



Council of the
European Union

Brussels, 12 June 2020
(OR. en)

8731/20

AG 29
INST 108
CODEC 507

'I' ITEM NOTE

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

Subject: Proposal for a Regulation of the European Parliament and of the Council laying down temporary measures concerning the time limits for the collection, verification and examination stages provided for in Regulation (EU) 2019/788 on the European citizens' initiative in view of the COVID-19 outbreak
- Mandate for negotiations with the European Parliament

1. On 20 May 2020, the Commission brought forward, as part of its response to COVID-19, the abovementioned proposal.¹
2. The right to submit a European citizens' initiative (ECI) is enshrined in the Treaty on European Union (Article 11(4)). The national confinement measures and more generally the pandemic made it nearly impossible for organisers to successfully continue their campaigning and the collection of paper statements of support to help them gather the required online and paper statements within the set period of 12 months. Member States and the European institutions also have certain obligations as regards the verification (including certification) of the validity of the collected statements of support and the examination of a successful initiative. Because of the reasons mentioned above, they may not be able to fulfil these obligations within the set legal time limits.

¹ The proposal [COM(2020) 221 final.] has been submitted to the delegations with the following reference: ST 8120/20 + COR 1

3. Similarly as for other Union policies and legal instruments impacted by the COVID-19 pandemic, the Commission has proposed to take temporary measures to counter these impacts concerning the time limits. The proposed changes, as specified in the title, concern the time limits for the collection, verification and examination stages provided for in Regulation (EU) 2019/788 on the European citizens' initiative in view of the COVID-19 outbreak. The proposed measures are limited in time, under the assumption that the pandemic will have been overcome by the end 2022.
4. The Working Party on General Affairs (GAG) examined the proposal at an informal video conference on 29 May and at a meeting on 12 June, when the Presidency also considered the positions expressed by delegations, with one delegation signalling, while expressing support, that it might issue a statement at a later stage. On 12 June, delegations overall welcomed the proposal without amendments and subject to legal-linguistic revision before the adoption.
5. The European Parliament intends to use the urgent procedure, which will be announced on 17 June, with amendments, should there be any, to be voted on 18 and/or 19 June. The proposal will be then referred to the European Parliament Committee on Constitutional Affairs in view of interinstitutional negotiations. The Parliament intends to vote on its first reading position at its Plenary on 8-10 July.
6. The Permanent Representatives Committee is invited to agree on the Council negotiating mandate set out in the Annex² to this note, which is the Commission proposal without amendments.

² This is without prejudice to future changes to the text carried out during the lawyer-linguist phase.

2020/0099 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down temporary measures concerning the time limits for the collection, verification and examination stages provided for in Regulation (EU) 2019/788 on the European citizens' initiative in view of the COVID-19 outbreak

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 24 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 11 March 2020, the World Health Organization announced that the COVID-19 outbreak had become a worldwide pandemic. The Member States have been affected in a dramatic and exceptional way by the consequences of that pandemic. They have taken a series of restrictive measures to stop or slow down the transmission of COVID-19, including lockdown measures to restrict the free movement of their citizens, the prohibition of public events, and the closure of shops, restaurants and schools. Those measures have led to a near standstill of public life in almost all Member States.
- (2) The measures taken by the Member States have inevitably also had a serious impact on European citizens' initiatives. For a European citizens' initiative to be successful,

³ OJ C , , p. .

⁴ OJ C , , p. .

Regulation (EU) 2019/788 of the European Parliament and of the Council⁵ requires the organisers to collect at least 1 million statements of support in at least 7 Member States within a period of 12 months. In particular, paper-based collection of statements of support, local campaigning and the organisation of public events, which are of significant importance for a successful initiative, have become substantially more difficult because of the measures taken in response to the COVID-19 pandemic.

- (3) Member States and the Union institutions also have certain legal obligations under Regulation (EU) 2019/788. Those obligations are subject to strict time limits from which Regulation (EU) 2019/788 does not allow any derogations.
- (4) The Treaty on European Union has granted citizens of the Union the right to approach the Commission with a request inviting it to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties. The citizen's initiative is one of the main instruments for citizens of the Union to engage in an easy and accessible way in the democratic and political debate about the Union and to put issues that matter to them on the agenda of the Union.
- (5) In the current exceptional circumstances and in particular because of the measures taken by the Member States in response to the COVID-19 pandemic, temporary measures are necessary to preserve the effectiveness of that instrument, and to provide legal certainty regarding possible extensions of the applicable time limits.
- (6) Member States have indicated that they will only gradually reduce the level of restrictions introduced by the measures in response to the COVID-19 pandemic, in order to monitor and control the public health situation. An extension of the period for the collection of statements of support by six months, covering the period starting from 11 March 2020, when the World Health Organization announced that the outbreak had become pandemic, is therefore appropriate. That extension is based on the assumption that at least in the first six months since 11 March 2020 a majority of Member States or a number of Member States representing more than 35% of the Union population will have measures in place that will substantially hamper the organisers' possibilities to carry out local campaigning and collect paper statements of support. The collection period of initiatives the collection of which was ongoing on 11 March 2020 should therefore be extended by six months. Where the collection period of an initiative started after 11 March, that period should be extended proportionately.
- (7) Given that the end of the pandemic in the Union is difficult to predict, it is appropriate to empower the Commission to adopt implementing acts to further prolong the collection period in respect of initiatives, for which the collection period is still ongoing on 11 September 2020 in cases where the exceptional circumstances resulting from the COVID-19 pandemic continue to exist. The six-month extension of the collection period provided for by this Regulation should allow the Commission sufficient time to decide whether a further prolongation of the collection period is justified. The empowerment should also allow the Commission to adopt implementing acts to prolong the collection period in the case of a new public health crisis linked to a new outbreak of COVID-19, if a majority of Member States or a number of Member States representing more than 35% of the Union population have taken measures that are likely to have the same effect.

⁵ Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative (OJ L 130, 17.5.2019, p. 55).

- (8) In order to ensure uniform conditions for the implementation of the prolongation of the collection period, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶.
- (9) The measures taken by the Member States in response to the COVID-19 pandemic may significantly affect the ability of competent authorities to verify the validity of statements of support within the time limit of three months laid down in Regulation (EU) 2019/788. For example, there may be fewer staff available, or the competent authorities may have additional tasks and responsibilities as a consequence of the pandemic.
- (10) Member States should ensure that, despite the measures taken in response to the COVID-19 pandemic, their administrations function as normally as possible. However, in exceptional circumstances, a Member State should be allowed to submit a reasoned request to the Commission for an authorisation to apply an extension of the verification and certification period. The request should be substantiated and take into account the effects of the pandemic related measures on the functioning of that Member State's competent authorities. Any extension granted should not be longer than the initial verification period.
- (11) Due to the measures taken by the Member States in response to the COVID-19 pandemic, it may be difficult for the Union institutions to organise meetings with organisers or public hearings in the context of the examination of valid initiatives in the Member State where they intend to organise such meetings. In such cases, the institutions should be allowed to postpone the organisation of those meetings to a date when the public health situation in that Member State allows to do so. Where the public hearing is postponed, the Commission should be able to delay the adoption of its communication setting out its legal and political conclusions on the initiative to three months after the public hearing has taken place, to allow it to take due account of the findings at the hearing.
- (12) Where the period for collection, verification or examination is extended due to the measures taken by the Member States in response to the COVID-19 pandemic, the retention periods for statements of support laid down in Regulation (EU) 2019/788 are extended accordingly.
- (13) The unforeseeable and sudden outbreak of COVID-19 and the resulting measures taken by the Member States, which have been regularly prolonged, have meant that as regards some individual situations it was not possible to adopt the temporary measures provided for in this Regulation in time. For that reason, the temporary measures should also cover the period before its entry into force.
- (14) This Regulation should also apply to initiatives registered before 1 January 2020 under Regulation (EU) No 211/2011 of the European Parliament and of the Council⁷, to which the provisions of that Regulation on the collection period of statements of support and

⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁷ Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (OJ L 65, 11.3.2011, p. 1).

verification and certification by Member States continue to apply pursuant to Article 27 of Regulation (EU) 2019/788.

- (15) Considering the temporary nature of the Member States' measures in response to the COVID-19 pandemic, the period of application of this Regulation should also be limited.
- (16) This Regulation should be adopted as a matter of urgency, so that situations of legal uncertainty affecting citizens, organisers, national administrations and the Union institutions, in particular where the relevant time periods for the collection of statements of support, verification and examination in respect of a number of initiatives have already ended or are about to end, remain as short as possible. It is therefore appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (17) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the Official Journal of the European Union,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down temporary measures applicable to the collection, verification and examination periods for registered citizens' initiatives under Regulation (EU) 2019/788 and Regulation (EU) No 211/2011, in the context of the measures taken by the Member States in response to the COVID-19 pandemic.

Article 2

Extension of time limits for the collection of statements of support

- (1) Notwithstanding Article 8(1) of Regulation (EU) 2019/788 and Article 5(5) of Regulation (EU) 211/2011, where the period for the collection of statements of support for an initiative the collection of which was ongoing on 11 March 2020, the maximum collection period shall be extended for a period of six months in each case.

Where the collection of statements of support for an initiative started between 11 March 2020 and 11 September 2020, the maximum collection period shall run until 11 September 2021.

- (2) The Commission may adopt implementing acts to prolong the maximum collection periods of initiatives referred to in paragraph 1, if a majority of Member States or a number of Member States representing more than 35% of the Union population continue to apply after 11 September 2020 measures in response to the COVID-19 pandemic which

substantially hamper the possibility for organisers to collect paper statements of support and to inform the public of their ongoing initiatives.

The Commission may adopt implementing acts to prolong the maximum collection period of initiatives for which the collection is ongoing at the moment of a new COVID-19 outbreak requiring a majority of Member States or a number of Member States representing more than 35% of the Union population to apply measures that affect organisers of those initiatives to the same extent.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 6(2) and shall identify which initiatives are concerned and the new end date of their collection period.

The duration of each prolongation shall be three months.

For the purpose of assessing whether the requirement in the first and second subparagraph is fulfilled, the Member States shall provide the Commission, upon request, with information on the measures that they have taken or intend to take in response to the COVID-19 pandemic.

- (3) Notwithstanding paragraphs 1 and 2, the total duration of the collection period shall not exceed 24 months.
- (4) The Commission shall inform the organisers and the Member States of the extension granted in respect of initiatives concerned. It shall publish its decision in the online register referred to in Article 4(3) of Regulation (EU) 2019/788.

Article 3

Extension of time limits for the verification and certification of statements of support by the Member States

- (1) Notwithstanding Article 12(4) of Regulation (EU) 2019/788 and Article 8(2) of Regulation (EU) No 211/2011, where a Member State considers that due to the measures it has taken in response to the COVID-19 pandemic, it will not be possible to complete the verification and certification of statements of support for a given initiative within the period laid down in those provisions, it may submit a reasoned request for an authorisation to apply an extension of that period. That request shall be submitted to the Commission at the latest one month before the end of the period concerned.
- (2) Where, upon a request submitted in accordance with paragraph 1, the Commission finds that the requirements laid down in that paragraph are fulfilled, it shall adopt an implementing act authorising the Member State concerned to apply an extension of the period specified in paragraph 1. The extension shall not be less than one month and shall not exceed three months.

The Commission shall inform the Member State and the organisers of the initiative concerned of the extension. It shall publish its decision in the online register referred to in Article 4(3) of Regulation (EU) 2019/788.

Article 4

Extension of time limits for the examination of valid initiatives

- (1) Notwithstanding Articles 14(2) and 15(1) of Regulation (EU) 2019/788, where the European Parliament or the Commission have encountered difficulties since 11 March 2020 in organising a public hearing or a meeting with organisers, respectively, because of the measures taken in response to the COVID-19 pandemic by the Member State where those institutions intend to organise the hearing or meeting, they shall organise the hearing or the meeting as soon as the public health situation in the Member State concerned makes it possible to do so.
- (2) Notwithstanding Article 15(2) of Regulation (EU) 2019/788, where the European Parliament postpones the public hearing pursuant to paragraph 1 of this Article, the Commission shall adopt its communication setting out its legal and political conclusions on the initiative within three months after the public hearing.

Article 5

Extension of time limits for retention of personal data

- (1) Notwithstanding Article 19(5) of Regulation (EU) 2019/788, where the maximum collection or verification and certification period for a given initiative is extended in accordance with Articles 2 and 3 of this Regulation, the time limit of 21 months within which statements of support and copies thereof are to be destroyed shall be extended by the same period.
- (2) Notwithstanding Article 19(8) of Regulation (EU) 2019/788, where the maximum collection period, verification and certification period, or examination period for a given initiative is extended in accordance with Articles 2, 3 and 4 of this Regulation, the time limits within which records of email addresses are to be destroyed pursuant to that Article shall be extended by the same period.

Article 6

Committee procedure

- (1) The Commission shall be assisted by the committee on the European citizens' initiative established by Article 22 of Regulation (EU) 2019/788.
- (2) Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 7

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply until 31 December 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President