



## **“The European Citizens' Initiative”**

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### **Introduction**

Ladies and gentlemen, fellow speakers, good afternoon!

I am delighted to be here to speak on the subject of the European Citizens' Initiative (“ECI”). I would very much like to thank the Head of Parliament's Office here in Edinburgh, Mr James Temple-Smithson, for organising this seminar. It is particularly timely. Discussions on how best to implement the ECI are continuing apace and I know that the Spanish Presidency is keen to see the Regulation on the ECI adopted before the end of June. The Commission's proposal is expected in the coming weeks.

I am very happy to share the podium with Professor Jo Shaw from Edinburgh University, Mr Peter Cruikshank from Edinburgh Napier University, and with the Member of the Scottish Parliament and Convenor of its Petitions Committee, Mr Frank McAveety. The Petitions Committee was a true pioneer in the development of its online e-Petition system and I think that much could be learned at the EU level from the Committee's experience in this area. During the stakeholder hearing on the ECI that was held in Brussels in February, the online petition system in the German Bundestag was given as an example and I know that this system was in fact inspired by the Scottish one.

The success of the e-Petition system in both Scotland and Germany can be measured in terms not only of the thousands of citizens who have become directly involved in the decision-making processes as a result, but also of the direct influence that their petitions have had on the formulation and implementation of policy.

This idea of public participation is one of the key features of the recently introduced Lisbon Treaty. The European Citizens' Initiative falls under this heading and is, without doubt, one of the most “talked about” elements of the new Treaty.

I believe that this new form of public participation in the democratic life of the Union should make an important contribution to the empowerment of European citizens. There are already very high expectations in terms of what the ECI can deliver. It is vital to the success of the Lisbon Treaty that these expectations be met.



To help ensure the ECI's success, I contributed to the Commission's public consultation on how the citizens' initiative should work. In my remarks today, I will focus on the points raised in my contribution.

Let me clarify that my contribution did not address questions such as what a "significant" number of Member States means, what the minimum age for signatories should be, or how best to verify and authenticate signatures. These are questions for politicians like Mr McAveety and academic experts like Professor Shaw and Mr Cruikshank to opine on, rather than the European Ombudsman.

Given my mandate to investigate complaints about maladministration in the EU institutions, bodies, offices, and agencies, I was aware that many aspects of the Commission's future role concerning initiatives could potentially give rise to complaints to the Ombudsman. I therefore wanted to help ensure that the ECI will work in the most transparent and citizen-friendly way possible, by pre-empting problems that might arise and by promoting good administration by the Commission.

I focused therefore on the registration and admissibility of initiatives; on possible complaints concerning the transparency of initiatives; on the time-limits that should apply to the Commission; and on supervision of the Commission's responses to initiatives.

Let me address each of these points in detail, starting with registration and admissibility.

## **Registration and admissibility of initiatives**

Both the Commission and the Parliament consider that, for practical reasons, initiatives should be registered with the Commission before the collection of signatures begins.

To my mind, the role of the Commission in the registration process should be to facilitate citizens in the exercise of their right of initiative. Registration should not become a bureaucratic or political hurdle.

Nor should the Commission be put in a position where it could be accused of blocking, or conversely of favouring, particular initiatives. For these reasons, the admissibility of a citizens' initiative should not be a condition for registering it.

There is a delicate balance to be struck between promoting freedom of expression and encouraging debate, and at the same time, avoiding time and effort being spent collecting signatures in vain. I understand that this point was made repeatedly during the stakeholder hearing in Brussels in February.

It is clear that it would not be in the interests of good relations between the Union and its citizens for the organisers of an initiative to expend time and effort in collecting signatures only



to be told subsequently that the initiative is inadmissible, for reasons which the Commission could easily have explained at the outset.

To my mind, one way of striking the balance would be for the Commission to issue an opinion as to whether an initiative is admissible, once it has been registered.

## **Possible complaints concerning the transparency of initiatives**

One of the main issues that the European Ombudsman deals with each year is lack of transparency. This allegation was taken up in 36% of the total number of inquiries opened in 2009. Ensuring that the ECI works in the most transparent way possible is therefore a key consideration for me as Ombudsman.

Both the Parliament and the Commission consider that, in the interests of transparency and democratic accountability, the organisers of initiatives should provide information about funding and about the organisations that support an initiative.

Again, this interest should be balanced against the need to avoid disproportionate administrative burdens being placed on the organisers of initiatives.

It is foreseeable that the accuracy and completeness of the information provided by the organisers of initiatives may be contested. In order to maintain the confidence of citizens in the initiative process, the Commission should deal with complaints against organisers, which allege lack of transparency.

This should be greatly facilitated by the mechanism already put in place by the Commission to deal with complaints concerning its register of interest representatives, which was introduced as part of the European Transparency Initiative. The issues raised by these complaints are likely to be similar to those raised by possible future complaints relating to organisers of initiatives.

## **The time-limits that should apply to the Commission**

With regard to time limits, as I mentioned, the Commission should give an opinion on admissibility following the registration of an initiative. This should normally be within two months of the date of registration.

The six months proposed by the Commission, in its Green Paper, within which it must decide what action, if any, to take in response to a completed initiative is not excessive as a maximum period. If the Commission could reach its conclusions more quickly then, as a matter of good administration, it should do so.

When the Commission signals its intention to present a legislative proposal in response to an



initiative, it should set itself a deadline by which it will do so. This is necessary in order to give full effect to the citizens' initiative, to promote good relations with citizens and to ensure good administration.

## **Supervision of the Commission's responses to initiatives**

Finally, on the question of supervision: in its Green Paper, the Commission did not explicitly address the question of how to supervise its response to an initiative. Again, I understand that during the stakeholder hearing in Brussels, concerns were voiced over the extent to which the Commission could be held accountable for the way in which it responds to initiatives.

This is an extremely important question. In the event that the Commission decides not to take up an initiative, there is bound to be disappointment among the organisers and the signatories. They must have access to a mechanism of redress.

To my mind, the admissibility of an initiative is a matter of law. For example, it would not be within the powers of the Commission to propose legislation that would violate fundamental rights. An initiative requesting legislation that would violate fundamental rights would, therefore, be inadmissible.

There would be no problem for the Ombudsman to examine complaints concerning the Commission's opinions on admissibility. After all, the concept of maladministration encompasses failure to respect the rule of law, failure to respect principles of good administration, and failure to respect fundamental rights.

On the other hand, the Commission's substantive conclusions as regards the request contained in an initiative are likely to raise primarily political issues. The European Parliament, which directly represents citizens at Union level, would be best placed to supervise the Commission in this regard.

To facilitate effective supervision of the Commission, the Regulation giving effect to the citizens' initiative should be drafted so as to ensure that, as far as possible, the Commission presents its legal conclusions as regards admissibility (which could be examined by the Ombudsman) separately from its political conclusions as regards the substance of the initiative (which should be for Parliament to deal with).

Acceptance of my suggestion that the Commission should give its opinion on admissibility at an early stage would ensure the necessary separation of legal and political issues.

## **Conclusion**

I very much hope that the ideas I put forward will be taken up by the Commission when it makes



its proposal for a Regulation determining the procedures and conditions for the citizens' initiative.

I look forward to listening now to the other speakers and to discussing with you.

Thank you for your attention.