

MORAIS BISMARQUE GASPAR Ana Gloria

From: [REDACTED] on behalf of Prisca Merz [REDACTED]
Sent: 31 March 2014 23:40
To: Euro-Ombudsman
Subject: Re: Own Initiative Inquiry: OI-9-2013-TN
Attachments: End Ecocide in Europe letter to Emily O'Reilly 31.03.2014.pdf; End Ecocide in Europe submission to European Ombudsman.pdf

Follow Up Flag: OI/9/2013/TN
Due By: 04 April 2014 08:30
Flag Status: Flagged

Dear Ms O'Reilly,

Thank you very much for your interest in our European Citizens' Initiative and your concern about improving this very important tool of direct democracy.

Please find attached our answers to your questions.

Should you need any further information or clarification, please don't hesitate to contact us at anytime.

Yours sincerely,

Prisca Merz

On 18 December 2013 13:03, Euro-Ombudsman <[REDACTED]> wrote:
Dear Madam/Dear Sir,

Please find attached a letter from the European Ombudsman.

The Registry

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Prisca Merz

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End Ecocide in Europe
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Emily O'Reilly
European Ombudsman

Your own-initiative inquiry OI/9/2013/TN into the functioning of the European Citizens' Initiative (ECI) procedure

London, 31.03.2014

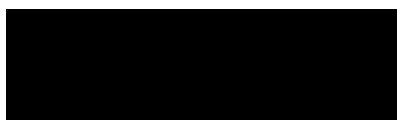
Dear Ms O'Reilly,

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on behalf of End Ecocide in Europe



End Ecocide in Europe

submission to the European Ombudsman Inquiry

1. Do you consider the citizens' initiative right to be sufficiently well known among the general public so that citizens feel confident in signing initiatives? If not, what, in your view, could be done to raise awareness?

In general, the awareness of the ECI as a tool is still too low, although rising. Many citizens don't know about it yet and it is a particular challenge to explain how an ECI differs from an ordinary petition.

Therefore, we as organisers have to confront the double challenge of explaining a) what the ECI is and b) our cause. For citizens it is in particular very difficult to grasp the difference with an ordinary petition and they do not understand why they have to provide all this personal data, more than required for national petitions in most countries.

The most useful way how to raise awareness of the ECI among the European public would be for European and national leaders to know about it themselves first and then communicate it whenever they have the opportunity to do so. It has to become something which not only some European elites in Brussels know about but it has to become a citizens' right. The same way as any (educated) EU citizen knows that they have the right of free movement in the EU, they should also know that they have the right to make their voices heard via an ECI.

We also asked the Commission at some point whether it would be possible to provide some kind of "quality seal" to ECIs (for example by us using the ECI logo). Of course, the authenticity of an ECI is confirmed by its existence on the official website, but additional tools would be good.

An idea would also be to work more with schools and youth projects, educating the new generation of their rights as EU citizens. Or reaching out to already active non-politically affiliated activists to encourage them to use the ECI as a channel of influencing policy and making their voice heard.

We do not believe that any of the standard communication campaigns the EU usually uses to promote their programmes (paid for with tax payers' money) would have much impact. We also want to highlight positively the ECI website (<http://ec.europa.eu/citizens-initiative/public/welcome>) which is very clear and comprehensive, as well as the general website about the EU decision-making process (<http://www.europarl.europa.eu/aboutparliament/en/0081f4b3c7/Law-making-procedures-in-detail.html>). Giving these websites more visibility would be a recommended action. Another idea would be to make a short animated film (maybe 1 - 2 min) about the difference between an ECI and an ordinary petition. We were planning to do this but never found the time and budget.



2. Please give your view on the information and guidance the Commission provided to you as an organiser of an initiative (on the Commission website, in direct contacts etc.).

The Commission, in particular Charlotte Rive, has been extremely helpful. The team was always there to answer any questions we might have. The problem clearly lies with the legislation as such, as well as the technical implementation of the Online Collection System, not so much with the General Secretariat of the European Commission which has always been very friendly but unfortunately were not always in a position to solve the problems we encountered. Our requests were almost always answered within the three days stipulated and when they weren't, we received an explanation why this time the reply would take a bit longer.

We further want to highlight positively the ECI website (<http://ec.europa.eu/citizens-initiative/public/welcome>) which is very clear and comprehensive, as well as the organisers portal which is easy to use.

We would like to thank the Commission for providing for the possibility to host the Online Collection System (OCS) on their servers and in particular in helping us to draft all the documents needed in order to comply with the data protection legislation. The Luxembourgish authorities responsible for the verification of the Online Collection System were also very helpful and extremely understanding. They realised that we are only volunteers who had never done something like this before and therefore answered patiently all the questions we had and even offered to review our submission before we actually did submit it, in order to give feedback. I would like to take this opportunity to explicitly thank the whole team.

Our experience with DIGIT, the Commission's IT team administering our Online Collection System has unfortunately not always been that positive. While they were very open and communicative and really tried to solve the problems, any changes we asked for took a very long time to be implemented and even at the end of the year the OCS did still not fulfil the purpose of being a useful campaign tool. We recommend further improvements in this area as outlined below.

3. Please give your view on the functionality and usefulness of the Commission's software for collecting signatures online. In particular, please consider issues such as hosting of the online collection system and the online system's accessibility for visually impaired persons.

First of all we would underline that we are very grateful for the Commission's provision of the system and offering us to host it on their servers, as well as providing maintenance support.

The hosting of the system works really good. **The problem lies with the system design.** In the early phases of the system design, when the needs of users and the resulting requirements of the system were assessed, it seems that the primary focus was on facilitating the check of the validity of data by national authorities and on ensuring the security of stored data, rather than focusing on the organisers' needs as well as the user experience. This has led to major issues as outlined below.

We have had lots of **usability problems** and would like to highlight a few points that we believe are crucial to be improved to ensure the success of ECIs. We have observed many people from different countries and different age groups signing the form online and almost all of them struggled. The first problem is that the support button is too small/not easy enough to find. Furthermore, some people



click first of all on the hyperlinks because they seem to be the most obvious thing to click on, so maybe they could be moved down or somewhere else?

The system is not able to deal adequately with common user requirements, for example a citizen willing to sign having the form open and getting their passport (which takes too long, so the form times out and provides an unclear error message which many users won't understand). There is no support for browser back/forward buttons and invalid data was not marked correctly with a red border and focus/centered on screen. On some browsers users were not able to scroll down to select the UK as their country of residence and many Austrian and French citizens failed to provide the correct passport number as they didn't realise that they had to include the checksum - leading to the system rejecting their signature without explanation and many signatures being lost. A guide explaining the expected format for ID or passport numbers could offer a solution to this problem (or even better, passport and ID requirements should be abolished).

The *captcha* is not working crossbrowser / crossplatform, not always working on mobile phones, and is generally hard to read especially for non internet-trained, or visually impaired people as well as the elderly. The audio *captcha* is always in English, no matter which language the user chooses.

Many internet providers were marking the website as not secure and warned citizens not to access it (due to the certificate initially associated to the wrong domain name but also at later points in time we encountered this problem, even though less frequently). How should we expect citizens to insert their personal data on a website that their computer declares to be insecure? We have raised this issue with DIGIT but the reply was that this was the person's computer's problem, not the website's (our website would open without problems on their computer, though).

Another issue (which was slightly improved with the latest version of the OCS but is still not satisfactory) is that when someone tries to sign online and makes a mistake, the system will show the user exactly the same screen again (as per the screenshot below). We believe that there should be somewhere an indication (ideally in large bold red letters) alerting the user that he/she made a mistake and request that they check the relevant field and try again. Especially those who are not very familiar with the internet might currently think that they have already signed as they are presented with exactly the same screen again. We know that when you scroll down you will see the red error messages but the thing is that those are not visible without scrolling down which is very confusing for the users. They do not know that their signature will only have been counted when they saw a signature ID.



Some citizens also provided us with the feedback that due to the fact that they wouldn't receive a **confirmation email**, they didn't know whether their signature was counted. From a campaigning perspective, it would also be very beneficial to be able to collect email addresses. We understand the reasons of the Commission for not doing so but suggest that in a potential review of the legislation this issue might be reconsidered.

We have collected statistics about how many people click on sign now and how many actually sign. The results are sobering: only 44% of those who click on sign now actually sign. These numbers vary a lot by country (up to 80% of all French signatures were lost at times¹), suggesting a strong correlation with the amount of data required per country.

Unfortunately, the OCS does not provide for a possibility to collect statistics which would allow to understand at which stage the users actually drop out (is it the *captcha*? Do they make a mistake and don't realise? Is it the birth date or passport number?). Those statistics would be extremely useful in order to be able to assess how to improve the OCS.

Some of the issues with the OCS have by now been improved (like rejecting certain passport formats, and the system necessarily re-directing to the first page rather than a customisable "thank you" page). However, there is still major room for improvement in order to turn the OCS into a useful campaigning tool. This includes for example the integration with social media.

One last issue we would like to mention here which is not of technical nature, is the amount of paperwork needed for the certification of the OCS. While the Commission and the Luxembourgish

¹ assuming that those who looked at the website in French were either French or Belgian citizens as the statistics are by language as proxy for nationality.



authorities were very helpful, this still took a lot of our time and energy and also implies a personal commitment of those signing the contract to take the full responsibility in case of any data leakages. For a group of primarily young volunteers, taking this kind of responsibility is very demanding. This is just one example where a legal entity for the Citizens' Committee could help take away pressure and responsibilities from individuals but rather allocate it to an organisation.

4. The Commission extended the deadline for the first initiatives to collect signatures because of problems getting the online collection system up and running. Please comment on whether you consider that this extension of the deadline was sufficient and applied in a fair manner.

In general, extending the deadline was a good idea simply because collecting signatures without an online facility does not make much sense in the 21st century. However, it was not applied in a very consistent manner and most importantly, from our point of view it was not communicated clearly. Actually all the initiatives that were so far successful in collecting more than 1 million signatures had more than one year time. Of course, the OCS was not working for part of their time, so it would also have been unfair to just let them lose this time but the way it was done they actually ended up having half a year more of very valuable campaign time.

We also benefitted from the offer that we could withdraw and re-register our ECI given that the OCS was not working when our ECI was first registered. This was a reasonable proposal by the Commission and a solution that helped many ECIs, including ours, and made sense under the circumstances. However, for us it is not clear **why some of the other ECIs did not follow the same procedure and were instead granted more than a year for the collection of their signatures while this option was never offered to us?**

We would like this opportunity also in general to give some feedback about the timing of the initiatives. We have two major concerns:

First of all, there is **too little time** between the registration and the start of the 1 year which doesn't allow organisers to prepare the OCS and the campaign properly. In one month only, organisers are supposed to set up their OCS, obtain its certification (which in itself can already take a month) and prepare their campaign. A very ambitious time plan which given the bureaucratic work required for the accreditation of the OCS is very difficult to implement for a volunteers citizens' initiative.

Second, one year is very little time to collect one million signatures, as demonstrated by the success of the ECIs which got an extension of their deadline. Who knows, if we had had 1.5 years, maybe we would have also reached the goal?

Therefore we recommend that timings of the ECI are reviewed in the upcoming review of the legislation.



5. Please give your view on the functionality and usefulness of the paper form to be used for collecting handwritten signatures.

In general, we support the collection of signatures on paper which is a good way to get many votes when attending festivals and events, where large groups of people are gathered at the same location. We have had very positive experiences with the paper forms not only to attract people who do not feel very confident about signing online but also to recruit new volunteers. As a whole, the total impact of the paper signatures accounts for a small but substantial part of our signatures.

However, the design of the paper forms could be improved. There is a lot of text, so forms are not very appealing to citizens. We understand that the full text (subject matter and objectives) must be on it, so that citizens can read what they are signing up to but for example the names of the Committee members, as well as the Commission website are not necessary (some kind of "quality seal" - like the registration number or even better the official ECI logo should be retained, though, to ensure the authenticity of an ECI). We further suggest to change the colour of the paper form (less grey).

Furthermore, the suggested paper forms only included space for 3 signatures per paper and for users it was very confusing to realise that. We therefore adjusted the forms in most countries, to fit 7 or 8 signatures on it and this made it much easier to sign. We suggest that to be implemented for the original design as well.

A further problem is that there are different paper forms for different nationalities. So it is difficult to collect signatures at European events and in particular the European idea is not implemented. What a paradox that for a European initiative, nationals of each country need to sign separately!

Another issue with the paper form (i.e. in Italy) is that it doesn't specify which documents are accepted. Plus people tend to put a limited amount of info into (i.e. address: Via del Corso - without including number, postcode, etc.) whereas this data is required on the website, questioning the validity of their signature.

6. Do you have any concerns or comments in relation to the treatment of personal data provided by citizens signing an initiative (either online or on a paper form)?

We think that the data protection is more than adequate. If requirements were to be loosened (no birth date or ID number required), that would make the treatment of personal data easier for citizens.

We are very concerned about the personal liability carried by the representative of the citizens' committee for the data protection. That's why we recommend giving the citizens' committee some kind of legal status, so that personal liability of the members of the committee would be limited. This would also have additional benefits, for example in terms of opening a bank account, fundraising, and other things (including liaison with the data protection agencies probably).



7. Do you have any concerns or comments as regards the possibilities (or lack thereof) of tracking the number of signatures obtained throughout the collection period?

In our case, the Commission IT team provided us every morning with an updated report of the number of signatures per country, as well as the additional numbers during the last 24 hours. This has been very useful and we suggest to apply the same system to future ECIs. We implemented an automatic counter on our website which was manually corrected with the signatures from the OCS each morning. Of course, it would be preferable if a way could be found how the OCS could link with organisers' websites and therefore the numbers could be updated automatically but given more pressing issues with the OCS this is not so much of a priority. We also really like the Europe-map with the number of signatures which has been implemented with the new version of the OCS. Well done! It would be great if in the future a facility could be added to include paper signatures in this.

Furthermore, it would be good to have statistics on where in the OCS people get lost (is it the *captcha*? Too extensive data requirements? Other problems?). Currently, we don't have access to any such statistics in our OCS. These would allow the Commission and organisers to assess properly the amount of signatures which are lost and at which stage of the system they are lost. With this information, targeted improvements of the OCS would be facilitated and if the results actually confirms that most citizens drop out when they have to provide specific data (such as the birth date or passport number) for a given nationality, statistics could be aggregated and used to convince member states to loosen data requirements.

8. What is your experience as regards the contacts with different national authorities in relation to your initiative (for certification of the online collection system and certification of the number of valid statements of support)?

Overall, we are still slightly confused and not entirely sure which authorities we were supposed to inform. We contacted all of the ones provided on the Commission webpage (and in the beginning it was unclear which list of national authorities has to be contacted which was then clarified by the Commission ECI team, so that we ended up contacting both lists) per email but the overwhelming response was no response. However, we understand that the only one with which we really had to register with was the UK authority, given our representative's residency in the UK. When we first contacted them there was quite some confusion as to how we had to register (usually it is for organisations and they charge for registration, but as we are only volunteers, we are not an organisation and we also did not accept to pay). Finally, we registered on a private name. The UK authority asked us to include email addresses in the paper form but we did not comply with this request upon re-assurance from the Commission that this was not necessary.

Several countries asked us to register as controller of personal data. However, sometimes this is only possible as NGO and given that we were only a group of volunteers, we couldn't fulfil the requirements of registering. A particularly difficult country was Bulgaria where the authority wanted every single person who would collect signatures to be registered as controller of personal data. This is of course difficult to manage for a citizens' initiative with changing volunteers. The Dutch authorities answered our requests in Dutch which posed additional challenges for us. However, most of the countries either never got back to us or told us that they were not responsible. Some authorities did not even know that the ECI exists or what it is.



Given that we had spoken to the UK authorities, we then decided to focus on the signature collection instead, hoping that we had done everything we had to do correctly.

However, there are also some positive examples: The Luxembourgish authority was extremely helpful for the certification of the online collection system. They answered all our queries and provided very useful feedback. The German authority was also well-prepared and able to answer questions.

We suggest that the Commission strengthen communication with national data protection agencies and work with them to harmonize rules, requirements and procedures, as well as clarify data protection and other responsibilities of ECI organizers.

9. What changes to the ECI Regulation would you consider useful, if any?

The first and most outrageous shortcoming of the ECI which has to be remedied immediately is the fact that **some EU citizens are actually excluded** from signing an ECI and therefore making their voice heard. This applies to nationals of member states which only allow residents to sign who live in another EU country which only allows nationals to sign (for example UK citizens living in Austria or Portugal). Given that this is a European citizens' initiative, it is unacceptable that some citizens of the union are not allowed to participate.

The next problem are the large differences in **data requirements** by country. We suggest a level playing field in terms of the details that define a "valid statement of support". So the same requirements, regardless of the country. This would also make it possible to collect statements of support of EU citizens from different countries on one paper form which would contribute to building a European identity (if the issue of how to then send them to the national authorities was resolved).

The current system is deeply unfair. While German and UK citizens "only" have to provide their signature, date (and place for Germany) of birth, nationality, and address, citizens of many other countries have to provide their personal ID or passport number. This is more than what's needed for national petitions in some cases. Especially - but not limited to - in countries with a history of identity theft this puts many citizens off.

Our statistics of how many people clicking on sign now actually provide a valid statement of support suggest a strong correlation between amount of data required and willingness to sign. We suggest that further research and potentially a comparative analysis on all ECIs be undertaken as to whether there is some correlation with the amount of signatures per country and the data requirements in that country.

We further recommend that the Citizens' Committee should have a **legal status** to limit liability and allow for fundraising, as well as opening a bank account. Currently, individuals are personally liable for any potential issue, such as data leakage. This could be solved either by giving the citizens' committee a legal status or advancing plans for establishing a Europe-wide NGO as which ECIs could register. We originally decided to run this as true citizens' initiative and not to establish an organisation and we still believe in this idea, but a legal status for the citizens' committee would facilitate many things on a practical level.



As mentioned before, we recommend to adjust the **timings** for the ECI. First of all, more time should be allowed between the registration of an ECI and the start of its one year for the collection of statements of support. One viable model would be that the organisers are free to choose their start date (within a reasonable amount of time, let's say 6 months after registration). This would not only provide room for the setting up of the OCS but also to plan a proper campaign launch (all of this can't be planned in advance as long as it is not sure whether the ECI will be accepted).

Furthermore, as the experience of the successful ECIs shows, it might be reasonable to extend the period for the collection of signatures beyond more than a year (let's say 18 or 24 months). Campaigning and building an online and media presence takes a lot of time - especially for volunteers-only run initiatives who have to start building infrastructure from scratch one year is not enough.

We also suggest that the **bureaucratic burden for ECI organisers was simplified**. We see the potential to do so in particular in two aspects:

- certification of the Online Collection System: We suggest that the paperwork to be submitted for the certification of the OCS is reduced. It is very difficult for volunteers to cope with this and the contract legally binds the representative which is of concern as outlined above.
- liaison with national authorities: Given that we didn't reach the million, we didn't have to take care of the certification of statements of support. However, as outlined above, we contacted all the national data protection authorities in the beginning and got very differing answers from them. We would suggest that the process of validation of signatures was centralised in one European office. This would also facilitate for citizens from different EU member states to sign on the same paper form and ECI organisers would have one clear point of contact.

Further support to ECI organisers could be provided with the translation service: When checking organisers' translation into other EU languages, the European Commission staff could right away correct the text rather than sending it back indicating which parts are mistaken only. In our case, translations had to be very accurate and therefore, for example, the title of our initiative in many languages did not sound particularly appealing.

Last but not least we call for **obligatory transparency regarding funding and supporting organisations**. Our experience shows that only few citizens' initiatives are true citizens' initiatives, by citizens for citizens. Many are run by major civil society organisations which in itself is not a problem but it is essential to safeguard democracy, that it is reported transparently which organisations support a certain ECI. While we appreciate the fact that the sources of funding have to be made transparent at the start of the initiative, this is not enough. This obligation should continue throughout the entire campaign life and the Commission should apply checks to ensure that organisers actually provide all information accurately. Furthermore, also support in kind (for example in the form of staff time, provision of servers or materials, etc) should be made transparent on an obligatory basis. We understand the reasons why originally only citizens' committees would be able to start an ECI and not civil society organisations but maybe the possibility should be provided for organisations to run an ECI. At least, in this case it would be made public and transparent when an ECI is run by an organisation and citizens could then choose whether to support it or not.



10. Please provide any other information or suggestions, in succinct form, that you would consider useful for improving the citizens' initiative procedure.

We suggest that the Commission continues the dialogue with ECI organisers to understand their main concerns. Furthermore, we suggest that a workshop with the national data protection agencies and the authorities responsible for the decision about data requirements is organised during which member states can learn first-hand from ECI organisers the problems that many citizens encounter and will hopefully understand the need for and benefit of uniform requirements.

Last but not least we would like to underline our concern again that some EU citizens are actually excluded from supporting an ECI. This is very dangerous to the European idea and should be remedied immediately. A democracy is the rule of the people - based on the principle that every person has a voice to contribute. So please ensure that all citizens of the union will be able to participate in a European Citizens' Initiative.

We thank the European Ombudsman for taking the initiative to start an inquiry into the ECI and look forward to its results.