



## European Ombudsman

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Mr Jean-Claude Juncker  
President  
European Commission

Strasbourg, 08/03/2016

Follow-up to the guidelines for further improvement issued to the European Commission when closing own-initiative inquiry OI/9/2013/TN concerning the functioning of the European Citizen Initiative procedure

Dear Mr President,

I am writing in response to your letter of 31 July 2015, in which you provided comments on the 11 guidelines for further improvement<sup>1</sup> that I proposed to the Commission concerning the functioning of the European Citizen Initiative (ECI) procedure.

It is clear from the Commission's response and its report on the application of the ECI Regulation that it is aware of most, if not all, of the problems that ECI organisers are facing. This is, indeed, a good starting point when seeking to achieve improvements. Nevertheless, the Commission is of the view that the ECI procedure, as a whole, is working. The question that thus remains to be answered is whether the procedure works well enough for the ECI to constitute a real and effective tool for citizens to participate in the democratic life of the Union. I share the concern put forward both by public bodies and stakeholders in this regard, although it is reassuring to see that the number of registered ECIs has increased lately, after a worrying decline.

With my own-initiative inquiry into the functioning of the ECI procedure, I wished to gather and channel input into the discussion on the future of the ECI, primarily by addressing the Commission.

I very much welcome the Commission's response to my guidelines, on which I wish to make the following comments.

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<sup>1</sup> [www.ombudsman.europa.eu/en/cases/decision.faces/en/59205/html.bookmark](http://www.ombudsman.europa.eu/en/cases/decision.faces/en/59205/html.bookmark)



Despite the efforts made by the Commission and the Europe Direct Contact Centre, which must be acknowledged, the fact remains that there is frustration as regards the **advice given to ECI organisers** about what would constitute an ECI falling within the Commission's mandate.

The Commission recognises that insufficient understanding of EU law is an issue of concern in the registration process. There is a general acknowledgment that the Commission's role in providing advice on the formulation of an ECI, on which it will later decide, is problematic. In this regard, it is worth noting that the European Parliament's Committee on Constitutional Affairs, in its Report on the ECI<sup>2</sup>, calls on the Commission to consider establishing an independent body to provide advice to ECI organisers at the preparation stage. I encourage the Commission to explore this possibility. Better advice at the preparation stage is likely to lead to fewer ECIs being refused registration.

If an ECI is refused registration, organisers need to understand the **reasons for that refusal**. The Commission is of the view that its current practice of publishing all refusal decisions on its website provides effective guidance to future organisers. This is certainly true from a *process* point of view. However, if an ECI organiser considers that the Commission has provided insufficient reasons for its refusal to register the ECI, my complaint handling services is available to the organiser. Where appropriate, a more comprehensive explanation may be provided by the Commission following the intervention of my Office. The Commission considers that a legislative proposal is not the only criterion to determine the success of an ECI, a point the Ombudsman accepts. However, the Commission has not adequately explained how the **public debate** generated through the ECI procedure will be as **inclusive and transparent** as possible.

Nevertheless, I am encouraged by the fact that the Commission has stated that it is exploring, with the European Parliament, how to improve the **public hearing**, which is an aspect of the ECI procedure that is also highlighted in the Report on the ECI by Parliament's Committee on Constitutional Affairs.

As regards **the Commission's political choices in the formal response to a successful ECI**, I welcome the Commission's commitment to strive to further enhance its explanations where possible. Political choices are sometimes difficult and such choices clearly cannot satisfy everyone. However, I maintain the view that citizens deserve to be told the truth and that it is by being told the truth that citizens gain trust in the EU.

I also welcome the fact that the Commission has taken into account the comments about desired **improvements of the online collection software (OCS)** that were made during the public consultation. The Commission has, so far, introduced a soft validation mechanism, improved the look and feel of the OCS and enabled signatories to share/like an ECI through social media.

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<sup>2</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2015-0284+0+DOC+XML+V0//EN>



The Commission also expresses a commitment to take into account the **needs of persons with disabilities** when further developing the OCS. I note, however, that the Commission does not appear to have taken any concrete measures in this regard. I will therefore encourage any person with a disability, who encounters a problem when signing an ECI online, to draw this to my attention.

The Commission reiterates that it has no intention to carry out systematic **checks of funding information** provided by ECI organisers. At the same time, it signals its willingness to examine further my suggestion regarding quality checks and the alerts and complaint system used for the Transparency Register.

The Commission acknowledges that **simplifying data requirements** for signing a statement of support of an ECI is a pressing matter in need of further improvement. I acknowledge the Commission's continued efforts to encourage Member States to simplify their data requirements. Data requirements can be modified and simplified by a Commission Delegated Regulation, which was last done in July last year.

Given that this is an aspect of the ECI procedure that is primarily in the hands of the Member States, I will raise awareness of the matter with my national counterparts in the European Network of Ombudsmen.

The **funding of ECIs** remains an unsolved and somewhat sensitive issue, although the Commission states that it remains open to discuss any suggestions on this topic. In respect of **translations** the Commission states that the European Economic and Social Committee (EESC) has offered to help organisers to translate, free of charge, the title, subject-matter and objectives of initiatives into all the working languages of the EU. I welcome the support provided by the EESC in this regard and I count on the Commission to accept the offer and to inform organisers accordingly.

On the basis of the above, I welcome the measures taken by the Commission to improve the functioning of the ECI procedure within the existing legal framework and I encourage the Commission to live up to its commitments to make further improvements, also in the context of a revision of the ECI Regulation.

I also encourage any citizen, who continues to encounter problems with the ECI procedure on issues where the Commission has committed itself to make improvements, to turn to me via the complaints procedure and I will seek to help within the limits of my mandate.

Yours sincerely,

Emily O'Reilly