “United in diversity” which describes heterogeneous Member States and civil societies within the EU, the ECI also contributes to bringing different civil society organisations closer together and to assembling them around one topic. By formulating issues of common concern linking European civil society actors with heterogeneous backgrounds, the ECI might not only foster communication and cooperation, but also a sense of common belonging and the awareness of a collective European identity arising from the pursuit of common goals (Risse 2010; Leinen 2012). Considerations on European identity or even identities in the making and the self-perception as a community are closely intertwined with the question of European public spheres and a trans-European society. Transnational will formation as well as common

social activities and collective experiences – be it as organiser or participant of an ECI – might enhance a collective European consciousness in the sense of a community of fate (Risse 2010).

The *political added value* of the ECI in the light of a strengthened trans-European civil society can consist in setting up actor networks of civil society organisations, which may lead to long-term cooperation. Moreover, the ECI's architecture might enable the integration of actors from the Member State-level in European policy-making which have not participated in EU politics before. The ECI could therefore also contribute to further professionalisation, as well as a gradual Europeanisation, of civil society by making them aware of EU politics. Empowering civil society actors to access EU-level policy-making and increasing the inclusiveness of EU policy is also a means to generate *policy added value*.

5. Contributing to Better Legislation and Policy-making on the European Level

In order to assess the extent to which ECIs can – in addition to strengthening the throughput dimension of legitimacy – enhance the democratic legitimacy of European politics and contribute to better legislation, and thus in turn policy added value, it is crucial to understand the definitions of input and output legitimacy (Scharpf 1999, 2005). Input legitimacy can be promoted through political participation by citizens and representation of the people. An essential condition for input legitimacy is that political outputs reflect the citizens' interests, which need to be translated through political systems into outputs. Output legitimacy is best described by a performance criterion focussing on the ability of EU institutions to govern effectively for the people (Schmidt 2010: 6). Achieving input and output legitimacy results in policy added value as policy outputs fit citizens' interests. The functions of an ECI in the process of EU policy-making show how policy added value with regard to input and output legitimacy can be achieved:

First, ECI organisers can use the instrument as an agenda-setting tool, or metaphorically speaking, as an accelerator pedal. The ECI can be a vehicle for putting new issues on the EU's legislative agenda and aims at giving citizens a say in European politics. In most cases, such initiatives are long-term minority proposals directed towards authorities to discuss the issue (Kaufmann 2012: 17).

Second, the ECI can serve as a reactive veto instrument, or metaphorically speaking, as a brake in the short term. Its aim is either to abolish existing legislation or to introduce a new one to block something (Kaufmann 2012: 17f.). The fourth successful ECI "Ban glyphosate and protect people and the environment from toxic pesticides"¹¹ represents the most recent example in this field, calling the Commission "to propose to Member

¹¹ More information on the ongoing examination procedure of the ECI can be found here: <http://ec.europa.eu/citizens-initiative/public/initiatives/successful/details/2017/000002> (last accessed 13.10.2017)

States a ban on glyphosate, to reform the pesticide approval structure, and to set EU-wide mandatory reduction targets for pesticide use” (European Commission 2017).

Third, the ECI can fulfil the function of a valve, aiming at fixing concrete deficits by improving or correcting existing EU law. That is a good example of how the ECI can create policy added value. Setting up a valve ECI is a highly complex process and requires solid legal expertise, sound communication skills and a far-reaching network of supporters. It is therefore evident that different types of ECIs are suited to different goals and types of organisers.

To analyse if the ECI is likely to contribute to better European legislation and policy-making, it is important to relate it to the different types of legitimacy. Regarding input legitimacy, the ECI is a democratic innovation and a considerable step towards providing transnational input for the political process (Chevenal 2016). From a theoretical point of view, ECIs either aim at putting new ideas on the political agenda, blocking controversial legislation or improving and fine-tuning EU-law. Hence, better legislation and policy-making through ECIs are politics inspired by citizens in order to become politics for citizens. The ECI’s potential to strengthen the EU’s input legitimacy over time is undermined by a still relatively-low awareness of the tool among EU citizens (66% according to a 2015 Eurobarometer) which limits its mobilising and legitimising potential.

Given the low number of, to date, four successful ECIs, the issue of the instruments’ general success is questionable. So far, the Commission has only announced a plan to propose a legal act with regard to the “Right2Water” initiative: It plans to revise the drinking water regulation (Plottka 2017). Nonetheless, ECIs can theoretically also fulfil the subordinate function of a “bargaining chip” (Kaufmann 2012: 20), used as an additional tool to influence European politics by well-established groups such as social movements, lobby organisations and political parties.

Another criterion for better legislation and policy-making is the ECI’s addressees. The instrument is directed at individuals and shall reflect policy preferences of ordinary citizens. It shall not be biased either towards certain groups, special interests or a few countries. Impartiality of the instrument is ensured through requirements such as the composition of citizens’ committees and minimum thresholds for signatures per Member State (see Annex 1 of the ECI-regulation). Civil society organisations from the Member State-level supporting an ECI have a wider outreach into the Member States to provide EU-level institutions with information on citizens’ policy preference than EU-level umbrella organisations.

At first, concerns were raised that business lobbyists or trade unions could misuse the ECI as an additional lobbying tool for favourable legislation. Others feared that European parties might use the ECI as a platform to enhance visibility (Hrbek 2012). Indeed, early studies on the ECI found that economic interests were involved in some ECIs, in particular those supported by actors from the health sector (Bouza García 2012: 346). However, worries that ECIs were mostly organised by the “usual suspects”, i.e. political parties or stakeholders based in Brussels, have not proven true during the first years (Bouza García/Greenwood 2014; 2016; Plottka 2012). One reason is that established EU lobbyists also utilise cheaper and more influential ways to influence European policy-making (Bouza García/Greenwood 2014: 188). Given that the ECI regulation does not

necessarily stipulate any legal follow-up to ECIs, powerful lobbyists might fall back upon less resource-intensive instruments (Thomson 2014: 73; Foley 2015: 52). Moreover, the provisions on funding transparency particularly aim at preventing a domination and manipulation of ECIs by lobbyists and private sector interests (European Commission 2015a: 4).

Instead, it was found that new actor coalitions emerged; consortiums composed of national-level or newly created organisations. Taking into account that civil society organisations serve as mediators between EU institutions and individual citizens, their role is to aggregate citizens' interests across borders and to create common European movements (see above). It comes with no surprise that European organisations and above all civil society organisations have been overrepresented among ECI organisers since the beginning (Bouza García/del Rio Villar 2012: 316). This confirms once more that, firstly, infrastructure at the Member State-level as well as expertise and coordination and, secondly, representation at the European-level are indispensable for successful ECI campaigning (Bouza García 2012: 345f.). However, initiatives run by organisers without institutional support are expected to be less successful due to a lack of administration, logistics, experience and contacts. Past ECIs have shown that most initiatives were submitted by individuals, but benefitted from support by political organisations, political parties and interest groups making use of certain organisational and network structures and financial means (Cilo 2014; Plottka/Repasi 2014).

Prior to the ECI, well-established organisations benefitted from economies of scale with regard to influencing EU policy-making. Suffering from a lack of resources and visibility on a European-level, grass-roots CSOs were often disadvantaged and excluded from the process and did not make use of direct access to European institutions. Through the ECI, they benefit from a direct channel to feed their pan-European proposals into the political process and to enter into a constructive dialogue with the Commission and the European Parliament. For well-established organisations, the ECI provides an additional mechanism to access the European Commission.

With regard to better legislation and policy-making, the *policy added value* of the ECI consists first in its various functions as a gas pedal, a brake or a valve to introduce new ideas, block controversial proposals or fine-tune existing legislation. By granting external actors direct access to the European Commission, the ECI could provide equal opportunities for individual citizens and European grass-root movements to shape EU legislation and policy-making along with well-established organisations and business lobbyists, creating a *political added value*.

III – Conclusion

To assess the potential added value of the ECI for the Union and its citizens, two dimensions of added value have been identified, which served as a yardstick in the evaluation of reform proposals: policy added value and political added value. Both categories contribute to achieving the two major purposes of the ECI, which are bridging

the gap between EU institutions and citizens as well as reducing the Union's democratic deficit. How these aims can be achieved has been discussed for both dimensions.

Table 6: Potential Added Values of the ECI for EU Citizens

Concrete added value	Policy added value	Political added value
Enabling Participation	<ul style="list-style-type: none"> • Could provide better information on constituencies' preferences • Could provide technical expertise to EU decision-makers • Could give citizens a say in EU policy-making 	<ul style="list-style-type: none"> • Could trigger political mobilisation • Could increase inclusiveness of EU policy-making • Suits changing demands for political participation • Could remedy the perceived lack of influence on EU-level policy-making
Reducing Public Sphere Deficit	<ul style="list-style-type: none"> • Could foster trans-national public deliberation on ECIs' subject matters 	<ul style="list-style-type: none"> • Could foster European public spheres • Could improve the responsiveness of the EU institutions
Strengthening trans-European Society	<ul style="list-style-type: none"> • Could allow citizens to hold EU institutions accountable 	<ul style="list-style-type: none"> • Could link citizens • Could foster citizens' European consciousness
Strengthening trans-European Civil Society	<ul style="list-style-type: none"> • Could grant civil society direct access to the Commission 	<ul style="list-style-type: none"> • Could link civil society organisations across national borders • Could increase civil society organisations' awareness for the EU
Better Legislation and Policy-Making	<ul style="list-style-type: none"> • Could function as an agenda-setting tool • Could function as a veto instrument • Could function as a valve 	<ul style="list-style-type: none"> • Equal opportunities for different types of actors to participate in EU policy-making

Source: Own table.

Political added value refers to enhancing the legitimacy of the EU and increasing public support for the process of European integration. Table 6 displays a number of ways the ECI could produce this type of added value. They include the possibility of increasing political participation of citizens and organised civil society, which would directly improve the democratic quality of the EU's political system. Giving citizens an additional say in EU politics by a new form of political participation would better suit changing demands for political involvement and has the potential to reduce the perceived lack of citizens' influence on EU-level policy-making. The ECI could also foster European public spheres, which are a prerequisite for EU-level democracy, and in turn improve the responsiveness of EU institutions. Furthermore, the ECI's potential to strengthen trans-European (civil) society by linking citizens and civil society organisations across national borders stabilised the societal basis on which EU-level democracy is built. The common experiences in organising and supporting an ECI could further result in increased European consciousness and awareness for the EU.

Policy added value refers to the ECI potential for improving EU legislation. To this end, the ECI could provide information on the citizens' preferences as well as technical expertise with regard to an ECI's subject matter from civil society. Both types of information would allow for improving EU legislation and would in turn strengthen input legitimacy and output legitimacy of the EU. Input legitimacy will be created when EU legislation is closer to citizens' interests, and output legitimacy will be generated if the EU policy provides better solutions to challenges. Furthermore, the ECI could foster transnational public deliberation on ECIs' subject matters and thus improve the quality of EU legislation.

However, despite a rather theoretical assessment of the ECI's European added value, various EU institutions, civil society activists and researchers agree on the observation that the potential of the ECI's added value in both dimensions has not yet been fully achieved. Further adjustment and a reform of the current ECI procedure is therefore necessary, which will be analysed in Chapter 3.

Chapter 2

Key findings

- Among stakeholders and decision-makers, there is *no agreement on what kind of instrument the ECI is*: Some consider it to be the nucleus for direct democracy on the EU-level, while others regard it to be just another instrument of participative democracy.
- The lack of a common understanding of what the ECI is or should be resulted in *an incoherent ECI procedure*, which constitutes a compromise between actors representing different readings of the ECI.
- In order to fully exploit the potential added value of the ECI for the EU and its citizens, the *EU legislators should clearly define the objective of the ECI and, accordingly, design the procedure* in a coherent way.
- On the basis of the different interpretations of the instrument discussed during the legislative process on the ECI regulation, the two consultations and the recent public hearings, two ideal type functions of the ECI are developed:
 - The ECI could serve a *consultative function* with a focus on improving EU legislation, providing new expertise and involving civil society organisations which are new to EU politics.
 - The ECI could serve a *politicising function*, thus constituting an additional driver of politicisation of EU politics.

I – The ECI – an Instrument *Sui Generis*

In his European Parliament's 2017 draft report with recommendations to the Commission on the revision of Regulation (EU) No. 211/2011 on the citizens' initiative (2017/2024(INL)) for the Committee on Constitutional Affairs (AFCO) (hereafter: the EP's 2017 draft report on the revision of No. Regulation 211/2011), Schöpflin characterises the ECI as being "neither an instrument of direct democracy, nor of representative (participatory) democracy, it is *sui generis*" (Schöpflin 2017: 7, emphasis added). This is a pragmatic approach to deal with the fact that there is no agreement, neither in academic literature nor among civil society or decision-makers, on what exactly the ECI is. Reviewing the debate on the ECI regulation's revision reveals that there are different interpretations of the ECI's character and diverging expectations with regard to its benefits (see Chapter 3). The reason for this is that the wording of Art. 11(4) TEU and the current ECI procedure as defined in the ECI regulation constitutes a compromise between different interpretations of what the ECI's role in the EU political system is or should be. The ECI combines elements of direct and participatory democracy in a unique way and is, therefore, *sui generis* in its nature. These elements represent the different purposes and objectives for which the ECI was established.

With regard to strengthening the ECI's added value for the EU and its citizens, a mixture of different characteristics complicates its reform. For example, a reduction of the EU's public sphere deficit is incompatible with the provision of technical expertise by the means of an ECI. The former added value (reducing the public sphere deficit) can be achieved by politicising EU legislation and simplifying public debates, while the latter (provision of technical expertise) requires a deliberative approach to deal with complex technical details of the dossier in question. Both objectives are mutually exclusive. Thus, not all added values discussed in Chapter 2 can be achieved at once. Nevertheless, here the main hypothesis is that more coherence in the functioning of the ECI is needed in order to optimise the process and strengthen European added values.

Section 3 of this Chapter will show that the current ECI procedure, including the three hearings on successful initiatives,¹² does not constitute a coherent process, but rather a compromise between different ideal types, thus resulting in its *sui generis* character. Subsequently, the debates during the European Convention, the legislative process of the ECI regulation, and the public consultations will be reviewed to show that different expectations exist, implying different and sometimes even contradictory objectives. Based on the review of the different institutional features of the ECI process and the diverse expectations, this study will not argue in favour of one of the interpretations, but rather develop two ideal type functions of the ECI procedure: according to one ideal type, the ECI has a consultative function and adds a new instrument to the European Parliament's and the Commission's existing portfolio of instruments for consulting civil society organisations. The main objective is to receive information about policy problems and interests from (new) constituencies (Beyers 2004). The major added values created by such an ECI procedure are activating citizens and civil society organisations to participate in EU politics and improving EU legislation as discussed in Chapter 2. According to the second ideal type, the ECI is another means to politicise EU politics (Rauh/Zürn 2016). It serves to stimulate public debates and to exert political pressure on EU institutions. The major added value for the EU and its citizens created by such an ECI procedure are contributing to the creation of European public spheres and to reduce the so called democratic deficit by holding the EU institutions accountable. These two ideal types will be used as yard-sticks to evaluate reform proposals for the ECI procedure in the following Chapter 3.

II – Diverging Institutional Features in the ECI Procedure

This section will not discuss all details of the ECI procedure as described in the Introduction, but highlights its most important aspects. In particular, it will shed light on aspects which make it apparent that the process follows different objectives, reflecting different expectations with regard to the instrument's potential for creating added value. These aspects are the role of citizens and associations in the process, the formal

¹² The fourth successful initiative “Ban glyphosate and protect people and the environment from toxic pesticides” is awaiting the Commission's reply by January 2018 and the public hearing has not taken place, yet.

requirements to sign and organise an ECI compared to its limited direct impact, the lack of a direct legal effect even though there is broad support for strengthening the follow-up procedure, and the different formats used for organising the public hearings of successful ECIs.

The right to organise and to support an ECI is formally an exclusive right of “citizens who are nationals [...] of Member States” (Art. 11(4)1 TEU, art. 2(2-3) ECI regulation),¹³ but it is not mentioned in Art. 20(2) TFEU listing the rights citizens of the Union shall enjoy, *inter alia* the right to petition to the European Parliament and to apply to the European Ombudsman.¹⁴ The latter citizens’ rights are not limited to EU citizens but pertain to “any natural or legal person residing or having its registered office in a Member State” (Art. 227 and 228(1) TFEU). Conversely, the ECI is considered as a right exclusive to citizens, which shall not be enjoyed by legal persons.

However, the wording in Art. 11(4) TEU and the ECI regulation only partially reflect the reality of the ECI process. Organising an ECI is a citizens’ right limited to natural persons, but for an individual citizen it is impossible to organise an ECI without the backing of organisations. Therefore, the ECI regulation recognises the need for “a minimum organised structure” (no. 8 ECI regulation). It creates the institution of a “citizens’ committee” to secure the transnational character of initiatives. As the committee has no legal personality, there are practical problems concerning individual liability of committee members, which are discussed in Chapter 3. The current “semi-official” status of the committee exemplifies the duality of the ECI procedure with regard to organisers: on the one hand, it shall be an instrument for citizens to participate in EU politics, on the other it cannot be efficiently utilised by individual citizens, but needs institutional support to be successful. Still, No. 9 ECI regulation underlines that the role of organisations in the ECI procedure is limited to promoting an initiative, whereas the initial draft of the ECI regulation had also allowed legal persons to organise initiatives (European Commission 2010: Art. 2(3) and 3).

A study analysing 27 initiatives provides empirical evidence: it shows that one of the four successful initiatives to date, namely “Right2Water”, was organised by a labour union, while the other three (“Ban glyphosate and protect people and the environment from toxic pesticides”, “Stop vivisection”, “One of us”) were backed by groups of civil society organisations. The majority of unsuccessful or withdrawn initiatives were organised by individual citizens without the support of organised civil society (Conrad/Steingrimsdóttir 2016: 123-125). While legal persons are formally excluded from organising an ECI, their role in the ECI procedure and their importance for the success of an initiative are apparent.

In general, there is a trade-off between focussing on the ECI’s role as a citizens’ right and the instrument’s potential to strengthen trans-European civil society. To that end, the ambiguous role of organised civil society in initiating and running an ECI needs

¹³ Art. 3(4) Regulation No. 211/2011 limits the right to those citizens, who hold the right to vote in European elections.

¹⁴ Art. 24 TFEU mentions the ECI to define the legislative procedure for adopting the ECI regulations, but does not refer to it as a citizens’ right like it does with regard to the right to petition to the Parliament and the right to apply to the Ombudsman.

clarification in order to optimise the added value of the ECI. For streamlining the ECI process with regard to its potential consultative function, the role of organisations in the ECI process needs full recognition in order to make use of their expertise. As long as legal persons only have a supportive function, it is unlikely that they will provide in-depth expertise through an ECI in order to improve legislation. For streamlining the ECI with regard to its potential politicising function, associations' roles can remain limited to supporting ECIs. Nevertheless, the issues of the liability of citizens' committee members (see Chapter 3 for details) needs clarification, in order to enable employees of civil society organisations to start an ECI for which their employer campaigns. But it is not necessary that civil society organisations receive an official role in the ECI procedure.

While the ECI is listed in Art. 11(4) TEU under the provisions on the democratic principles of the Union, the right to petition is only later referred to in the TFEU. Thus, it can be assumed that the ECI should be given a higher status in the Union's democratic life than a petition, but neither an ECI nor a petition has direct legal impact. Both do not infringe upon the European Commission's right to initiate legislation. They are both published in an online register after passing the respective admissibility checks.¹⁵ With regard to petitions, there is no minimum threshold needed for its referral to the Parliament's Petition Committee, which has the objective to reply to all petitions. However, there is no guarantee that the committee will take any of the actions, which are defined in Art. 216 of the Rules of Procedure of the European Parliament. By contrast, an ECI fulfilling the required threshold of 1 million supporters in total and the national quorums in at least seven Member States will be dealt with by the European Commission and the European Parliament in the follow-up process (Art. 10 and 11 ECI regulation).¹⁶ If the Commission decides to take action, this can be followed by a legislative proposal, whereas the Petition Committee or even the European Parliament cannot suggest legislation on their own. They can only appeal to other actors to find a solution to the grievance. This is the major difference between a petition and an ECI regarding their potential impact. However, even in cases of successful initiatives, there is no guarantee that the Commission will become active.

This comparison highlights further incoherence in the ECI procedure in two ways: first, the formal requirements to organise and even support an ECI are quite high in light of its limited impact, compared to a petition. Secondly, while the follow-up process is supposed to increase the impact of a successful initiative, any direct consequences are excluded.

The formal requirements to submit a statement of support are quite high and in order to check whether or not an ECI has sufficient support, the statements have to be verified by national authorities. There was disagreement among the Member State representatives in the Council concerning the formal criteria required to support an ECI. As a consequence, 19 Member States require the provision of a personal identification number or personal identification document number, while eight do not consider this necessary. Some Member States, like the United Kingdom, were in favour of lowering the threshold, as the

¹⁵ The criteria and procedure of the admissibility checks differ considerably.

¹⁶ In cases where an ECI fails to comply with the formal requirements or does not meet national thresholds, the European Parliament's Petition Committee can examine such initiatives in accordance with Art. 218 Rules of Procedure of the European Parliament.

ECI lacks any direct legal effects. Other Member States, such as Austria and Spain, underlined the need to verify the signatories' identity in order to guarantee the equality of EU citizens in the democratic process.¹⁷ Furthermore, the number of 1 million supporters is quite high considering that the ECI is neither a full-scale nor an agenda initiative (Schiller/Setälä 2012: 1), but an agenda-setting tool as outlined above. Other instruments such as the petition and informal ways of setting the agenda are more accessible and promise comparable impact. Thus, the current ECI procedure has either insufficient impact or the formal requirements for a successful ECI and for signing an ECI are too high. In the light of the two ideal types discussed in this chapter, a reform in both directions is possible: reducing the formal requirements for signing an ECI is in line with its potential consultative function. By signing an ECI, signatories show that they support a certain policy solution, which has been proposed by a civil society organisation. For strengthening the politicising function of the ECI, the requirements might be increased under the condition that the ECI's receives more impact. For politicising the debate, formal impact is crucial.

Additionally, the follow-up process is a compromise between proponents of transforming the ECI into an agenda initiative, which would require the representative bodies to deal with the issue (Schiller/Setälä 2012: 1), and the defenders of the Commission's monopoly to initiate legislative procedures. Initially, the wording of Art. I-46(6) Treaty on a Constitution for Europe (formulated during the European Convention by the German federal parliament's representative) followed the wording of what is now Art. 225 TFEU on the European Parliament's right to request the Commission to submit a legislative proposal. While the Parliament will only receive a justification on reasons why the Commission does not submit the requested proposal, the ECI regulation foresees additional follow-up procedures, including the meeting between organisers and Commission representatives and the public hearing hosted by the European Parliament. It is obvious that the procedure came closer to what is an agenda-initiative and has been strengthened compared to the provisions of Art. 225 TFEU. These efforts to create a kind of politically-binding character of the ECI are in line with considering the ECI as an instrument to politicise EU politics. However, it has neither been developed into a full agenda-initiative nor into a full-scale initiative, which is followed by a popular vote. The ECI's current procedure is somehow stuck between the different models.

Furthermore, the procedure of the public hearing in the European Parliament does not follow a coherent concept. According to Art. 211(1) of the Rules of Procedure of the European Parliament, its president assigns a successful ECI to a committee responsible for the hearing, depending on the ECI's subject matter. The petition committee is automatically associated. The committee responsible "shall ensure" that the Commission "is properly involved in organising the public hearing and that it is represented at an appropriate level at the hearing" (Art. 211(2)b Rules of Procedure of the European Parliament). Other "institutions and bodies of the Union that wish to participate", shall be involved in organising the hearing (Art. 211(4) Rules of Procedure of the European Parliament). A representative group of organisers, including at least one contact person,

¹⁷ Interview with a Member State representative who participated in the negotiations in 2010 and 2011.

shall be invited. Other stakeholders may also be invited (Art. 211(4) Rules of Procedure of the European Parliament).

The formal framework as outlined above leaves considerable discretion for the organising committee (see Table 7) to structure the hearing. A comparison of the three hearings which have taken place so far shows that the Commission was represented on the level of Commissioners and Director-Generals in all three public hearings. Also, the organisers had the chance to present their initiative on all three occasions, as required by the ECI regulation. What has changed is that the European Economic and Social Committee and the Committee of the Regions had a formal role only during the first hearing (the Council was absent in all three cases), but not in the later ones. Experts were invited to the third hearing for “Stop Vivisection”, while MEPs and not experts participated as panellists in the hearing for “One of us”.

Table 7: Institutional Participants of Public Hearings on Successful ECIs

ECI	Organising Committee	Associated Committees	Other Participants
Right2Water (2014)	Committee on Environment, Public Health and Food Safety (ENVI)	<ul style="list-style-type: none"> • Committees on Development (DEVE), • Internal Market and Consumer Protection (IMCO), • Petitions Committee (PETI) 	<ul style="list-style-type: none"> • Organisers • Commissioner • Director-General (Commission) • European Economic and Social Committee • Committee of the Regions
One of us (2014)	Committee on Industry, Research and Energy (ITRE)	<ul style="list-style-type: none"> • Development Committee (DEVE) • Legal Affairs Committee (JURI) • Petitions (PETI) 	<ul style="list-style-type: none"> • Organisers • Commissioner • Director-General (Commission)
Stop Vivisection (2015)	Committee on Agriculture and Rural Development (AGRI)	<ul style="list-style-type: none"> • Committee on Environment, Public Health and Food Safety (ENVI) • Petitions Committee (PETI) 	<ul style="list-style-type: none"> • Organisers • Commissioner • Director-General (Commission) • Experts

Source: Own Table based on the agendas of the hearings.

For the first public hearing, neither the agenda nor the organisers followed a coherent strategy. Crosscutting the agenda, three different topics were discussed: (1) the importance of the ECI for European democracy; (2) liberalisation policy in general without referring to the water issue, which was the ECI’s concern; (3) technical details of water policy itself. In sum, the first hearing showed that organisers of the ECI and Commission representatives followed different logics. While some MEPs joined the ECI organisers in the politicised debate on liberalisation, others tried to scrutinise the organisers as experts on water policy. Both logics interfered strongly with each other,

resulting in an unproductive hearing (Plottka 2014). The European Parliament learned its lessons and the third hearing (2015) was organised in the format of an expert hearing, where the organisers of the ECI and a Commission representative had the chance to present their positions at the beginning. This was followed by three rounds: in each of the rounds an expert testified, followed by a question and answer session for MEPs where the organisers had the chance to reply as well. In sum, the discussions were much more technical and there were no attempts to scrutinise the Commission's animal protection policy in general. Still, the audience sometimes showed emotional reactions (applause or booing), which is quite unusual for parliamentary expert hearings.

With regard to the different formats applied so far to the public hearings for successful ECIs, it is obvious that the process is far from being coherent and its objectives need to be defined more clearly in order to better utilise the ECIs potential for an added value for the EU and its citizens. So far, it remains unclear whether the public hearing should stimulate public debates and strengthen the politicising function of the ECI, or whether the hearing should provide the legislators with additional expertise to improve EU legislation and serve the potential consultative function of the ECI. If the latter is the case, the public hearing needs to be transformed into an expert hearing.

III – Differing Expectations towards the ECI

The ECI was included in the draft Treaty establishing a Constitution for Europe during the European Convention. Jürgen Meyer (2003), representative of the German federal parliament, supported by others, submitted an amendment which was included in the draft version of 12 June 2003. He justified his amendment, which was based on the wording of what is now Art. 225 TFEU, by comparing the ECI to the right of petition (see comparison of both instruments before): it "will extend the existing right of petition to a right of the citizens to present legislative proposals to the Commission of the EU" (Meyer 2003: 2). Interest groups advocating direct democracy, such as Democracy International, claimed that the inclusion of the ECI in Art. I-47 of the draft Constitutional Treaty was their achievement (Green European Foundation 2010: 53).

Even though the question on the role of direct democracy in EU law-making did not feature high on the agenda of the Convention, there was nevertheless considerable disagreement. Two aspects of concern were being debated: first, opponents and proponents of direct democracy as a general feature of political systems exchanged their arguments (e.g. Merkel 2014; Montag 2011). While the former feared that giving citizens a direct say in EU policy-making would undermine representative democracy on the EU-level, the latter referred to one of the added values discussed in Chapter 2: they argued that complementing representative democracy with elements of direct democracy would enable citizens to participate in EU decision-making, thus activating them and reducing the so-called democratic deficit of the European Union (Jopp/Matl 2005: 16). Secondly, members of the European Convention discussed whether the Constitutional Treaty should be approved in an EU-wide referendum or not (Jopp/Matl 2005: 16-17). A number of representatives in the Convention feared that populists would try to exploit

the veto power of such referenda to block further European integration (Klein 2016). Advocates of deeper integration strongly opposed any form of direct democracy on the EU-level, considering it an additional veto-player during treaty reforms resulting in “more cautious (less integrationist) treaties” (Hobolt 2006: 160).

Against the backdrop of these debates, the ECI has to be seen as a compromise between the two camps in the European Convention. Some regarded it as a rather weak nucleus of direct democracy on the EU-level, since a more innovative and powerful instrument would not have received approval from the representatives in the Convention. The opponents of direct democracy on the EU-level strongly objected to such an understanding and followed Meyer (2003) in comparing the ECI with the right to petition. It is important to keep this in mind when discussing the ECI reform. If the instrument gives EU citizens a direct influence on policy-making in the near future, it will serve the politicising function. If it is another channel of what Kohler-Koch and Quittkat (2011) called “participative governance” instead of “participative democracy”, it will serve the consultative function. Based on this ambiguous understanding of the ECI during the Convention, there was also considerable disagreement on the nature of the ECI as reflected in contributions to the consultations on the ECI and during the debates accompanying the legislative process on the ECI regulation. Three main elements of the ECI procedure exemplify these different readings of the ECI:

First, the definition of what a “significant number” (Art. 11 (4) TEU) of Member States is, and whether there should be national quorums per Member State allowed for adjusting the threshold for successful ECIs.¹⁸ Some contributors to the debate considered user-friendliness the main objective and proposed to lower the threshold (e.g. Active Citizenship Network 2010: 3). Others underlined the necessity of representativeness of the matters addressed by initiatives. They should be of EU-wide concern or at least relevant to a group of Member States (e.g. The Parliament of the Czech Republic, Senate 2010: 3). While the “user-friendliness” reading considers the ECI simply as an inclusive agenda-setting tool, which should be available to a broad group of users, the “representativeness” understanding implies that successful ECIs are an expression of the people’s will. Therefore, the thresholds need to be high enough to forestall a use of the instrument by groups expressing minority views. If the ECI is considered to be an instrument for marginal positions, it will serve the consultative function by also giving minorities the opportunity to express their interests. If it paves the way for establishing a full-scale initiative on the EU-level in the mid- to long-term future, it will serve the politicising function.

Secondly, the requirements for statements of support have significant influence on organisers’ ability to gather the required number of supporters. In the previous section on the diverging features of the ECI procedure, it has already been mentioned that no agreement could be reached on the signatories’ personal data needed to support an ECI in order to allow for the verification of their identities. During the consultation and the legislative process, even more requirements with regard to collecting statements of support were discussed, e.g. showing up in a public office to support an ECI. One aspect discussed in this respect was a potential increase of bureaucracy (House of Lords,

¹⁸ In the consultation of 2017 this was not an issue at all.

European Union Committee 2010), which should be avoided. The administrative details were also scrutinised with regard to democratic standards, arguing that reliable verification is needed to ensure the equality of EU citizens and the ECI's democratic quality (Müller-Török 2012: 26-27). During the consultation in 2017, there was broad agreement among the contributors that the data requirements need to be simplified and harmonised across the EU (European Commission 2017b: 5). As outlined above, it is important for the reform that the requirements are in coherence with the ECI's impact.

Thirdly, the lack of direct legal consequences of an ECI featured prominently in the debates, as "there is no clear statement on how the Commission—which is the crucial actor in implementing the ECI's demands—envisages the role of the instrument in the legislative process of the EU" (Monaghan 2017). This question was not even mentioned in the Commission's Green Paper of 2009 (European Commission 2009), while the 2017 public consultation for the review of the ECI regulation directly addressed the reform of the follow-up process for successful ECIs (European Commission 2017a). Contributors to the debate discussed the possibility of a binding character for successful ECIs. Acknowledging the wording of the treaty provision which excludes the possibility of establishing any obligation of the Commission to initiate a legislative process, some favoured "a kind of self-obligation" of the Commission to react on successful ECIs (European Citizens' Initiative Office 2010: 17). Before proposing the solution ultimately included in the ECI regulation and discussed in the previous section, the European Parliament (2009) initially called for an obligation of the Commission to host the public hearing. This alternative option, which would have increased the binding character of the European Commission's response, received strong support during the consultation procedure (Mehr Demokratie 2010). Further, in 2017, contributors to the consultation considered the reform of the follow-up procedure necessary. A majority supported the idea of involving the European Parliament and the Council of the EU, before the European Commission publishes its communication on its follow-up actions (European Commission 2017b: 6). Another proposal was to establish a reporting obligation of the Commission to the European Parliament on the steps taken following successful ECIs (Freistaat Thüringen, Staatskanzlei 2017: 3). A more binding character for the follow-up to successful ECIs is the most crucial aspect of the reform, either opting for the politicising or the consultative function of the ECI, as discussed before.

Reviewing the debates during the legislative process on the ECI regulation and the two consultations on the ECI procedure confirms that many believe "the ECI to be a unique model" (The Democratic Society 2017: 1), while there is still no agreement on a more detailed understanding. However, two trends become obvious when the contributions of the two consultations are compared: firstly, probably in light of the modest impact of ECIs on EU decision-making and the low number of successful initiatives, there is a clear trend towards lowering the requirements and facilitating participation in ECIs. That will serve the consultative function, if the reform establishes coherence between low requirements and low impact of the ECI. If low requirements are combined with high impact this will also serve the politicising function. Secondly, there is general agreement that the follow-up process to successful ECIs needs to have a more binding character. Depending on whether this will be achieved through public pressure on the Commission or through organising close contacts and deliberative exchange, the follow up process will either serve the politicising or the consultative function. With regard to the format of

the public hearing, the tendency to transform it into an expert hearing found support in the consultation. This hints at a consultative function of the ECI. However, these slightly converging views on what the ECI currently is and what it should become in the future make it impossible to deduce a clear trend just yet.

IV – Reforming the ECI: Towards a Consultative Instrument or towards Politicising EU Politics?

The review of the current ECI procedure, the format of the public hearings, the debates during the European Convention and the two consultations showed that there is neither agreement on what the ECI is or should be, nor is the ECI procedure coherently designed to achieve specific objectives. Its institutional design reflects compromises between actors who interpret the ECI in different ways. In order to increase the ECI's added value for the EU and its citizens, its process needs to be streamlined. It is not the purpose of this study to decide which objectives should be achieved through ECIs. This decision has to be taken by EU-level legislators. But the study presents two different ideal types of the ECI procedure, defines their respective objectives and describes the logic of how they relate to the EU political system. These two ideal types will serve as a basis to evaluate the reform proposals in Chapter 3.

According to one ideal type model, the ECI is another instrument of “participative governance” (Kohler-Koch/Quittkat 2011) on the EU-level and fulfils a *consultative function* like other instruments such as consultations or stakeholder hearings. What makes it different from these instruments are its trans-European dimension and its outreach in the Member States. To organise an ECI, civil society actors from different Member States have to coalesce and cooperate across borders. EU-level non-governmental organisations based in Brussels do not dispose of the necessary resources to initiate and promote an ECI. Therefore, it is likely that the ECI involves Member State-level organisations which have not been active on the EU-level before. This way, an ECI procedure that focuses on the consultative function will strengthen trans-European civil society and activate associations to participate in EU politics. This outreach into the Member States also encompasses the chance to improve legislation as Member State-level associations can provide expertise and information about political preferences in their respective constituencies which the Commission and the Parliament cannot obtain from Brussels-based organisations. The main objective of the consultative function of the ECI would be a dialogue between these civil society actors and the EU institutions, notably the European Commission. It establishes a direct link between the EU-level and organisations active on the so-called “basis” of society. To achieve these objectives, actors involved in the process have to follow a consensual style of politics, which fits well into traditional EU-level politics (Plottka 2016). As a side effect, such an ECI would also activate citizens and thus strengthen European democracy.

Table 8: Ideal types of the European Citizens' Initiative

Ideal type	Consultative function	Politicising function
Interpretation	Instrument of participative governance	Nucleus for direct democracy
Objective	Organise dialogue with EU institutions	Stimulate public debates
Political style	Consensual	Competitive
Required reform options	<ul style="list-style-type: none"> - Allow organisations to initiate an ECI - Lowering of requirements necessary - Low impact lacking any direct legal effect justified - Organise dialogue with EU institutions - Follow-up process designed as a consultation of experts - Instrument to express also marginal interests 	<ul style="list-style-type: none"> - Exclusive right of citizens - High requirements for signing an ECI justified - High impact with direct legal effect necessary - Increase the binding character of ECIs - Public debate during the follow-up process - Representativeness of interests required
Added values primarily achieved	<ul style="list-style-type: none"> - Improving EU legislation - Strengthening trans-European civil society - activating citizens and civil society organisations 	<ul style="list-style-type: none"> - Creating European public spheres - Reducing the “democratic deficit” - Holding EU institutions accountable

Source: Own table.

According to the second ideal type model, the ECI is part of a recent process transforming EU-level consensual democracy into a more competitive political system. It is another driver of politicisation (Rauh/Zürn 2016) at the EU-level (*politicisation function*). The main objective of such an ECI is to generate public debates on EU policies and thus contribute to strengthening European public spheres (Knaut 2016). By holding EU institutions accountable, the ECI also reduces the democratic deficit of the EU. The ECI is an additional instrument, complementary to EU-level representative democracy, which allows citizens and organised civil society to control EU legislators in between European elections and thus contributes to better governance. Therefore, it follows a competitive logic of politics, which does not search for dialogue with representatives of EU institutions, but scrutinises them. This would force them to become more responsive and also to better explain their policies to EU citizens. In turn, this would further contribute to strengthening added value for the EU and its citizens.

Chapter 3

In light of the identified incoherence of the current ECI procedure summarised in Chapter 2 and the two ideal types for further development of the instrument, the following chapter examines various reform proposals by different national, Brussels-based and European stakeholders, ECI organisers, EU institutions, and researchers. To this end, the chapter presents the state of affairs (1), outlines deficiencies (2), discusses the specific reform proposals addressing these deficiencies (3) and, finally, evaluates proposals (4) with regard to the questions listed in Table 9 for each stage of the ECI procedure and six horizontal issues.

Table 9: Questions for Evaluating the Reform Proposals

- Does the reform proposal solve a deficiency of the current ECI procedure?
- Does the reform proposal contribute to generating added value for the EU and its citizens (see Chapter 1)?
- Does the reform proposal increase the coherence of the ECI procedure with regard to one of the two ideal types (see Chapter 2)?

Source: Own table.

It is important to note that the analysis is solely based on proposals that do not require a change in EU primary law (treaty change), but could be either achieved through amending secondary law such as the ECI regulation or changing the constitutional practice within the framework of existing secondary law (Plottka 2016: 172).

Table 10: Five Stages of the ECI Procedure

- (1) Setting up a citizen's committee,
- (2) Registration of the ECI,
- (3) Collection of signatures,
- (4) Verification of signatures,
- (5) Submission and follow-up actions.

Source: Own table.

The analysis of current deficiencies and related reform proposals will follow the five-stage structure of the ECI procedure, which was described in more detail in the Introduction (see also Table 10). Proposals concerning these five stages are to be examined in Sections I-V. Proposals touching upon horizontal issues will be addressed at

the end of Chapter 3 in Section VI. These horizontal issues include awareness of the ECI instrument, provision of information and advice for organisers, translation of ECIs, funding for organisers, transparency of funding collected by organisers, and the conflict of interest at the Commission.

Table 11: List of Main Reform Proposals Considered for this Study (non-exhaustive)

<ul style="list-style-type: none"> • Anglmayer, Imgard (2015) Implementation of the European Citizens' Initiative. The experience of the first three years. European Parliamentary Research Service. • Ballesteros, Marta/Fiorentini, Sara (2015) Towards a revision of the European Citizens' Initiative? Study for the Directorate General for Internal Policies. Policy Department C: Citizens' Rights and Constitutional Affairs. Petitions. Constitutional Affairs, Brussels. • Ballesteros, Marta/Fiorentini, Sara (2014) European Citizens' Initiative - First lessons of implementation. Study for the Directorate General for Internal Policies. Policy Department C: Citizens' Rights and Constitutional Affairs. Petitions. Constitutional Affairs, Brussels. • Berg, Carsten/Thomson, Janice (eds) (2014) An ECI That Works! Learning from the first two years of the European Citizens' Initiative. Alfter: ECI Campaign. • European Citizen Action Service (ECAS) (2014) The European Citizens' Initiative registration: Falling at the first hurdle? Analysis of the registration requirements and the "subject matters" of the rejected ECIs. • European Commission (2015b) Report from the Commission to the European Parliament and the Council - Report on the application of Regulation (EU) No 211/2011 on the citizens' initiative. • European Commission (2017a) Commission Staff Working Document accompanying the document Proposal for a Regulation of the European Parliament and of the Council on the European citizens' initiative. • European Commission (2017e) Proposal for a regulation of the European Parliament and of the Council on the European citizens' initiative. • Schöpflin, György (2017) Draft Report with recommendations to the Commission on Revision of Regulation (EU) 211/2011 on the citizens' initiative. • REFIT Platform (2016) REFIT Platform Opinion on the submission by a member of the Stakeholder group on the European Citizens' Initiative. 28 June 2016. • The ECI Campaign (2015) The European Citizens' Initiative and the Promise of Participatory Democracy. Report of a 16 June 2015 Conference by the ECI Campaign.

Source: Own table.

I – Stage 1: Setting Up a Citizens’ Committee

1. Current State of Affairs

Pursuant to Art. 3(1) of the ECI regulation, ECI organisers act as individual persons and are required to set up a citizens’ committee comprising at least seven persons residing in at least seven different Member States. MEPs can be members of the committee, but they are not counted in order to fulfil the quorum. The committee is the organiser of the ECI, but does not have a legal personality. Thus, every member engages their personal responsibility and is liable for any damage caused during the organisation of an ECI (Art. 13 ECI regulation). To hold contact with the European Commission, every committee nominates a representative and a deputy.

2. Deficiencies

The lack of the citizens’ committees’ legal status figures among the main criticisms of the current ECI regulation almost since its entry into force, and is widely shared by both EU institutions (European Commission, European Parliament, European Economic and Social Committee, European Ombudsman) and civil society organisations (The ECI Campaign 2015). Acting as individuals and thus with an informal status, ECI organisers can be held personally liable for any kind of abnormality occurring during an ongoing ECI. This may be a deterrent for setting up an initiative in many ways (European Ombudsman 2015, 2017; European Economic and Social Committee 2016). It impedes organisers’ attempts to raise funds (Anglmayer 2015; European Commission 2015; Ballesteros/Fiorentini 2015; European Economic and Social Committee 2016), entails uncertainty regarding the work of numerous volunteers acting on national and local level which manifestly falls outside organisers’ control (Anglmayer 2015; European Parliament 2015a; REFIT platform 2016) and represents a risk concerning data protection, i.e. collection of signatories’ personal information based on different national requirements (Ballesteros/Fiorentini 2015; European Parliament 2015a). In its first report on the application of the ECI regulation three years after it entered into force, the European Commission therefore acknowledged the problems connected to the impossibility to attain a legal personality status as a citizens’ committee (European Commission 2015).

3. Reform Proposals

First and foremost, all examined reform proposals concerning the first stage of the ECI procedure agree on the necessity to establish legal status for citizens’ committees. This

would limit organisers' personal liability.¹⁹ There is a clear consensus in supporting the possibility to establish a legal entity for the purpose of organising an ECI. Some suggest this as an optional feature (Anglmayer 2015; Ballesteros/Fiorentini 2015; REFIT Platform 2016).

Second, proposals by Anglmayer (2015) also include civil liability insurance for organisers, while the REFIT platform and Ballesteros/Fiorentini suggest limiting organisers' liability to cases of unlawful intentional action, fraud and serious negligence (Ballesteros/Fiorentini 2015; REFIT Platform 2016).

Concerning the status of the citizens' committee, the European Parliament's 2017 draft report on the revision of Regulation No. 211/2011 suggests replacing Art. 13 of the regulation in order to alleviate organisers' liability:

"Organisers shall be liable for any damage they cause in the organisation of a citizens' initiative through acts that are unlawful and committed intentionally or with culpable or serious negligence, in accordance with applicable national law."

(Schöpflin 2017: 6)

Two amendments to the draft report further propose to establish the possibility to create a citizens' committee which is a legal entity (European Parliament, Committee on Constitutional Affairs 2017: 52).

The European Commission's 2017 Proposal for a Regulation of the European Parliament and of the Council on the European Citizens' Initiative foresees the citizens' committee to be replaced by a "group of organisers" which would be established under the same legal provisions as the former committee. The European Commission goes further than the EP's 2017 draft report on the revision of Regulation No. 211/2011 by stating that "members of a group of organisers ECI shall be jointly and severally liable [...] for any damage caused [...] by unlawful acts committed intentionally or with serious negligence." (European Commission 2017a: 22). The group of organisers can, if they wish to do so, create a legal entity under a Member State's national law for the purpose of the ECI in order to limit risks of personal liability, in particular regarding data protection (European Commission 2017a: 14). Organisers' liability would be further reduced if they opt for the Commission's Online Collection Software (OCS) which ensures the protection of signatories' data against misuse and interception. As the new proposal contains additional measures to considerably limit organisers' liability during the collection of signatures, the question will be further discussed in Section III of this chapter.

¹⁹ Reform proposals concerning subsequent stages of the procedure (e.g. collection of signatures) are also likely to limit organisers' personal liability.

4. Assessment of the Proposals

In sum, the latest reform proposal by the Commission in its 2017 proposal for a regulation on the ECI echoes previous claims by both EU institutions such as the European Parliament and numerous civil society organisations and ECI organisers. It is therefore obvious that the possibility for ECI organisers to establish a legal entity constitutes a major advancement towards a more user- and especially organiser-friendly instrument. However, the proposal for civil liability insurance has not been taken up in the Commission proposal and the legal entity needs to be formally registered in one Member State.

If the EU legislators agree on the proposed reform granting a legal status to the citizens' committees this should contribute to the ECI's added value by increasing participation, the reduced responsibility of personal liability deterring less citizens from starting a committee. Furthermore, it could strengthen trans-European civil society, since the citizen's committees, once they possess a legal personality, could turn into organisations active on the entire territory of the Union and maybe even beyond the timespan of the initiative. However, leaving the decision over the creation of a legal entity up to organisers is in line with the ECI's status as a citizens' right. The free choice of setting up a legal entity could enhance the added value of the ECI, namely its ability to enable citizens to participate in European politics either as individuals or as organised civil society. Meant to lower hurdles for organisers wishing to set up an ECI, the proposal might help to inverse the decline in the number of requests for the registration of an ECI until 2016 (European Commission 2017b; see also Table 12).

As a consequence and in line with the third EU Citizenship Report from 2017 (European Commission 2017d), the proposal works towards "enhancing citizens' participation in the democratic life of the EU" (European Commission 2017e: 4) as laid down in Chapter 1. By making the ECI more user- and organiser-friendly, the abovementioned reform proposal directly contributes to both ideal types, consultative and politicising function, of an ECI. The reduced burden of organisers' personal liability makes the ECI more accessible for civil society organisations, which can either use it to provide expertise with regard to the ECI's potential consultative function or openly criticise the EU institutions, thus contributing to the politicisation of EU-level politics. While making the ECI more attractive for Brussels based organisations would serve its consultative function, the possibility for ECI organisers to create a legal entity might result in new organisations without prior experience at EU-level. This could serve the politicisation function, assuming that organisations less used to European level politics will act in a more confrontative manner (Plottka 2012). The same can be expected, if legal entities remain excluded from running an ECI, citizens running an ECI are unlikely to be used to EU-level politics. In both cases, allowing for more clarity with regard to the organisers' liability by establishing a legal entity for the group of organisers, the examined proposal of allowing legal personalities to citizens' committees is a step towards a clearer and less burdensome legislation on the ECI, which is coherent with the Commissions' initial aim to bring the EU closer to its citizens.

II – Stage 2: Registration of an ECI

1. Current State of Affairs

In order to successfully register an initiative, the citizens' committee is required to make a request via the Commissions' citizens' initiative website by providing all necessary information listed under Art. 4(2) and Annex II of the ECI regulation (see Tabel 3). The information has to be entered in a dedicated register in one of the official languages of the EU. The Commission is bound to answer a request for registration within two months' time. It shall approve registration and allocate a unique registration number on the condition that (1) the citizens' committee has been formed and its contact person designated; (2) the proposed ECI does not manifestly fall outside the Commissions' powers for legislative action; (3) the ECI is not manifestly abusive, frivolous or vexatious; (4) the ECI is not manifestly contrary to the EU values as set out in the treaties (see Table 4; European Commission 2015c: 18). If these conditions are not met, the Commission is obliged to explain its decision and inform the organisers of possible judicial and extrajudicial remedies available (European Court of Justice 2017).

Once the initiative is registered, organisers can provide descriptions in more than one official language of the Union in order to enhance the instruments' inclusiveness and its accessibility for citizens throughout the EU (see also Chapter 3, Subsection VI.3).

2. Deficiencies

The main deficiency during the registration of an ECI in stage 2 of the ECI procedure is the European Commission's reluctance to register ECIs and the high number of refused registrations. Among 66 initiatives registered since the ECI regulation first was applicable on April 2012, 21 requests for registration were rejected so far (see Table 12). The most prominent example is the ECI "Stop TTIP". It was not registered but collected more than 3.2 million signatures against the Transatlantic Trade and Investment Partnership (TTIP) as an unofficial ECI. The organisers appealed to the European Court of Justice, which decided that the European Commission has to register it (European Court of Justice 2017a). In the case of the ECI "Minority SafePack – one million signatures for diversity in Europe", parts of the initially not registered ECI were registered by the European Commission following a court decision. Only one ECI out of 15 was rejected during the last three years, which shows that the Commission's registration practice in ECIs was a considerable bottle neck in the early years. In parallel, one can also observe a sharp dip in the overall number of requests for registration until 2016. With regard to the reasons for refusing the registration the European Commission refers in its replies in all cases to questions of competences, arguing that the subject matter would require a treaty change, falls outside the competences granted to the EU, or falls outside the Commission's competence to initiate a legislative process.

Table 12: Number of Initiatives Registered or Refused for Registration per Year

	2012	2013	2014	2015	2016	2017	Total
Number of requests for registration ²⁰	23	16	9	6	3	9	66
Number of registered initiatives	16	9	5	6	3	8	47
Number of refused requests for registration	7	7	4	0	0	1	19

Source: Own counting based on the ECI register.

The rather restrictive registration policy of the European Commission represents a central source of disappointment among ECI organisers as underlined by both CSOs and EU institutions:

First of all, the ECI regulation fails to provide further details on the meaning of the “framework of the Commission’s powers to submit a legal act for the purpose of implementing the Treaties” (Art. 4(2)b of the ECI regulation). In particular, the regulation neither defines what kind of ECIs are considered to manifestly fall outside the Commission’s competences nor is there a positive list of topics and types of legal acts that can be addressed. This makes it even more difficult for organisers to identify a valid legal basis, which is crucial for having the request for registration accepted (ECAS 2014; Anglmayer 2015; Ballesteros/Fiorentini 2015; REFIT platform 2016).

Second, most organisers and stakeholders without an extensive background in EU law claim that organising an ECI without any professional legal advice represents a challenge, which considerably limits its prospects for success. As a consequence, nearly 30 percent of all ECIs did not pass the registration stage for failing the legal admissibility check (see Table 12). In its ruling on the ECI “Minority SafePack”, the European Court of Justice (2017b) criticised the European Commission for not providing sufficient details on why the ECI falls outside its competences to initiate a legislative process.

Third, several examinations suggest that the Commission applies a rather restrictive interpretation of its powers with regard to the legal admissibility of ECIs: Its decisions to refuse registration were sometimes inconsistent and arbitrary and thus perceived as unfair by organisers, and the reasons given for rejection were incomplete in a number of cases (ECAS 2014; Anglmayer 2015; European Economic and Social Committee 2016; REFIT platform 2016).

Fourth, further criticism related to the legal admissibility check concerns the refusal to register an entire ECI when only some of its aspects fall outside the Commission’s competences (European Court of Justice 2017b).

While the Commission recognises that the registration stage remains a major challenge for organisers (European Commission 2015a), it also believes that its refusal decisions and a transparent communication policy serve as valuable guidance to ECI organisers

²⁰ ECIs are counted for the year when the decision on its registration was published as the dates when the request for registration was submitted to the Commission is not documented in the ECI register.

(European Commission 2015b). This opinion is in contrast with the criticisms and external assessments presented above. However, in order to provide adequate and useful guidance to ECI organisers, the Commission's registration policy has to be reviewed, including communication after refused registration of an ECI.

3. Reform Proposals

During the first five years of the ECI regulation's implementation, both civil society organisations as well as EU stakeholders presented numerous reform proposals on how to address problems related to the legal admissibility check.

First, it is suggested that the Commission shall define EU competences in the field of the proposed ECI, i.e. clarify the remit of a "legal act" and the political actions it can initiate and undertake. Moreover, the Commission would need to provide an adequate definition of "manifestly outside" its powers which is clear, easily understandable for citizens, and cannot be subject to arbitrary interpretation (ECAS 2014; Ballesteros/Fiorentini 2015; European Parliament 2015a; The ECI Campaign 2015; REFIT platform 2016).

Second, the Commission is being asked to adopt a more facilitative stance during the registration process and to provide legal advice to ECI organisers on identifying a valid legal basis and in framing their proposal (Anglmayer 2015). Other stakeholders from civil society explicitly ask for such advice services to be independent from the Commission in order to prevent a possible conflict of interests (ECAS 2014; see Chapter 3, subsection VI.6).²¹

Third, the majority of the reform proposals for this stage of the ECI procedure concern the Commission's transparency on refused registrations. In its acceptance or refusal letters, the Commission should provide more transparent, detailed and consistent explanation for its decisions to allow or refuse registration (Anglmayer 2015; Ballesteros/Fiorentini 2015; Committee of the Regions 2015; European Ombudsman 2015; European Ombudsman 2016; The ECI Campaign 2016; European Court of Justice 2017b). The European Court of Justice ruled in the case of the ECI "Minority SafePack" that the Commission's decision does not contain "sufficient elements to enable the applicant to ascertain the reasons for the refusal to register the proposed ECI with regard to the various information contained in that proposal and to react accordingly, and to enable the Court to review the lawfulness of the refusal to register." (European Court of Justice 2017b: 33). In particular, the Commission shall provide solutions and better guide organisers by informing them about relevant legal considerations in order to allow for revision and resubmission of an ECI proposal (Committee of the Regions 2015; European Economic and Social Committee 2016).

²¹ A call for tender for "support for the development and operation of a collaborative platform for the European citizens' initiative" has been published in October 2017. The aim of the collaborative platform is to provide independent support for ECI organisers and raise awareness for the ECI. (European Commission 2017g).

Fourth, in order to avoid the rejection of an entire ECI based on some of its aspects falling outside the Commission's powers, stakeholders suggest that the Commission should consider a partial registration of ECIs, combined with the above mentioned proposals on transparent communication on reasons for refusal and possible remedies (European Parliament 2015a; Schöpflin 2017). This is in line with the ruling of the European Court of Justice (2017b) in the case of the refused registration of the ECI "Minority SafePack - one million signatures for diversity in Europe" (European Court of Justice 2017b: 33).

The Commission's 2017 proposal for a regulation on the ECI foresees both an extended time limit for resubmission of ECIs (2-3 months) as well as additional assistance to ECI organisers through a dedicated online collaborative platform. The latter shall complement already existing assistance and information services provided by the Commissions' Europe Direct Contact Centre (EDCC). In this regard, it is important to underline that unlike the EDCC, the collaborative platform shall be run by external partners and thus be independent from the Commission's services and that a call for tender is ongoing at the time of writing (European Commission 2017g). Following up on the ECJ ruling, the Commission's 2017 proposal for a regulation on the ECI plans that organisers may partially register an initiative if a substantial part of the initiative, including its main objectives, does not fall outside the framework of the Commission's powers (Art. 6(4) of the Commission's 2017 proposal for a regulation on the ECI, European Commission 2017e).

4. Assessment of the Proposals

Reforming the legal admissibility check would considerably contribute to rendering the Commission's decision-making process more transparent for ECI organisers and citizens in general. More transparency of the legal admissibility check and more clarity regarding the Commission's motives for refusing to register a proposal would overall result in better governance on the EU-level, thus, reducing the gap between EU institutions and citizens by an enhanced explanation of Commission decisions. In cases of non-registration of ECIs, the organisers can hold the Commission accountable by filing a suit against the decision with the ECJ. If the legal requirements for an ECI are clearer, more initiatives could pass the step of registration and actually reach a stage where the citizens have the opportunity to express their opinion on the matter at hand, which contributes to both increased participation and better governance through more inclusive democracy. Furthermore, a less restrictive registration policy is likely to politicise the ECI and to result in strengthening European publics, as the Commission's gatekeeper role in controlling what topics are addressed by ECIs is further reduced. The ECI "Stop TTIP" is probably the best example. It led to a politicised debate even without being registered. In this respect, a reformed registration procedure will promote political participation, thereby increasing the throughput legitimacy of the EU's political system, and in turn reduce the democratic deficit of EU decision making by politicising EU politics (*politicising function*). By defining the scope of its actions with regard to ECIs, the Commission would activate civil society organisations. Moreover, transparent

communication during the whole registration process would lead to increased prospects for successful registration of ECIs and limit organisers' certain feeling of powerlessness.

However, there are also reform elements for the second stage of the ECI procedure pointing towards the ECI's *consultative function*. The establishment of assistance and information points on ECIs would provide a basis for constructive dialogue between ECI organisers on the one hand and the European Commission on the other. This will support civil society organisations in their ECI-related activities across Member States, and thus strengthen trans-European civil society. By providing feedback for ECI organisers through detailed explanation of reasons for refusal and the possibility to partially register an initiative and/or to amend parts of it, the Commission would adopt a more consensual bargaining style than currently practised and contribute to better legislation.

III – Stage 3: Collection of signatures

1. Current state of Affairs

According to Art. 5(5) ECI regulation, organisers have 12 months to collect statements of support following the registration of an initiative by the Commission. In order to be successful, they need to collect at least 1 million signatures (Art. 11(4) TEU), coming from at least seven different Member States (Art. 11(4) TEU). For each of the at least seven Member States, a national quorum has to be reached. These quorums are calculated on the basis of the number of MEPs from each country multiplied by 750 (Art. 7 ECI regulation). They range from 4,500 signatures in Malta to 72,000 in Germany (Commission Delegated Regulation (EU) No. 531/2014). The signatures can be collected on paper and online. For the offline collection, organisers need to use forms as specified in annex III to the ECI regulation. For the online collection, specific software is required (for details see below in this section). In order to organise and support an initiative, citizens need to be eligible to vote in European elections. With the exception of Austria, where the minimum age is 16, supporters need to be at least 18 years old. To fill in a statement of support, citizens must provide personal information to allow for verification of their identity in a later stage (see Table 2). While 19 Member States require the provision of a personal identification number or the number of a personal identification document, nine Member States do not (see Table 13).

Table 13: Personal Data required for Supporting an ECI

Personal information required	Member States
Full first names	all 28
Family names	all 28
Family names including father's name	Bulgaria
Family names including name at birth	Latvia, Netherlands, Slovakia
Family names including father's name and name at birth	Greece
Permanent residence (street, number, postal code, city, country)	Spain, France, Italy, Austria, Poland, Romania, Belgium, Croatia, Netherlands, Denmark, Estonia, Slovakia, Germany, Ireland, United Kingdom
Permanent residence (only country)	Finland
Date of birth	Greece, France, Malta, Portugal, Romania, Finland, United Kingdom
Place of birth	Luxembourg
Date and place of birth	Italy, Latvia, Austria, Slovenia, Sweden, Belgium, Croatia, Netherlands, Denmark, Estonia, Slovakia, Germany, Ireland
Nationality	all 28
Personal identification number/ identification document type and number	Austria, Bulgaria, Cyprus, Czech Republic, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovenia, Spain, Sweden
Personal identification number/ identification document type and number, including the issuing authority	Italy

Source: Own table based on the ECI regulation.

In order to collect statements of support online, organisers need to set up an online collection system (OCS) on a server based in a Member State, which complies with the provisions of Art. 5 and 12 of the ECI regulation, as well as with further provisions in a delegated regulation (Commission Implementing Regulation (EU) No 1179/2011). Organisers can either program their own OCS or use the one provided by the European Commission. Due to severe problems with implementing the provided OCS in 2011, the Commission provides an implemented version on a server in Luxembourg free of charge, without being obliged to do so by the ECI regulation. Compliance with the data protection requirements specified in the ECI regulation and the "Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data" need to be certified by a national authority of the Member State where the server is based.

2. Deficiencies

The overview on the current state of affairs provided above already points to several problems which both the organisers and those wanting to express their support for an ECI encounter when they want to collect or provide signatures. With regard to the personal information required to sign an ECI, several problems are crucial:

First, the amount and complexity of personal information EU citizens need to provide in order to sign an ECI impedes the support for ECIs due to privacy concerns. It also raises the number of invalid signatures as some citizens fail to provide all necessary data. Thus, apart from obstructing the organisers' ability to attain signatory support, the invalidity of signatures also represents a problem for organisers, as they cannot be sure that they have received a sufficient level of support until all signatures have been verified (Anglmayer 2015: 16-18; Ballesteros/Fiorentini 2015: 35-36; REFIT platform 2016: 7; Committee of the Regions 2015: 6; European Economic and Social Committee 2016: 1-5; European Ombudsman 2017: 3).

Second, the required data differs among Member States. Notably, some require the provision of a personal identification number or the number of a personal identification document (see

Table 13), even though the European Data Protection Supervisor revealed that it is unnecessary for verification purposes (European Data Protection Supervisor 2010: 10). Ten Member States use fewer data for verification than signatories are required to provide (European Commission 2017b: 25). The provision of such sensitive data is a significant obstacle for signing an ECI. Furthermore, the differences between Member States make it harder for some EU citizens to sign an ECI than for others (Müller-Török 2012). Diverging requirements in different Member States also impose a substantial burden on the organisers because they need to ensure that they comply with various sets of national rules.

Third, some national rules only allow EU citizens to sign an ECI in their country of origin, not in their country of residence (Müller-Török 2012; Ballesteros/Fiorentini 2015: 35ff). Particularly citizens living abroad have often not been able to sign in practice (Anglmayer 2015: 18).²²

Fourth, the diverging minimum age requirement has also been criticised: with regard to a lack of coherence, the EU-wide limit not being applied in Austria could be perceived as confusing (Anglmayer 2015: 18f). Some also regard the current age limit of 18 as too high, as this precludes young people from engaging with EU affairs through ECIs.

Fifth, the need to collect and store the large amounts of personal data has serious practical and legal implications for organisers. With regard to the online collection of signatures, organisers face substantial difficulties in finding a hosting provider that is both suitable and affordable, thus resulting in a significant loss of time (Anglmayer 2015: 20-21). Moreover, the fact that the deadline for the collection of signatures starts immediately following the registration of an ECI by the Commission deserves special attention. According to some estimates, under the current rules organisers need at least two months to prepare for the personal information requirements and they need to have the OCS certified by competent national authorities before they can actually start collecting signatures (The ECI Campaign 2015: 6, 11; REFIT Platform 2016: 8f). Consequently, organisers have two options: either they set up the OCS and move for its certification before the Commission published its decision on the registration of the ECI, risking the financial and content-based effort being in vain, should the ECI be refused registration, or they set it up following the registration and lose considerable time for collecting statements of support online. There is, however, a third option: organisers can use the OCS currently provided by the European Commission, but this online system is unsuitable for effective campaigning, as it does neither allow for the collection of emails nor for the customisation of the OCS. It has also been widely criticised that links to social media or a format suitable for access via mobile devices are not available (Anglmayer 2015: 20-21; Ballesteros/Fiorentini 2015: 31ff; The ECI Campaign 2015: 5, 9ff; REFIT Platform 2016: 9f). The latest update of the Commission's online collection software (OSC 2.0.1) includes some improvements in this regard (European Commission 2017h). While the technical burden for the collection of signatures on paper is much lower, it raises

²² “Notably the national British and Irish rules disenfranchise some of their citizens living abroad, either in another EU Member State that does not allow for foreign residents to sign (notably Bulgaria, the Czech Republic, France, Austria and Portugal), or in a third country.” (Anglmayer 2015: 18).

other problems: the forms provided in annex III to the ECI regulation have been characterised as impractical and not user-friendly and the collection also requires more resources at the local level (Anglmayer 2015: 19-20). Finally, the need to store the statements of support on paper is a considerable logistical challenge.

3. Reform Proposals

First, there exists widespread agreement on the need to limit the amount and sensitivity of the data required to the minimum amount necessary for Member States to verify citizens' statements of support and to harmonise personal data requirements across Member States.

Second, EU citizens must have the opportunity to act on their right to sign an ECI independently of their place of residence (European Parliament 2015a: 8; European Economic and Social Committee 2016: 5, 7; European Ombudsman 2017: 2). However, proposals to allow third-country nationals to sign as well (Ballesteros/Fiorentini 2015: 35ff) are very limited and could be problematic with regard to the function of the ECI within the political and legislative processes of the EU. Allowing third-country nationals to sign an ECI would require a reform of Art. 11(4) TEU. That would be a treaty change which all 28 Member States have to ratify according to the national procedures foreseen.

Third, it was proposed to lower the minimum age to 16 throughout the EU. This has also received widespread support and appears in both the EP's 2017 draft report on the revision of Regulation No. 211/2011 and the Commission's 2017 proposal for a regulation on the ECI (European Parliament 2015a: 8; European Economic and Social Committee 2016: 1; European Commission 2017a: 20).

Fourth, concerning the collection of signatures online, Anglmayer (2015: 20-21) suggests that the hosting of the OCS on a Commission server free of charge should be permanent. It should provide a pre-certified "low barrier online ECI tool" (Berg/Thomson 2014: 67), making the OCS more user-friendly—both for signatories and for organisers. Better access for persons with disabilities has also been highlighted as necessary (Ballesteros/Fiorentini 2015: 31ff). Sources largely agree on these deficiencies of the OCS and possible improvements (e.g. Ballesteros/Fiorentini 2015: 26-27, 31).

Lastly, some proposals suggest that organisers should have at least twelve full months to collect statements of support or to extend the time span to 18 months, or even to an unlimited time span (Ballesteros/Fiorentini 2015: 36, 48; The ECI Campaign 2015: 6, 11; REFIT platform 2016). Giving the organisers the possibility to decide on the start date themselves (Schöpflin 2017: 5), while maintaining the one year period would have significant positive impact if combined with more streamlined ECI requirements and online resources for the collection of signatures provided overall.

In its 2017 proposal for revising the ECI regulation, the Commission recommends to harmonise the personal data which are required for supporting an ECI. It proposes two models, one for states requiring the provision of a personal identification number and one for states that do not require the provision of an ID number. In countries opting for

the former model, signatories have to fill in their first name(s), family name, the last four characters of their ID number and the type of ID document they use. In countries opting for the latter model, signatories have to give their first name(s), family name, address and date of birth. This is more organiser-friendly, because it simplifies the forms and reduces the amount of personal information required. In order to give every EU citizen – wherever he or she resides – the chance support an ECI, the Commission furthermore proposes to use nationality as the only criterion for deciding which Member State has to verify a signature. This would require countries like Ireland to establish verification mechanisms for nationals residing outside the country. While nationals residing outside the EU could also sign an ECI, in some Member States only nationals who declared their move abroad to the authorities will be able to support an ECI. The Commission also adopted the proposal to lower and harmonise the minimum age for signatories of ECIs at 16. This would raise awareness about the EU and increase participation in the democratic debate at EU-level, especially among the younger generation (European Commission 2017a: 23). In addition, the Commission proposes a single and central online collection system permanently hosted on a Commission server which includes the opportunity to collect email addresses (European Commission 2017a: 26). Costs shall be borne by the general budget of the EU. Notwithstanding, ECI organisers will still have the possibility to use their own online collection system if preferred and to choose the Member State in which the data will be stored and which national authority is responsible for certification. The proposal also foresees to abolish the automatic start of the collection period following the registration by the Commission. It proposes to allow organisers to set the starting date within a deadline of three months after the registration (European Commission 2017a: 37). Thus, the organisers should have enough time to get the online collection system certified, if they do not opt for the software hosted on the Commission server (European Commission 2017a: 34).

4. Assessment of the Proposals

The EU-wide harmonisation of the personal information which signatories are required to provide for statements of support could reduce the confusion and high amounts of invalid signatures currently associated with the patchwork of regulations concerning the data provision. By decreasing the barriers to political participation, harmonising and lowering the amount of personal data required would greatly increase the added values generated by ECIs: it would considerably facilitate citizens' political participation and using the possibility to influence EU-level decision-making. Enhanced political participation and the perception that this is made as organiser- and citizen-friendly as possible on the part of the EU could increase support for the EU multi-level system and build trust in the EU institutions. More direct political participation on the EU will directly turn into more awareness for EU-level politics among citizens.

In addition, if due to harmonised requirements, all EU citizens have equal opportunities to sign ECIs, European institutions will receive a better picture of the level of support present among the population, which could contribute to better governance and input legitimacy. Especially if increasing support for ECIs throughout the EU goes hand in

hand with more scrutiny of European politics (holding EU institutions accountable) and thus reduces the EU's democratic deficit.

This also applies to the divergences which currently make it harder for some citizens than for others to support an ECI – precluding an estimated 11 million citizens from signing an ECI in their country of residence altogether – raise concerns regarding the democratic legitimacy of the ECI. If ECIs are understood to have a consultative function, this problem is not as severe as if the ECI is considered a politicising instrument. If the ECI should serve the aim to politicise the European electorate, then equal opportunities for those eligible to sign are absolutely necessary. While Member States' concerns with regard to the verification of signatures are understandable, current thresholds are unnecessarily high. Thus, as long as the ECI has no direct impact on legislation, harmonising and lowering the amount of personal data required for statements of support is crucial towards a more coherent ECI procedure as outlined in Chapter 2 and in order to strengthen the politicising function of ECIs.

Whether an ECI should serve the consultative or the politicising function within the EU, there are good reasons to lower the minimum age requirement to 16. This would not only harmonise the rules throughout the EU. By engaging young people in EU affairs at an early age, it could furthermore foster political participation and increase their European consciousness. This would be a further asset for the political added value generated by ECIs, especially since the content of past ECIs was highly relevant for younger generations, pertaining to education, jobs and the environment (The ECI Campaign 2015). As there is also on national and regional levels a debate whether the minimum age for political participation should be lowered (e.g. for national elections), the ECI would even more suit changing expectations with regard to political participation.

If the OCS for signatures provided by the Commission becomes more user-friendly, it could facilitate political participation. In addition, email addresses collected through an OCS with the permission of the signatories would allow organisers to mobilise support more easily. This way the ECI can better contribute to strengthening trans-European society as citizens can easily participate in EU politics and connect with other citizens as well as civil society organisations. Mobilisation efforts, in turn, would also help to transcend national boundaries and increase transnational communication, thus contributing to the development of European public spheres (Leinen 2012; Conrad 2016).

IV – Stage 4: Verification of Signatures

1. Current State of Affairs

Currently, all statements of support (on paper or electronically) collected by the ECI organisers have to be sent to the Member States' authorities, where they are verified within three months. The national authority certifies the total number of collected statements of support for this Member State. These checks are carried out in accordance with national legislation and may consist of random testing, as used for many national

citizens' initiatives. The possibility of random testing lowers the administrative burden on national administrations (European Commission 2017b: 24).

2. Deficiencies

There is limited experience regarding the verification of signatures on statements of support, simply due to the fact that so far only four initiatives reached this stage. Nevertheless, some deficiencies have appeared:

First, in all those cases, a high number of signatures were in the end declared invalid, so that a margin of up to 20 to 25 percent above the required amount seems to be necessary to pass the threshold of 1 million statements of support. In one case (the ECI "Stop Vivisection"), some Member States even failed to certify statements of support (Anglmayer 2015).

Second, difficulties in decrypting online signatures for verification had been reported (Ballasteros 2014: 45), but seem to have been resolved in the meantime, as well as administrative challenges related to signature verification (The ECI Campaign 2015: 9).

Third, some national authorities regret the lack of a unified procedure for the verification of statements of support, as some use random sampling and other verify all of the signatures, and claim that it would be difficult to use online collection software not provided by the European Commission (2017j).

It is important to underline that the phase of signature verification has so far not been a main obstacle for ECI organisers. However, it is unclear how much of an issue it could become with an increased volume of ECIs.

3. Reform Proposals

First, proposals for improving the procedure of signature verification include providing a single collection point, as well as using software for verification of signatures on both paper and online forms (The ECI Campaign 2015: 9). According to the EP's 2017 draft report on the revision of Regulation No. 211/2011 (Schöpflin 2017: 5), an online collection of statements of support through a "free Commission-run centralised online collection system" would facilitate the checking of those statements by national authorities. Electronic signatures would allow for electronic verification and the chances for validation of electronic signatures are actually higher (Ballesteros/Fiorentini 2014).

Second, the Commission claims in its 2015 report to European Parliament and Council that there are no difficulties regarding verification and that there are no significant discrepancies in the results between Member States using random sampling and those verifying all the statements of support (European Commission 2015b: 9). This is important as verification mechanisms should remain proportionate to the nature of the

instrument and should not create an unnecessary burden on the national authorities (European Commission 2017b: 24).

Third, the Commission points out that it has developed a validation tool under the ISA Programme²³, but that so far, only a few Member States have actually made use of this tool (European Commission 2015a).

The Commission's 2017 Proposal for a Regulation on the European Citizens' Initiative, however, does not foresee any change in the scope of the verification to be carried out by the Member States (European Commission 2017a: 25).

4. Assessment of the Proposals

The topic of signature verification does not seem to be essential to the ECI's added value at this point. Nevertheless, to ensure legitimacy and credibility of the ECI, and thus the EU institutions and procedures, a certain degree of verification is necessary.

However, the administrative burden and the obstacles for ECI organisers caused by the verification procedure have to be balanced with the ECI's impact on EU policy-making. While the idea of switching to a purely electronic or online mode of collecting statements of support might facilitate the process of signature collection for initiators and the process of verification for national authorities, it could impede the added value of the ECI with regard to increasing citizens' participation, as groups of the population who are less internet- and tech-savvy might be excluded from the vote.

Furthermore, the high percentage of statements of support which were declared invalid could cause incomprehension and resignation among ECI organisers and supporters alike. Potentially, this could result in decreasing political participation, if ECIs do not pass the quorums, but only nearly reached them because genuine statements of support were declared invalid due to missing information the signatories were not ready to provide. Therefore, reform proposals to deal with unsuccessful ECIs that received significant support are discussed in Section V of this chapter. But especially with regard to the politicising function, it is important that the exclusion of signatures has to be well justified, above all if the verification process leads to national quorums not being met. For a purely consultative type of ECI, it seems unlikely that the verification process would decrease the added value of an ECI. However, for the consultative function of an ECI the verification is less important than for an instrument aiming at the politicisation of EU politics.

²³ Interoperability Solutions for European Public Administrations Programme.

V – Stage 5: Follow-up Process

1. Current State of Affairs

Following the certification of collected signatures per Member State, the organisers have to submit the form in annex VII of the ECI regulation and copies of the certificates issued by the national authorities to the European Commission (Art. 9 ECI regulation). The form includes information on the ECI (title, registration number, and registration date), the number of collected statements per Member State, the contact details of the contact person from the citizens' committee as well as required information on the funding for the initiative. The regulation does not define a deadline for the submission of the form.

When the Commission receives information concerning a successful ECI, according to Art. 9 ECI regulation, it has to publish the ECI in the register on its website without delay. After the publication, the follow-up process contains three other elements: a reception of the organisers by the European Commission, a public hearing hosted by the European Parliament and a communication by the European Commission. The latter has to be published within three months following the submission of the information to the Commission. The reception and the hearing have to take place before the Commission publishes its communication.

The reception of the organisers by the European Commission shall take place at an appropriate level and give the organisers the chance to present the ECI in detail. It is up to the Commission to define what level it considers as appropriate. So far, the organisers of those three ECIs for which the reception has taken place were received by Commissioners. The meetings and public hearings were organised on the same day.

The public hearing is hosted by the European Parliament, but the European Commission has to be represented at an appropriate level (Art. 11 ECI regulation). In the three hearings which were organised until the time of writing, this was at Commissioner and Director-General level. According to Art. 11 ECI regulation, other institutions and bodies of the Union can participate. Art. 211 Rules of Procedure of the European Parliament also allows for inviting other stakeholders. From the side of the ECI organisers, a representative group, including at least one contact person from the citizens' committee, shall be invited. Depending on the ECI's subject matter, the President of the European Parliament assigns the ECI to one committee which is responsible for organising the public hearing (Art. 211 Rules of Procedure of the European Parliament). The Petition Committee is automatically associated. In case there are two successful ECIs on the same subject matter, the Parliament can organise a joint public hearing.

Finally, the European Commission has to publish a communication, which sets out the Commission's legal and political conclusions concerning the ECI, describes the course of action to follow, if it intends to take any, and provides the reasons for doing so. If the Commission issued a positive opinion and sets out measures it intends to take, but fails to propose a legal act within twelve months after the date of publication, Art. 211(8) Rules of Procedure of the European Parliament enables the responsible committee to organise another hearing in cooperation with the ECI organisers. The European

Parliament may also make use of its right to request the European Commission to make a legislative proposal on this issue, if it failed to do so.

2. Deficiencies

First, the general deficiency with regard to the follow-up procedure of the ECI process is that the European Commission is not obliged to act, despite having to take successful ECIs into consideration, as described in Chapter 2, Section II. A successful ECI does not lead to any direct legal consequences, but even in the mid- to long-term perspective, there is considerable uncertainty as to whether the ECI will lead to any policy changes at all. All measures following a successful ECI, as defined in the ECI regulation and the Rules of Procedure of the European Parliament, aim at increasing the binding character of an ECI, but do not touch upon the Commission's exclusive right to initiate a legislative process at EU-level. This lack of direct consequences leaves the ECI potential unexplored and could undermine citizens' trust in EU institutions.

The reasons of concern with regard to these potential negative results of the Commission's response to successful ECIs are twofold: on the one hand, ECI organisers evaluate the Commission's response against their own expectations, which are in most cases much higher than what the Commission can deliver at best. On the other hand, the communications have been criticised for a lack of clarity and details on the Commission's planned action (Ballesteros/Fiorentini 2015: 40-47). Furthermore, there is a considerable time span between the publication of the communication and the actions taken later on (Plottka 2017). The ECI "Right2Water" serves as such an example: It was successfully completed in 2013 but the Commission published its communication in 2014 (European Commission 2014b). One of its consequences, the revision of the drinking water directive only started in 2017, three years later (European Commission 2017c). At that point in time, there was hardly any remaining interest in the initiative.

Second, further criticism is addressed to the public hearing hosted by the European Parliament for lacking experts, time and reimbursements, and having unclear purpose and structure. In response to those problems, which became obvious during the first hearing for the ECI "Right2Water", the agenda of the following hearings were already adapted. Directed towards the consultative function of the ECI, the hearings were adapted to the structure of expert hearings in the European Parliament. In the next hearing on the ECI "Stop Vivisection", experts on the subject matter of the ECI were then present. Their absence had been criticised before (European Commission 2015a). However, there is still no clarity about the exact purpose of the public hearing as well as its structure (Plottka 2016). Considering the exchange between organisers and MEPs as an objective of the hearing, the agendas of the previous three hearings have been criticised for a lack of time for such an exchange with the deputies (Ballesteros/Fiorentini 2015).

3. Reform Proposals

First, with regard to the necessity to reform the follow-up for successful initiatives, there is broad consensus that the binding character of the ECI needs to be strengthened. This would be a step towards the politicisation function of the ECI. However, direct legal consequences, such as an automatic start of a legislative process, cannot be established in secondary law, as they would require treaty changes. Therefore, most of the proposed reform options aim at a deeper involvement of the EU institutions, in order to strengthen their political obligation to deal with successful ECIs. Some reform proposals express the idea that the Commission should become active within 12 months, if it agrees with the aims of an ECI (European Economic and Social Committee 2016: 1). Setting such a timeframe would ensure a timely response as a direct response by the Commission. Even if there is no immediate legislative consequence to the ECI, the organisers and subscribing citizens will have been heard and taken seriously. This might in turn motivate more citizens to use their right to start an ECI, thereby improving participation and improving the citizens' trust in and understanding of EU institutions. But it has already been mentioned that secondary legislation cannot touch upon the Commission's monopoly of initiative.

To ensure that the subject matter of an ECI remains on the political agenda after the end of the ECI process, an expert group which advises the European Commission on possible actions to take would be a useful instrument (Ballesteros/Fiorentini 2015: 40-47). Allowing the European Parliament to request from the European Commission an assessment of the current legislation in the respective field would also ensure a continued political debate. The Parliament should act by a plenary vote, if it supports the objectives of an ECI and the Commission remains inactive (Ballesteros/Fiorentini 2015: 43). Apart from establishing new procedures following a successful ECI, it has also been proposed to define standards for the communication of the Commission according to Art. 10(1)c ECI regulation. These standards should secure a clear, transparent and honest communication (The ECI Campaign 2015).

Second, the European Parliament's role in the follow-up to successful ECIs has been widely discussed. There is broad consensus that it should have a stronger role than before (Anglmayer 2015: 30) in order to exert political pressure on the European Commission to act (Committee of the Regions 2015: 29). One reform option is to establish an obligatory plenary debate on successful ECIs, possibly followed by a vote on a resolution (Schöpflin 2017: 6; Anglmayer 2015 30; European Parliament 2015a: 8-9). The Parliament could be enabled to formally request the Commission to act, if it fails to do so (Ballesteros/Fiorentini 2015: 40-47). However, Art. 225 TFEU already offers this possibility, while a binding request cannot be established in the framework of secondary law.

Third, the public hearing on successful ECIs is also part of the reform debate, as researchers and stakeholders agree that neither its aim nor the structure of the hearing are clear (Plottka 2014; Ballesteros/Fiorentini 2015: 40-47). A reform could either be directed towards establishing a kind of expert hearing to serve the consultative function

of an ECI,²⁴ or towards making the hearing more public and controversial in order to contribute to the politicisation of the political debate and to exert pressure on the European Commission. The legislator has to opt for one of the two directions to clarify the purpose of the public hearing. For both options, it is necessary to allow more room for dialogue between the MEPs and the relevant Commission officials (European Parliament 2015a: 8-9). The schedules of the past hearings were very tight and hardly allowed for real dialogue, which was limited to the presentation of statements. More time would change this. Another reform option discussed is a more inclusive hearing (Committee of the Regions 2015: 29), but including more speakers would have a contrary effect and allow for less real dialogue. One idea is to invite different stakeholders, who are in favour and against the ECI proposal (European Commission 2015b: 3-4). That would contribute to the politicisation function of the ECI as debates during the hearing would become more controversial. On a more technical level, it has been proposed to assign the task of organising the public hearing to a neutral committee, such as the European Parliament's Committees on Constitutional Affairs (AFCO) or on Petitions (PETI) (The ECI Campaign 2015), in order to enable equal participation of all representatives. This proposal clearly hints towards an understanding of the ECI as an instrument to politicise EU-level politics, as expert hearings are better organised by committees working on the subject matter.

Fourth, the Committee of the Regions has called for an "improved ex ante assessment [of ECIs] to avoid disappointment at the end" (Committee of the Regions 2015: 29). In addition to the current formal assessment of ECIs prior to their registration, this would require an additional political assessment by the Commission, indicating whether it is willing to take the initiative or not, should the thresholds be passed. This could increase the agenda-setting function at an earlier state, as it could inspire the Commission to consider a subject matter much earlier.

Finally, there is disagreement on how the European Parliament should deal in the follow-up process with unsuccessful ECIs or with initiatives which attracted considerable support but nonetheless failed to comply with all quorums. On the one hand, it could debate about their subject matters in the plenary instead of enabling just the European Parliament's Petitions Committee to deal with them (Art. 218 Rules of Procedure of the European Parliament; Ballesteros/Fiorentini 2015). On the other hand, it has been proposed that the European Commission should develop appropriate forms to respond to unsuccessful ECIs (Committee of the Regions 2015).

The Commission's 2017 proposal for a Regulation on the ECI sets out a time limit of three months for organisers to submit their successful initiative after the last certificate from a national authority has been obtained. While the rules determining the Commission's response are seen as efficient and proportionate, the proposal contains elements aimed at a balanced representation of stakeholders in the public hearing, reinforcing information to other EU institutions and bodies, and enhancing public debate and participation. Furthermore, in order to enhance the dialogue between EU institutions and ECI

²⁴ The public hearing in European Parliament for the ECI "Stop Vivisection" points in this direction as discussed before.

organisers, the examination period was extended from three to five months (European Commission 2017a: 40).

4. Assessment of the Proposals

In order to develop the ECI into an instrument that strengthens political participation on the EU-level, it is necessary to reform the follow-up process.

Those reform options that seek to engage the organisers of an ECI in this process – such as establishing an expert group to advise the Commission, to provide more time to discuss the subject matter with MEPs and representatives of the Commission – will make political participation more attractive for citizens as their voices are at least heard. In addition, there are reform options that aim to require the Commission to take actions if an ECI is successful. Making ECI organisers part of an expert group could strengthen European civil society as they would be directly engaged with European politics, and the trans-European citizen's committees could continue their activity beyond the collection of signatures. Their continued (public) engagement in the political agenda and policy area could also contribute to reducing the public sphere deficit, through continued civic transnational discussion and mobilisation.

Especially the proposal to establish a plenary debate in the European Parliament and the idea of allowing the presence of various stakeholders with different opinions in the public hearing would contribute to broader participation and reducing the public sphere deficit in the European Union (see Chapter 1 Subsection II.2). Furthermore, any of the measures securing Commission action would also contribute to this added value, as these steps would potentially be accompanied by public debates at least in the expert publics relevant to the respective subject matter. These reform options would serve the ECI's politicising function.

Therefore, the establishment of an expert group advising the Commission, the assessment of the current legislation by the Commission,²⁵ and the broader participation of stakeholders are reform options that can strengthen trans-European civil society, by prolonging the citizens' committee's activity beyond the time frame of signature collection. These measures would primarily serve the consultative function.

Especially the assessment of existing legislation²⁶ on the subject matter of a successful ECI, but also the establishment of an expert group advising the European Commission and giving more time for real dialogue during the hearing will improve legislation and policy-making on the EU-level by including more expertise from civil society. Whether broader participation in the public hearing will contribute to better legislation depends on the reform objective: If the public hearing will be developed into an expert hearing,

²⁵ This will contribute to strengthening trans-European civil society if the Commission consults civil society organisations during the assessment.

²⁶ The idea of establishing regular reviews of current legislation is independently from the ECI context discussed as an instrument to improve legislation.

this is most likely the case. If the public hearing becomes more politicised, e.g. by including more controversial positions, this will not necessarily be the case.

With regard to the two functions of an ECI—the consultative and the politicisation function—it is obvious that the discussed reform proposals point into different directions. On the one hand, the expert group to advise the Commission, the assessment of the current legislation, and developing the public hearing into an expert hearing will strengthen the ECI’s consultative function. On the other hand, a plenary debate in the European Parliament, broader participation of stakeholders holding controversial views in the public hearing and any reform aimed at politically, but not legally obliging the Commission to act following a successful ECI, will strengthen the politicisation function.

VI – Horizontal Issues

1. Public Awareness of the ECI Instrument

Currently, many EU citizens do not know about the ECI’s existence. A 2016 Eurobarometer survey revealed that only two-thirds of the respondents were aware of the ECI (European Commission 2016: 5). This generally low public awareness of the tool is obvious amongst citizens as well as media professionals and even national-level institutions (Anglmayer 2015: 9; Committee of the Regions 2015: 4; European Economic and Social Committee 2016: 1-2). Even in the Commission’s 2017 public consultation on the ECI, 37 percent of the respondents had never heard of the ECI before. This leads to the fact that campaigners for specific ECIs not only have to promote their own project, but also explain the ECI as a whole (Ballesteros/Fiorentini 2015: 23).

For this reason, many proposals have been made in order to raise public awareness about the ECI, including EU-wide communication and campaigns organised by EU institutions and national authorities amongst others using the Commission representations and including regional and local authorities, as well as providing improved information about ongoing ECIs, e.g. through press releases (Anglmayer 2015: 9; 29; European Parliament 2015a: 5; Schöpflin 2017: 6, Committee of the Regions 2015). Furthermore, it has been proposed to create “Citizen’s initiative centres” or contact points in Member States, where organisers can obtain support in a “one-stop-shop” – physically or online (European Economic and Social Committee 2016: 1, 2, 4; Ballesteros/Fiorentini 2015: 23).

The assessment of a lack in public awareness is also shared by the Commission in its 2017 proposal for a regulation on the ECI, which included an obligation to promote the instrument in its legislative proposal (European Commission 2017a: 31). Furthermore, the planned collaborative platform, for which a call for tenders has been published in October 2017, aims at promoting the ECI (European Commission 2017g).

If EU citizens, who are the addressees of the ECI, are not aware of their rights to start or sign an ECI, this seriously impedes its functioning as either a politicising or a consultative instrument. The added value of enabling participation in EU politics can only be

achieved, if citizens are aware of their right to organise and support an ECI. If there are just very few ECIs, their added value of contributing to better legislation and policy making on a European level is not up to its potential. Lacking awareness also makes reaching the 1 million signature threshold as well as the national quorums difficult.

In short, none of the ECI's potential added values can be fully reached, without generating considerable awareness among citizens. This is generally the case for both a consultative and a politicising function of the ECI, but is more relevant for strengthening the politicising function of the ECI.

2. Information and Advice for ECI Organisers

At the moment, the complex rules and procedures of the ECI are perceived as excessively burdensome for ECI organisers (European Commission 2017j), especially regarding the technical aspects of the ECI process and administrative procedures (Anglmayer 2015: 10; 29). This makes managing an ECI extremely difficult for individual citizens without external professional or financial support (Committee of the Regions 2015: 5).

There is, therefore, a general demand for more support and advice to the organisers in both the preparation phase of the ECI and in rewriting the documents required to register an ECI with the European Commission (see Table 3). However, proposals consider different institutions as useful providers of expertise on the ECI. Propositions include dedicated "ECI support centres" newly established in representations of the Commission in the Member States (Anglmayer 2015: 29). The European Economic and Social Committee already voluntarily offers an "ECI helpdesk" (Dialer 2017). Also "citizen's initiative centres" as a "one-stop-shop" have been proposed (Ballesteros/Fiorentini 2015: 17-20) and will become reality in an online version, when the pilot project of the collaborative platform is established in 2018 (European Commission 2017j). There is a wide agreement that the creation of an independent body to provide this advice to organisers is useful (e.g. European Ombudsman 2017: 2), because the European Commission faces a conflict of interest while providing advice. While on the one hand, the Commission has an interest and an obligation to promote the ECI, on the other hand, it is the addressee of ECIs. The previously restrictive registration policy of the European Commission (see Section II of this chapter) underlines that the Commission has also an institutional interest in limiting the number of ongoing ECIs. The creation of a Commission representative for the ECI/ECI Officer, similar to the Hearing Officer in competition law, independently advising the organisers of the ECIs, could be an option to solve this problem. Also, the collaborative platform will be managed by a third party, which is, however, a subcontractor of the Commission.

The Commission points out that it established a point of contact in the Europe Direct Contact Centre providing information and assistance as well as advice, once the initiative is registered (European Commission 2015a: 13-14). Nevertheless, the Commission's 2017 proposal for a regulation on the ECI includes in Article 4 its obligation to provide information and assistance to citizens and groups of organisers. It shall also develop an online collaborative platform which offers discussion fora, information, advice, and

online tutorials (European Commission 2017j). Furthermore, each Member State shall establish one or more contact points to provide further information and assistance.

The effect of lacking information and advice for the organisers on the ECI's added value is very similar to the lack of awareness discussed above. If motivated citizens or organisations cannot manage to (successfully) set up and run an ECI, none of the ECI's potential added values can be realised. Participation in EU politics will be effectively prevented; the gap between citizens and institutions may even widen and the EU's democratic legitimacy decrease. For all kinds of the added values discussed in Chapter 1, improved information and advice to ECI organisers is an important prerequisite. This is once again true for both ideal type functions of the ECI.

3. Translation

Currently, the translation of an ECI in the many European languages is the sole task of the ECI's organisers, whereas the Commission only checks the consistency of different language versions with the original one. However, the European Economic and Social Committee voluntarily provides free of charge translation for ECI organisers (Dialer 2017). Considering the high number of languages used across the EU, this represents a practical challenge for the organisers, who might lack language expertise or funds for translation services (Ballesteros/Fiorentini 2015: 30). For them, it is a cumbersome process and they may encounter difficulties in ensuring the necessary quality and accuracy of their translations (Commission 2015Sca; 2015b).

To remedy this, it has been proposed that, instead of just checking the translation, the Commission – or, alternatively, the linguistic service of the European Parliament – could provide it right away (Anglmayer 2015: 11). In addition to the European Economic and Social Committee, the Parliament has also signalled its willingness to provide free translation services.

For the European value added of the ECI, the accessibility of all ECIs in a language version that EU citizens can understand is absolutely crucial. No communication and information campaign on the existence on ECIs is of any use to enable participation in EU politics if citizens are confronted with initiatives which they cannot or only partially understand. They would be unlikely to express support for an initiative they do not fully grasp, and even less to provide personal information for a signature if they cannot understand the form properly. Lacking translation is furthermore a significant obstacle to fulfilling the Member State quota of signatures if accurate language versions are not available. It also impedes the equality of EU citizens and, thus, the democratic legitimacy of the EU, if ECIs are always easily accessible in some languages (e.g. English or French) whereas citizens only speaking less frequently used languages (e.g. Maltese or Estonian) can seldom participate. Such inequality would turn the objective of the ECI, strengthening political participation and creating trans-European identities, *ad absurdum*. Thus, those citizens who do not understand the available language versions have no chance on exerting their influence to contribute to better legislation and policy-making at a European-level. Translation provided by the Commission on the other hand would

significantly simplify the strengthening of trans-European inter-citizen or inter-organisational ties, since the practicality of campaigning in all European states would be much improved.

The goal must be to make it as easy as possible for motivated citizens to participate. In the consultative use of the ECI as an agenda-setting tool, citizens need to be able to stay informed on European issues. Especially considering that there is already a reluctance to get informed on EU topics due to their reputation of being too complicated, it is essential to ensure that language is no additional barrier to participation. This is also crucial with regard to the politicising effect of the ECI, turning it into a stronger instrument with a more binding function and carrying out a more direct effect on European legislation. *A fortiori*, the addressees of potential policy changes that might result from an ECI need to be able to participate in and follow debates. Furthermore, the issue is comparable to the right of MEPs to speak in the official language of their choice (Rules of Procedure of the European Parliament, Rule 158), allowing their citizens to follow deliberations of the European Parliament in their mother tongue in order to exert their democratic rights and Art. 20(2)d TFEU – the citizens’ right to address the EU institutions in all treaty languages.

For these reasons, the Commission proposes in its legislative proposal to amend Art. 4 of the ECI regulation and provide translation after registration in the future (European Commission 2017a: 21).

4. Funding

Currently, there is no EU funding for ECI organisers. The provision of financial means in order to make their ECI successful is their sole responsibility. Therefore, setting up an ECI is a costly and burdensome process (staff costs, IT-infrastructure, translation, campaigning, etc.) and fundraising contains the danger of the ECI being hijacked by interests groups. Estimations assume a minimum cost of 100,000 Euro for a successful ECI. Thus, funding remains an unsolved and sensitive issue (Anglmayer 2015; Ballesteros/Fiorentini 2015; REFIT Platform 2016; European Economic and Social Committee 2016; European Ombudsman 2016).

Different proposals have addressed this deficiency, including the idea of a centralised basic EU funding pot for ECIs (Anglmayer 2015: 10), the possibility of providing financial support for ECIs from existing EU budgets via European programmes such as “Europe for Citizens” and “Rights, Equality and Citizenship” (European Parliament 2015a: 9). The European Economic and Social Committee is also in favour of an option of covering expenses for registered ECIs (European Economic and Social Committee 2016: 2). However, the Commission has stressed that various services offered by itself and the European Economic and Social Committee significantly reduce costs, and that it would not be appropriate that those institutions to which initiatives are submitted also allocate EU funding for ECI campaigns (European Commission 2015b: 5). However, improved assistance and information infrastructure, as well as help with translations, could indirectly improve the ECIs’ funding situation, too.

Setting up a citizens committee and registering an ECI as well as successfully collecting one million signatures in at least seven different Member States requires substantial funding. Lack of funding can therefore be a substantial barrier to citizens starting an ECI or successfully completing all of its stages, thereby impeding all factors of added value the ECI could potentially provide. Funding provided to organisers might also allow for more “ordinary” citizens to start an ECI, rather than relying on organisations and civil society, thus increasing participation and legitimacy as well as the impartiality of the instrument. However, funding from the Commission could indeed deepen its conflict of interest (see Subsection 6 below), as it is a supporting institution to ECIs in parallel to being their judge and the institution that might be criticised by the proposals. In order to maintain the ECIs value as an independent instrument and safeguarding its added value of consolidating the democratic fundament of the EU, funding should probably not come directly from the European Commission. This is less important if the ECIs are being used as a consultative agenda-setting tool, where the Commission might even consider the funding as money well spent for increasing citizen’s participation in EU affairs and facilitation of the expression of their opinions on diverse topics. If the ECI should become a more forceful, politicising instrument with a certain binding component, however, it becomes crucial that ECI campaigns do not have to rely on funding from Commission for their project, if its objective is to criticise the same institution or make it change a certain policy.

5. Transparency of Funding

According to Art. 4(1) of the ECI regulation, organisers of an ECI are required to provide information on the sources of their funding and support. However, there are only limited tools for the enforcement of this obligation available to the Commission, which leads to the risk of diminishing the credibility of the ECI, as well as ECIs being exploited as a lobbying tool (Ballesteros/Fiorentini 2015: 47-48).

Almost all proposals aiming to improve this situation ask for increased controls by the Commission on funding and sponsorship information provided by the organisers (European Parliament 2015a: 9; European Ombudsman 2017: 2). Some even demand the Commission carry out regular random checks on transparency obligations (Ballesteros/Fiorentini 2015: 21-22 47-48; Anglmayer 2015: 28; Ballesteros/Fiorentini 2014). In relation to the above mentioned question of funding, it has also been argued that neutral funding would also assure transparency of funds (Committee of the Regions 2015: 5).

However, the Commission does not intend to implement systematic verification of the sources declared (European Commission 2015b: 5). Instead, the Commission’s 2017 proposal for a regulation on the ECI only states that every two months “the group of organisers shall provide [...] information on the sources of support and funding for the initiative exceeding 500 euros per sponsor.” This information would then be made available on the public interface of the Commission ECI register (European Commission 2017b: 42).

The ECI was intended as an additional tool for citizens to express their concerns and to participate in EU political activities, not as an outlet for lobbying influence. For this reason, assuring the independence and transparency of ECIs is quite important and thorough checks by the Commission or even by the Courts of Auditors could thereby increase an ECI's (and thus the EU's democratic) legitimacy. ECIs being exploited or influenced represents a clear hindrance for the added value of better legislation and policy-making at the European level. However, as stated before in Chapter 1, interest groups and lobbyists often have far less costly and more efficient ways of influencing EU policy. In order to estimate the true effect of funding transparency on the added value of the ECI for citizens, it would, therefore, be necessary to first figure out how likely an abuse of funds is to occur, in order to evaluate if the situation really needs systematic checks by a third actor. Until 2017, economic lobbying interests were involved in just a few cases of the 65 ECIs which were registered with the European Commission so far. Nonetheless, the stronger the influence of ECIs becomes on EU legislation and policy, the more important it is to ensure transparency in funding and support. For this reason, the proposed random controls seem excessive for a consultative ECI, which mainly serves as an agenda-setting tool and whose limited impact on EU policy might not be worth the lobbyists' effort of financing an ECI. But the need for thorough checks becomes more appropriate for a truly binding and controversially politicising ECI.

6. Conflict of Interest at the Commission

Commission support can be valuable and effective for launching an ECI, but, currently, the Commission has a double role in the ECI process as a source of information and advice to the ECIs' organisers and as the institution which will decide on the admissibility of the ECI and its follow-up in case of success. It, therefore, needs to strike a delicate balance supplying helpful advice, without being seen to steer a particular ECI (European Ombudsman 2017: 1). Nevertheless, this represents a potential conflict of interest, which is also acknowledged by the European Commission (Anglmayer 2015: 12).

Proposals to remedy this situation include the idea of the Commission remaining the institution in charge for registration, but passing the task of support and information on to a different body, e.g. a Citizens' Initiative Centre (Ballesteros/Fiorentini 2015: 18-19). However, some proposals go even further and demand that the registration of the ECI and the follow-up to a successful ECI should be separated, since it is seen as the Commission being "judge and jury" at the same time (Committee of the Regions 2015: 3). Instead, outsourcing the legal admissibility decision to a neutral entity with a different EU institution is proposed (The ECI Campaign 2015: 8). On this account, the Economic and Social Committee reiterates that it is willing to continue to support initiatives already under way and would be a natural candidate for the role of facilitator and institutional mentor (European Economic and Social Committee 2016: 1).

On the issue of counselling and information services, it seems evident that there is an increased need for more systematic information sharing to allow ECIs to reach their full added value potential, which is why the establishment of specific institutions for this

purpose seems an effective measure (see Subsection 2). If the ECI turns more into a consultative instrument, the institutional separation of the admissibility check from the addressee of the ECI is not that essential. Like other consultative instruments it would enable participation in EU politics, reduce public sphere deficit, and strengthen trans-European society and civil society. However, the separation of those tasks could ensure in the future—should the ECI take a more politicising direction and, thus, potentially give way to a more binding function of the ECI—that the step of admissibility check is not being misused as an easy way to get rid of burdensome initiatives, thereby, effectively blocking all of the ECI's added values by hindering its continuation. Thus, the more binding and controversial the ECIs would become, the more important it would be that the process of registration and counselling is entirely neutral.

Conclusion

Key findings

Reform Proposals Serving the Politicising Function

- Stage 2: Increased transparency on reasons for refused registration
- Stage 2: Partial registration when some aspects fall outside the Commission's powers
- Stage 5: Setting a timeframe for the Commission to become active in the follow-up process
- Stage 5: Stronger role for European Parliament in the follow-up process, e.g. mandatory plenary debate
- Stage 5: Organise the public hearing as a controversial debate and make it more public

Reform Proposals Serving the Consultative Function

- Stage 3: Limiting and harmonising data required for statements of support
- Stage 3: Lowering the minimum age to 16
- Stage 5: Expert group advising the Commission
- Stage 5: Organise public hearing as an expert hearing

Reform Proposals Making the ECI more citizens- and user-friendly

- Stage 1: Legal personality for citizens' committees
- Stage 2: Better information and advice for organisers
- Stage 3: Free hosting of the online collection system on Commission servers
- Lacking Public Awareness: EU-wide campaigns by EU institutions and national authorities, better information about ongoing ECIs and contact points in Member States to support organisers
- Lacking information and advice for ECI organisers: Collaborative online platform, Commission representative for the ECI
- Translation: Free provision of ECI translation by language services of European Commission, Parliament or Economic and Social Committee
- Lack of funding: Provision of a centralised basic EU funding pot of ECIs and covering expenses for registered ECIs
- Low transparency requirements on funding of ECIs: Increased Commission controls on funding information provided by organisers
- Conflict of interest at the Commission: Support and information to ECI organisers independently of Commission; separating registration of ECIs and the follow-up to a successful ECI

The goal of this study was to point out how the instrument of the ECI can potentially generate an added value for the European Union and its citizens. Complementing the numerous studies on practical obstacles in the ECI's implementation, the focus was on

the initial objectives of the instrument. The ECI has been created in order to strengthen the democratic legitimacy of the EU as well as to narrow the distance between EU institutions and the citizens of the Union, but these objectives have hardly been achieved in the five years that the ECI has been in effect. In the context of the revision of the ECI regulation, this study presented the ECI's potential to fulfil these objectives and discusses how the ECI's current institutional design is disadvantageous for achieving them, since some features of the procedure rather have a consultative effect like instruments of participative democracy, while others serve as drivers of politicisation. Subsequently, the study argued that EU legislators should opt for one of these two objectives and, accordingly, design a coherent ECI procedure in order to fully exploit the ECI's potential (see list of proposals for both options in Subsection III). It then examined reform proposals with regard to their contribution to the ECI's objectives.

I – Potential Added Values of the ECI

To assess the potential added value of the ECI for the Union and its citizens, the two dimensions of *policy added value* and *political added value* are identified. Both contribute to achieving the two major purposes of the ECI: bridging the gap between EU institutions and citizens and reducing the Union's democratic deficit. Chapter 1 points out how different concrete elements of added value correspond to these dimensions and underlines the widespread agreement that the ECI's added value potential in both dimensions has not been fully achieved, yet.

Political added value refers to enhancing the legitimacy of the EU and increasing public support for the process of European integration. By increasing political participation of citizens and organised civil society and adapting to changing demands for political involvement, this could directly improve the EU's democratic quality and has the potential reduce the perceived lack of citizens' influence on EU policy-making. The ECI could also foster European public spheres, which are a prerequisite for EU-level democracy, and in turn improve the responsiveness of EU institutions. Furthermore, the common experiences of organising and supporting an ECI links citizens and civil society organisations, thereby strengthening trans-European (civil) society and potentially further increasing European consciousness and awareness of citizens and civil society organisations for the EU.

Policy added value refers to the ECI potential for improving EU legislation. In this context, the ECI could provide information on the citizens' preferences and allow civil society to give technical expertise on an ECI's subject matter. Both strengthen input legitimacy, created when EU legislation is closer to citizens' interests, and output legitimacy of the EU, generated if EU policies provide better solutions to challenges. Furthermore, the ECI could foster trans-national public deliberation on ECIs' subject matters and thus improve the quality of EU legislation. Granting citizens as well as civil society organisations direct access to the European Commission with an instrument that can serve as agenda-setting tool, a veto instrument, or has the function of a valve that will allow them to hold EU decision-makers, notably the European Commission, accountable.

II – The Potential Consultative and Politicising Function of the ECI

Chapter 2 consequently elaborated why this ECI potential has not yet been fully reached. In a review of the current ECI procedure, the format of the public hearings, the debates during the European Convention and the two consultations, it concluded that there is neither agreement on what the ECI is or should be, nor is the ECI procedure coherently designed to achieve specific objectives. It was argued that the process needs to be streamlined in order to increase the ECI's added value for the EU and its citizens. The study presented two different ideal types, towards which the ECI procedure could develop, and defined their respective objectives and describing the logic of how they relate to the EU political system.

The ideal type of a *consultative function* for the ECI sees it as another instrument of participative governance on the EU-level – like other instruments such as consultations or stakeholder hearings – but with a trans-European dimension and outreach to the Member States. With a consensual style of politics the ECI could activate citizens and strengthen European democracy by fostering dialogue between civil society actors and EU institutions, notably the European Commission, and by establishing a direct link between the EU-level and organisations active on the so-called “basis” of society.

For the second ideal type the ECI serves a *politicising function*, part of a recent process transforming the EU's consensual democracy style into a more competitive political system, aiming to generate public debates on EU policies and contribute to strengthening European public spheres. Furthermore, the ECI also reduces the democratic deficit of the EU by giving citizens and organised civil society an additional instrument complementary to representative democracy to hold EU institutions accountable. Following a competitive logic of politics instead of searching for dialogue, this contributes to better governance by forcing the EU institutions to become more responsive and also to better explain their policies to EU citizens.

The study states that this ambiguous set-up of the ECI is currently hindering it from achieving its full potential in terms of added value for the EU and its citizens. Furthermore, the technical, legal and bureaucratic obstacles discussed in Chapter 3 currently impede ECIs from reaching the full potential. For this reason, it is pointed out that EU legislators have to clearly define the objective of the ECI, design the procedure accordingly in a coherent way and reduce to mentioned obstacle to an absolute minimum in order to enable the ECI to serve either a consultative or politicising function.

III – Reforming the ECI Procedure with Regard to the Two Ideal Types

Chapter 3 finally applied the five concrete added values and the two ideal type functions of the ECI to assess the reform proposals from the current debate surrounding the revision of the ECI regulation. For each of the five stages of the ECI and six horizontal issues, it presented the current state of affairs and points out the deficiencies associated with the procedures in effect. Afterwards, the main reform proposals for each stage were

discussed and analysed with regard to their contribution towards an added value of the ECI and their categorisation amongst the two ideal-type functions of the ECI.

To achieve the so far lacking coherence in the ECI procedure (see Chapter 2), the reform proposals can be sorted in three groups: (1) reform proposals that serve the consultative function; (2) reform proposals that serve the politicising function; (3) reform proposals that make the ECI more citizen- and user-friendly in general, therefore serving both ideal type functions of the ECI.

1. Reform Proposals that Serve the Politicising Function

The proposals to have the Commission increase transparency on reasons for *refused registration* and admit *partial registration* when some aspects fall outside the Commission's powers (stage 2 of the ECI) could potentially increase participation and mobilisation for ECIs in general, since the refused ECIs can serve as examples on what to avoid when organising an ECI in the future. This might even foster a transnational public debate on the Commission's competences. In parallel, the effort made to support and organise an ECI would not have been in vain if parts of the issue fall outside the Commission's powers. It forces the Commission to respond, even if only partially, passes citizens' preferences on the topic on to the institutions and allows for a debate on the contentious topic to still take place. This increases the chances to succeed for ECIs organised by less professionalised groups who may not have much professional legal advice, thereby creating equal opportunities to influence EU politics for different groups of actors.

Setting a *timeframe for the Commission to become active* and *including the European Parliament* e.g. through a mandatory public debate in the follow-up process (Stage 5 of the ECI) are all reform proposals intended to remedy the lack of binding consequences to a successful ECI and to increase the organisers' involvement in the follow-up process. By forcing the Commission to become active within a certain time frame, citizens can feel their influence on the EU-level, which might in turn increase participation to other ECIs. Both proposals, but especially a plenary debate in the European Parliament, are likely to increase (media) attention on successful ECIs and thereby not only to foster a trans-European debate but also to increase participation and mobilisation for future ECIs, since it has been demonstrated that they have an (albeit limited) effect.

The proposition to organise the public hearing of the follow-up process (stage 5 of the ECI) as a *controversial debate*, in which political actors with different views on the ECI's subject matter participate and maybe scrutinise the European Commission for its previous policy on the issue, will make the public hearing more visible, as it will more likely attract media attention. This public debate would allow the organisers to hold the EU institutions accountable, while deliberation on technical aspects of the respective policy will not take place. This can remedy the perceived lack of influence on EU politics and satisfy all the signatories of an ECI who wanted to get the EU's attention on to a certain topic. The corresponding media and political attention would foster trans-national public deliberation.

2. Reform Proposals that Serve the Consultative Function

Limiting and harmonising data requirements for statements of support (stage 3 of the ECI) would greatly increase political mobilisation for and inclusiveness of ECIs, as a sizeable group of citizens could access ECIs who are currently excluded from participating, since they are not willing to give up such sensitive personal information. Those citizens then get the opportunity to make the European institutions see their preferences, complementary to the European elections every four years, thereby improving EU legislation and strengthening trans-European civil society.

Lowering the minimum age to 16 (stage 3 of the ECI) would have a similar effect of including an entire population group currently excluded from participation. Including this group could lead to better legislation. Since the topics of ECIs have in the past been extremely relevant to the younger generations, it can be assumed that younger citizens might also be motivated to start or actively support ECIs, thus increasing mobilisation. People who have participated in an ECI at a younger age might develop a European consciousness through the experience of trans-European mobilisation. Including younger citizens into democratic procedures furthermore corresponds to changing demands for political participation, since the minimum age to vote has been reduced in several other contexts as well.

Establishing an *expert group of ECI organisers* that advises the Commission on how to implement the proposals of successful ECIs serves the consultative function. The organisers can provide technical expertise to the European Commission and the group offers a forum for deliberation of the addressed issue. This very much serves the policy dimension of added value, as it is directed at improving EU-level legislation. The direct access to the Commission allows the organisers to hold it accountable and remedies the perceived lack of influence on EU policy-making.

While organising the public hearing as a controversial debate serves the politicising function, a setting of an *expert hearing* would strengthen the ECI's consultative function. The hearings purpose would be to provide technical expertise on the ECI's subject matter to the EU institutions and to deliberate on options for effective problem-solving. This contributes to the dimension of policy added value.

3. Reform proposals making the ECI more citizen- and user-friendly

Solving the problem of *personal liability* of the members of the citizens' committee (stage 1 of the ECI) considerably lowers the threshold to organise an ECI. Contributing to the added value of increased political participation, this reform proposal serves both functions of the ECI. However, making the ECI more attractive for Brussels-based organisations would strengthen the consultative function, while increasing the number of new actors and citizens organising an ECI without institutional support would strengthen the politicising function. However, with regard to the added value of better

legislation, none of the mentioned groups of actors should be favoured in order to secure equal opportunities for political participation.

In stage 2, the *provision of better information and advice for ECI organisers* would also make the ECI more user-friendly and thus stimulate participation in general. As discussed in the Section VII on horizontal issues, it is of crucial importance that advice and information are provided independently. Otherwise the European Commission as the addressee and supporter of an ECI would be in a conflict of interest. The independent provision of information will increase the transparency of the ECI procedure and contribute to building trust in EU institutions. Better support to ECI organisers further equalises opportunities for political participation as organisations and citizens with more resourced (especially legal expertise) are not advantaged anymore. The planned collaborative online platform for the ECI is a step in this direction, while appointing an ECI officer similar to the Hearing Officer in competition law, independently advising the organisers of the ECIs, would be an additional measure.

Hosting an *online collection system of signatures on Commission servers* (stage 3 of the ECI) and making it available to ECI organisers for free, likewise substantially increases political mobilisation, activating citizens and civil society. The collection and storage of the massive amount of sensitive personal data an ECI requires has in the past been a substantial barrier for ECIs to be successful. The Commission system implies less funds necessary and more time available to the collection of signatures. Allowing for online statements of support, the system furthermore suits changing demands of political participation.

The results of the previously quoted Eurobarometer (European Commission 2016) underline the importance of *raising awareness for the ECI*, which serves both functions of the ECI. EU-wide campaigns as well as more contact points informing about the ECI will stimulate political participation as more citizens are aware of their new citizens' right to voice their political preferences and hold the EU institutions accountable. Furthermore, the mobilisation for ongoing ECIs is facilitated as organisers do no longer need to explain what kind of instrument they make use of. However, the campaigns could be directly targeted with regard to the consultative function or the politicising function. Making civil society organisations which deal with specific topics and possess specific expertise directly aware of the instrument will more likely serve the consultative function, while broad campaigns targeting all types of actors and citizens will more likely serve the politicising function.

Like the need for legal and technical advice for organising an ECI, the *translation of the ECI in all languages of the EU* is a considerable obstacle for ECI organisers. The free translation currently offered by the European Economic and Social Committee is a makeshift arrangement which should be provided on a permanent basis in order to facilitate political participation. Translating ECIs in all languages is necessary to achieve equal opportunities for organisers possessing different resources, as well as equal chances for all EU citizens to support an ECI in their mother tongue. Otherwise speakers of the more widely used languages would be advantaged.

The provision of *funding for ECIs from the EU budget* would contribute to equal chances of organising initiatives. However, this would increase organisers' dependency on the European Commission, which most likely would grant the funding. However, the provision of free of charge translation and an implemented OCS on a Commission server, as well as independent advice, are already means to provide more equal opportunities for organising an ECI. Furthermore, acknowledging the unequal distribution of resources for organising an ECI, *better controls of funding information* provided by the organisers would at least contribute to transparency with regard to the organisers' background.

With regard to the provision of information and advice, the conflict of interest at the European Commission has already been discussed. The *separation of the registration of ECIs and dealing with the follow-up* to successful ECIs would encounter citizens' and organisers' feeling of lack of influence. The registration of ECIs with an independent body or a more separated unit within the Commission would give decisions on the registration more legitimacy, as they are less likely perceived as political. This would further contribute to transparency and thus could also increase political participation.

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While it is pointed out that not all reforms and added values are mutually reinforcing but can even be mutually exclusive, the study's results nevertheless show that most reform proposals discussed can substantially improve the ECI's functioning according to the initial objectives of strengthening the democratic legitimacy of the EU and narrowing the distance between EU institutions and the citizens of the Union. Most of the reform proposals contribute considerably to increasing at least one if not several of the above mentioned concrete added values. Nevertheless, it is also made clear that the various reform proposals for the revision of the ECI regulation are still going in different directions in terms of the ideal types of politicising or consultative function. The Commission's 2017 proposal for a regulation on the ECI is especially relevant in this regard. While a good many of the deficiencies and practical obstacles pointed out in various studies by different national, Brussels-based and European stakeholders, ECI organisers, EU institutions, and researchers are addressed, the proposal does still not clarify the function and direction the ECI shall ultimately take. Now it is up to the EU legislators to make the ECI live up to its potential by giving its procedure a coherent structure with a clearly defined objective.

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The European Citizens' Initiative (ECI) is aimed at bringing the EU closer to its citizens, by enabling them to invite the European Commission to make a proposal for a legal act. Introduced by the Treaty of Lisbon, the ECI should provide every citizen with the right to participate in the democratic life of the Union. However, the ECI in practice has had various procedural hurdles, preventing the fulfilment of the regulation's objectives. The ECI is thus not fulfilling its potential with regard to bringing the EU closer to its citizens. Against this background, the present study outlines the weaknesses in the existing ECI procedure. Moreover, it assesses, with a view to their added value, the main reform proposals that have been put forward to improve the ECI's functioning.

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