

Presentation of the own-initiative inquiry into the ECI procedure European Ombudsman, Emily O'Reilly

Speech - City Brussels - Country Belgium - Date 13/04/2015

ECI Day 2015 Presentation of the own-initiative inquiry into the ECI procedure European Ombudsman, Emily O'Reilly *European Economic and Social Committee, Brussels 13 April 2015*

1. Introduction

President Malosse, Vice-President Timmermans, friends and colleagues,

Thank you for again inviting me to contribute to ECI Day. Last year's event gave me valuable insights into the different perspectives on the functioning of the ECI which in turn fed into my own-initiative inquiry on the ECI and today I will share with you some of the main findings from that inquiry.

My mission as European Ombudsman is to work with the EU institutions to create a more effective, accountable, transparent and ethical administration. The ECI inquiry is a good example of this.

In one of my letters to the Commission during my inquiry, I wrote that I wished to help it to engage fully with the ECIs, so that citizens feel not only that they have a voice, but also that they have been listened to and taken seriously. The death knell for the ECI project will be any suggestion –overt or implied - from the EU Commission that the ECI is there simply to be tolerated rather than promoted, supported, and critically, be seen to work.

2. Background

The institution of the European Ombudsman took an early interest in the ECI and the ECI Regulation. We did so with a view to promoting European citizenship, but also in the context of the Ombudsman's key role in promoting good administration. We were therefore keen that the ECI procedure should be as transparent and citizen-friendly as possible.

3. The inquiry



After receiving a number of complaints, I decided to open an own-initiative inquiry. My inquiry had two objectives. The first was to ensure that the current ECI Regulation is applied correctly and in as citizen-friendly way possible. The second was to provide input to the review of the ECI Regulation.

After obtaining input from ECI organisers and other civil society groups, I wrote to the Commission asking it to comment on a number of issues of concern. The key concepts concerned *serious consideration* and *engage full engagement with ECIs*. I told the Commission that it has to demonstrate, in a way that is clear and comprehensible to the citizens, that it has *seriously considered* an ECI or else, the citizens will lose interest and trust in the democratic legitimacy of the EU institutions may be eroded. The Commission should also *engage fully* with the ECIs, thereby making citizens feel listened to and taken seriously.

In my letter to the Commission, I also listed a number of more technical and practical concerns. I asked the Commission to set out a clear strategy to address the various issues.

4. The decision

On the basis of the Commission's response, I concluded my inquiry by issuing a decision just over a month ago.

In my decision, I note that the Commission has done a lot to give effect to the ECI right in a citizen-friendly way. But I also note that more can be done. I have therefore presented to the Commission 11 guidelines for further improvement of the ECI procedure. I have asked the Commission to report back to me by the end of May this year.

So, in the event that you did not spend your Easter Holidays reading that decision, let me just focus on some of points that I think are most relevant for our discussion today, in the presence of First Vice President Timmermans.

As regards the admissibility stage, I welcome the fact that the Commission is trying to be as transparent as possible when it comes to explaining its reasons for rejecting an ECI. However, the fact remains that there are still concerns about allegedly insufficient, unclear and inconsistent reasoning by the Commission. I trust that the Commission will learn the relevant lessons from the consistent reports on these concerns and that it will endeavour to **provide reasoning that is more robust, consistent and comprehensible to the citizens**. This would allow citizens better to understand the nature of the ECI tool. It would also help future ECI organisers to formulate their initiatives.

It would appear that many ECIs fail at the registration stage because the initiative calls for something that is outside the competence of the EU. I am thinking for example of an ECI around the funding of long term care for elderly people. Now, even allowing for the fact that some ECI organisers may simply want publicity around an issue, regardless of EU competence, it does seem nonetheless that there is a knowledge gap waiting to be filled around this area.

With regard to the examination stage, my view is that, in terms of the substantive outcome of



the ECI process, the Commission coming forward with a legislative proposal should not be the only measure of success although a point will come nonetheless when without such proposals, serious questions will continue to be asked about the longterm or even medium term viability of the initiative.

However, the process itself is also of major significance. It offers organisers a platform from which they can potentially generate European-wide public political debate. Indeed, this is another example of how to encourage active European citizenship. I have therefore asked the Commission to **articulate more clearly for citizens its understanding of the value of the public debate** generated through the ECI procedure and of how this debate, in its own right and irrespective of the individual outcome, gives the ECI process value and legitimacy.

I have also asked the Commission to do all in its power to **see to it that, throughout the ECI procedure, the public debate ensuing from a registered ECI is as inclusive and transparent as possible**.

The public hearing in Parliament is of particular importance in this regard. I have therefore asked the Commission to explore, with Parliament, how to ensure that the two arms of the legislature, Parliament and Council, as well as interested stakeholders - for and against the initiative - are present at the public hearing.

I have also asked the Commission to explain, in its formal response to an ECI that has obtained one million signatures, its political choices. The explanation should be done in a detailed and transparent manner. Such an explanation is important in order to a perception that the Commission's response to an ECI is perceived as arbitrary rather than underpinned by proper legal and political considerations,

Moving on to the more procedural aspects of the ECI procedure, I recognise the Commission's great efforts, within the current legal limits, to interpret the ECI Regulation in a citizen-friendly way. I do think, however, that a number of additional efforts can be made under the present regime.

One aspect that can be improved is the system for ensuring that funding and sponsorship information provided by ECI organisers reflects reality. This aspect is important for the ECI instrument to be seen as a tool that is really for the citizens.

The fact remains, however, that the Commission can only act within the legal limits of the ECI Regulation as it stands. It is regrettable that some provisions in the Regulation clearly have placed administrative and bureaucratic hurdles in the way of citizens. It is, in particular, not justifiable that some EU citizens, who have made use of their right to move freely within the Union, cannot sign an ECI in whichever other Member State they happen to be. I have therefore urged the Commission to, once again, propose to the legislature more straight forward and uniform requirements for all Member States in terms of the personal data to be provided when signing a statement of support.



I also trust the Commission to come forward with ideas on how to address the challenges that translation and funding raise for organisers and, if necessary, propose relevant provisions in a revised ECI Regulation.

5. Concluding remarks

I will certainly stay involved in the debate on this important tool for European citizenship and I will report on the follow-up to the guidelines that I have made to the Commission.

I will remain available to be of assistance both to citizens and to the Commission in dealing with individual complaints on issues related to the application of the ECI Regulation where I see a room for improvement from a good administrative perspective.

Thank you for your attention.