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“/A” ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee / Council

Subject: Report from the Commission to the European Parliament and the Council on the application of Regulation (EU) No 211/2011 on the citizens' initiative (the European Citizens' Initiative)

1. The rules and procedures governing the European Citizens' Initiative (ECI) are set out in Regulation (EU) No 211/2011¹, which became applicable on 1 April 2012;
2. Article 22 of that Regulation provides that the Commission is to present a report to the European Parliament and to the Council on the application of the Regulation by 1 April 2015, and every three years thereafter. Consequently, on 31 March 2015, the Commission issued its report²;

¹ OJ L 59, 11.3.2011, p. 9.

² COM(2015) 145 final.

3. The Working Party on General Affairs examined the Commission's report on 24 April, 8 May, 29 May and 5 June 2015 and delegations were invited to share their preliminary positions and comments. A Presidency summary of those discussions is set out in the Annex to this note;
 4. The Permanent Representatives Committee and the Council are therefore invited to take note of the Presidency summary as set out in the Annex.
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PRESIDENCY NOTE**SUMMARY OF DISCUSSIONS WITHIN THE WORKING PARTY ON GENERAL
AFFAIRS ON THE EUROPEAN CITIZENS' INITIATIVE**

Delegations considered the functioning of the current ECI. While they agreed that the instrument played an important role in strengthening participatory democracy, it was acknowledged that there was room to improve its functioning and user-friendliness³. Indeed, the potential of the ECI was not to be overshadowed by some of its shortcomings, which risked creating false expectations for citizens and triggering a backlash against the EU. The areas for potential improvement discussed by delegations included the following, which are set out in a non-exhaustive way and reflect a first summary of initial discussions:

1. Increasing awareness of the ECI - several delegations suggested improving information campaigns on the ECI, including by modern and interactive means of communication, to increase general awareness of the instrument and to encourage citizens to make use of it;
2. Providing better advice to promoters - delegations also raised the issue of the Commission providing better legal advice to promoters or exploring the option of appointing a special assistant to support ECI organisers;

³ A number of useful ideas in that regard have been put forward, among others, by the EESC on its European Citizens' Initiative Day (<http://www.eesc.europa.eu/?i=president.en.speeches-statements&itemCode=35383>) and by the European Ombudsman in her decision to close own-initiative inquiry OI/9/2013/TN (<http://www.ombudsman.europa.eu/en/cases/decision.faces/en/59205/html.bookmark>).

3. Addressing the short deadlines - a number of delegations were of the opinion that the one-year time period for the collection of signatures is too short and should be extended. Alternatively, the period should remain the same, but ECI organisers should be given the opportunity to decide when that period begins to run (potentially within 2 months). An assessment of the whole deadline regime under the Regulation was also advocated;
4. Improving the online collection system - delegations acknowledged improvements being made to the online collection system, but considered that its persistent shortcomings was an issue to address;
5. Simplifying data requirements - divergences between the conditions and personal data required from ECI signatories was an issue raised by some delegations;
6. Addressing the exclusion of some citizens from their right to support an initiative - a further issue raised was that divergences between the conditions and personal data required from signatories in the different Member States could result in citizens being excluded from supporting an ECI when they are nationals of one Member State and resident in another Member State;
7. Launching a political debate or providing advice - some delegations suggested that the Commission should launch a political debate on the topic of an ECI even when it is rejected, if it receives the required number of supporting signatures. It was also suggested that the Commission, where possible, could provide advice to organisers of an ECI as to how to take their initiative forward if it relates to an area which falls outside the Commission's field of competence;

8. Addressing the legal liability of organisers - an issue of concern for some delegations was the fact that under the current ECI Regulation, promoters of an ECI are personally legally liable for the campaign's actions. In addition, promoters have no legal personality and thus, as natural persons, they receive and manage a wide range of personal data, without being subject to the same data protection rules as legal persons;
9. Providing better reasons for rejecting an ECI - a few delegations called for the Commission to provide clearer and more extensive reasons when rejecting ECIs;
10. Broadening EP public hearings - one delegation suggested that the EP invite a wider range of experts to its public hearings, in order to receive more diverse opinions on an ECI, and that a 'mid-term hearing' could be organised after the collection of 500 000 signatures, in order to promote initiatives and to allow them to garner political support;
11. Introducing electronic signatures - one delegation also made reference to the possibility of establishing electronic signatures so as to facilitate the collection of signatures and the identification of ECI signatories.

A suggestion made by one delegation, which received considerable support, was that the Commission present a table setting out the improvements suggested, the means by which to adopt them and the body responsible for their implementation⁴.

⁴ In this regard, cooperation with other EU institutions, as well as NGOs, may prove valuable, as would a study on the interaction between the ECI provisions (Article 11(4) ECI) and those governing participatory democracy.

Delegations also posed a number of questions to the Commission, in particular on the practical steps it intended to take and the timeline for any action it envisaged. A few delegations also asked about the cost of certain services (e.g. software updates, translation services, and the hosting of servers). Other interventions queried the user-friendliness of the instrument or referred to the lack of awareness of ECIs. Some delegations underlined their wish to take an active and constructive part in discussions to come, questioned what follow up was being given to FVP Timmermans' commitment to launch a political debate even for unsuccessful ECIs, and queried the downside to revising the Regulation in its entirety.

Information provided by the Commission

In reply to the issues raised by delegations, the Commission clarified that, contrary to some expectations, it did not plan to present a proposal to review the ECI Regulation by the end of the year - that decision had not been taken, although the Commission would not exclude the option. However, it first wished to have feedback from the EP and the Council before deciding what steps to take. The risk of reviewing the ECI Regulation too early, given that it has been in force for three years only, was to improve things only partially and not to address all aspects of the instrument.

In terms of the budget, the Commission confirmed that there was no specific budget line linked to the ECI Regulation, hence resources came from different budget lines. The Commission could not give precise figures, although costs related mainly to IT (online collection software, hosting of servers, and the ECI register website). The Commission explained that it was carrying out a study, which it hoped to publish before the summer, that examined the current online collection process and provided a comparative analysis of other existing processes/systems at local or national level. However, it would continue hosting servers if no better solution could be found. In terms of software, it was regularly updating it to overcome practical obstacles which were flagged to it by organisers.

On awareness-raising, the Commission had made considerable efforts to provide information to citizens (including publishing a guide on ECIs which it sent to all Commission Representations and Member States who requested it, creating a website and posters, and organising a conference in 2012) and highlighted the contribution of the EP and the EESC.

With regard to the political debate referred to by FVP Timmermans, the Commission did not intend to establish a new, formal and systematic form of dialogue with ECI organisers. It was however looking at ways to improve communication within the current framework.

In reply to the various improvements mentioned by delegations, the Commission stressed the difficulty of it providing more guidance and legal advice, given that it could not be both the drafter and the addressee of an ECI. Legal advice on the EU and Commission competences is already provided by teams in the Europe Direct Contact Centre with the support of the Commission services. However, such advice remains informal - it is without prejudice to the formal reply that is given to a request to register an ECI and does not include advice on the concrete drafting of a proposal. With regard to calls for the Commission to improve its justifications when rejecting an ECI, it argued that its responses aimed to be as detailed and explicit as possible. On the suggestions to extend the deadlines, the Commission replied that this would require a revision of the Regulation. Lastly, in relation to the request for a table/chart detailing the various areas where improvements to the ECI instrument could be sought, the Commission presented the indicative table set out in the Appendix to this note.

Appendix

Indicative table setting out the means by which issues discussed could be addressed

| Issue | Practical arrangements | Commission Delegated/Implementing Acts | Revision of the Regulation ⁵ |
|---|------------------------|--|---|
| 1. Increasing awareness | x | | |
| 2. Providing better advice to promoters | x | | |
| 3. Addressing the short deadlines | | | x |
| Possibility for the organisers to choose the starting date of their collection period | | | x |
| 4. Improving the online collection system: | | | |
| - improvements in the Commission software | x | | |
| - improvements in the technical specifications for online collection systems | | x | |
| - improvements in the online collection process as defined in Art. 6 of Regulation (EU) No 211/2011 (certification, timeline, etc.) | | | x |
| 5. Simplifying data requirements | | x ⁶ | |

⁵ To be adopted by the EP and the Council on the basis of a Commission proposal.

⁶ The Commission can adopt delegated acts amending Annex III to Regulation (EU) No 211/2011 taking into account information forwarded to it by Member States.

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|---|---|----------------|---|
| 6. Addressing the exclusion of citizens from their right to support an initiative | | x ⁷ | |
| 7. Launching a political debate | x | | |
| 8. Addressing the legal liability of organisers | | | x |
| 9. Providing better reasons for rejecting an ECI | x | | |
| 10. Broadening EP public hearings | x | | |
| 11. Introducing electronic signatures | x | | |

⁷ The Commission can adopt delegated acts amending Annex III to Regulation (EU) No 211/2011 taking into account information forwarded to it by Member States.