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#### COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2023) 39 final
Subject:	COMMISSION IMPLEMENTING DECISION of 12.1.2023 on the request for registration of the European citizens' initiative entitled 'Article 4: Stop torture and inhuman treatment at Europe's borders', pursuant to Regulation (EU) 2019/788 of the European Parliament and of the Council

Delegations will find attached document C(2023) 39 final.

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Encl.: C(2023) 39 final

Brussels, 12.1.2023  
C(2023) 39 final

**COMMISSION IMPLEMENTING DECISION**

**of 12.1.2023**

**on the request for registration of the European citizens' initiative entitled 'Article 4:  
Stop torture and inhuman treatment at Europe's borders', pursuant to Regulation (EU)  
2019/788 of the European Parliament and of the Council**

(Only the Italian text is authentic)

## COMMISSION IMPLEMENTING DECISION

of 12.1.2023

**on the request for registration of the European citizens' initiative entitled 'Article 4: Stop torture and inhuman treatment at Europe's borders', pursuant to Regulation (EU) 2019/788 of the European Parliament and of the Council**

(Only the Italian text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative<sup>1</sup>, and in particular Article 6(2) and (3) thereof,

Whereas:

- (1) A request for registration of a European citizens' initiative entitled 'Article 4: Stop torture and inhuman treatment at Europe's borders' was submitted to the Commission on 14 November 2022.
- (2) The general objective of the initiative as expressed by the organisers is: 'In the context of the EU's powers in the area of justice, freedom and security – as set out in Article 78 TFEU on policies relating to border checks, asylum and immigration – we call for appropriate regulations to ensure that Article 4 of the Charter of Fundamental Rights is applied effectively and that the use of violence, torture and inhuman and degrading treatment is banned at EU borders and in non-EU countries which the European institutions or one or more Member States have concluded agreements with restricting the entry of migrants or asylum seekers into Europe, as well as in the Member States themselves in managing reception, with penalties imposed for non-compliance with the obligations laid down.'
- (3) An annex to the initiative provides further details on the subject matter, objectives and background to the initiative. The organisers claim that, in recent years, increasing violence has been perpetrated against migrants and reported by international organisations such as the United Nations High Commissioner for Refugees (UNHCR), Amnesty International and Human Rights Watch. The organisers urge the Union to use its powers to put an end to those alleged violations of Article 4 of the Charter of Fundamental Rights, notably '1) on entry into the common European area, by regulating border checks and imposing penalties on countries that openly violate the

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<sup>1</sup> OJ L 130, 17.5.2019, p. 55.

ban on the use of violence, torture and inhuman and degrading treatment; 2) in non-EU countries, in the context of operations to externalise EU borders, by imposing penalties on Member States which conclude agreements that do not provide for the monitoring of compliance with Article 4; 3) in setting reception standards for the entire period of residence in the EU, by imposing penalties on countries whose authorities and/or law enforcement agencies infringe the rights of migrants or asylum seekers’.

- (4) As such, it appears that the main objective of the initiative is to establish a framework for ensuring compliance with the prohibition of violence and inhuman and degrading treatments enshrined in Article 4 of the Charter of Fundamental Rights in relation to the Union policy concerning border controls, asylum and immigration. In so far as the initiative pursues this objective in relation to border controls, the Commission has the power to present proposals for legal acts on the basis of Article 77(2) TFEU. In so far as the initiative pursues this objective in relation to the common policy on asylum, subsidiary protection and temporary protection, the Commission has the power to present proposals for legal acts on the basis of Article 78(2) TFEU. In so far as the initiative pursues this objective in relation to the common immigration policy, the Commission has the power to present proposals for legal acts on the basis of Article 79(2) TFEU.
- (5) For those reasons, none of the parts of the initiative manifestly fall outside the framework of the Commission’s powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties.
- (6) This conclusion is without prejudice to the assessment of whether the concrete substantive conditions required for the Commission to act, including compliance with the principles of proportionality and subsidiarity and compatibility with fundamental rights, would be met in this case.
- (7) The group of organisers has provided appropriate evidence that it fulfils the requirements laid down in Article 5(1) and (2) of Regulation (EU) 2019/788, it has designated the contact persons in accordance with Article 5(3), first subparagraph, of that Regulation. A legal entity has been created specifically for the purpose of managing the initiative.
- (8) The initiative is not manifestly abusive, frivolous or vexatious, nor is it manifestly contrary to the values of the Union as set out in Article 2 of the Treaty on the European Union and to the rights enshrined in the Charter of Fundamental Rights of the European Union.
- (9) The initiative entitled ‘Article 4: Stop torture and inhuman treatment at Europe’s borders’ should therefore be registered.
- (10) The conclusion that the conditions for registration under Article 6(3) of Regulation (EU) 2019/788 are fulfilled does not imply that the Commission in any way confirms the factual correctness of the content of the initiative, which is the sole responsibility of the group of organisers of the initiative. The content of the initiative only expresses the views of the group of organisers, and can in no way be taken to reflect the views of the Commission,

HAS ADOPTED THIS DECISION:

*Article 1*

The European citizens' initiative entitled 'Article 4: Stop torture and inhuman treatment at Europe's borders' shall be registered.

*Article 2*

This Decision is addressed to the group of organisers of the citizens' initiative entitled 'Article 4: Stop torture and inhuman treatment at Europe's borders', represented by Mr Marco CIURCINA and Ms Maria Cristina FRANCESCONI, acting as contact persons.

Done at Brussels, 12.1.2023

*For the Commission*  
*Věra JOUROVÁ*  
*Vice-President*