Bridging the Gap?
Opportunities and Constraints of the European Citizens’ Initiative
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Preface

The idea to this book originated with the panel “The European Citizens Initiative: Strengthening European Democracy?” at the 7th General Conference of the European Consortium for Research (ECPR) in Bordeaux in September 2013, which was organised by Annette Knaut and Katrin Böttger, with Maximilian Conrad acting as panel discussant. The panel primarily discussed methodological and theoretical challenges of this new participatory instrument, which is the first transnational agenda initiative in the world. The empirical findings presented in the panel were discussed against the backdrop of the overarching question as to the extent to which the ECI can strengthen democracy in the European Union by including various types of transnationally organized groups of citizens who may in the process generate some form of public sphere.

The discussions at the panel were characterized by both scepticism as well as hope regarding the ECI’s potential both to give citizens a voice in Brussels and to become a widely known and recognized instrument for citizens. The obstacles that the first ECIs were struggling with, most importantly with regard to the online signature collection system, can be viewed as normal challenges of a never before implemented participatory instrument. The hopes expressed during the panel are rooted further in the observation that some of test ECIs collected signatures very quickly, due in large part to the option of collecting signatures online (Knaut/Plottka 2012). As a tool of the digital age, the ECI seems to fit perfectly to the development of representative democracies into ‘monitory’ ones, where decision makers are continuously observed and scrutinized by the people via social media (Giddens 2014: 46). Finally, the upcoming ECIs are seen in the light of deliberative processes, where people discuss topics concerning the European Union and address the results of such processes to the European institutions, so that ultimately, the ECI may develop into a communication bridge between citizens and politicians beyond elections and thereby strengthen EU-level democracy.

Throughout our work on this volume, the number of new registrations of ECIs by the European Commission has been in decline. At the time of finishing this project in November 2015, only three initiatives are in their respective one-year signature-collection processes. One more initiative (Weed Like to Talk) has finished its signature collection, but has not
submitted its signatures to the European Commission. Since the start of the ECI in April 2012, only three initiatives have been answered by the Commission (Right2Water, One of us and Stop Vivisection), whereas 13 officially registered ECIs failed to collect the required one millions signatures, while 10 more initiatives have been withdrawn by their organizers. Only one initiative (Right2Water) can be said to have managed to attract significant mass media attention (Plottka in this volume). More research is clearly needed in order to explore the reasons for the initially considerable interest in the ECI as well as the more recent decline in the number of new registrations of initiatives. These reasons may be diverse and may possibly be connected to the context of the ECI’s emergence. The ECI started at a time when the EU had to face major crisis moments, first in the form of the Eurozone debt crisis, more recently in the form of the refugee crisis. Such crisis moments may very well contribute to the silent and gradual emergence of a European public sphere, as crisis moments tend to enhance contestation about divisive issues – a remarkable point against the backdrop of the much-debated lack of a European “community of communication” (Risse 2010). The EU crisis is and was part of the agenda in traditional media across the EU. By comparison, the ECI vanished behind the curtain of the media stage. In such crisis moments, questions about democratic deficits and the gap between citizens and EU institutions appear to become less salient. Second, ECI organizers not only have to struggle with a virtually complete lack of attention by leading media, but also with significant technical and structural hurdles. Examples include problems with the online signature-collection software, lack of harmonization as regards signature verification in different member states, quorums to be reached in at least seven member states, and a relatively short signature-collection period. But maybe most importantly, the European Commission’s response to successful initiatives has been difficult to predict, as it has no obligation to bring the concerns of a successful ECI into the political process.

The main ambition in this book is to present the state of the art in research on the European Citizens’ Initiative (ECI). The volume brings together researchers from a variety of European countries, universities and disciplines and is intimately linked to debates about participatory democracy in general and about the involvement of citizens in EU decision making in particular. It investigates the ECI as an instrument for bridging the gap between citizens and institutions, but also its relationship to representative, deliberative and direct understandings of the concept of democracy. Although clearly a participatory-democratic instrument, the
ECI is understood here more broadly as a tool that can be expected to have a profound and lasting impact on the democratic character of EU decision making. Related aspects that are taken up in the volume include the viability of a European public sphere, the potential for the emergence of transnational discursive spheres, as well as notions of transnational European citizenship and civil society networks. Finally, we are asking when and under which conditions the European Citizens’ Initiative (ECI) can change the participatory character of the European Union as a unique democratic system.

We want to thank the Institut für Europäische Politik Berlin for offering us the opportunity to publish this volume as part of the series „Europäische Schriften“. Financial support from the University of Iceland, without which this publication would not have been possible, is gratefully acknowledged. Finally, we want to express our sincere gratitude to our three student assistants for their commitment to the completion of this work, namely Öðinn Melsted, Hulda Gisladóttir and Christian Conrad.

Reykjavík, Landau and Berlin, November 2015

Maximilian Conrad, Annette Knaut and Katrin Böttger

References:


Introduction: The ECI at Three – More Constraints than Opportunities?

Maximilian Conrad and Annette Knaut

Virtually unnoticed by the mass media and the wider public, the European Citizens’ Initiative (ECI) – hailed though it was, at its inception, as a qualitative leap in EU-level participatory democracy – turned three in April 2015. The ECI was first introduced into EU primary law with the Lisbon Treaty’s entry into force in December 2009 and became legislative reality in April 2012. After three years of practical experience with the ECI, it would appear to be an overstatement to speak of the instrument as a success story. At least initially, throughout 2012 and 2013, the ECI certainly attracted considerable interest on the part of the European citizens, as underlined by a relatively large number of initiatives submitted to the European Commission for registration in this period (Berg/Głogowski in this volume). In this context, even rejected initiatives – that is: those that were refused registration on formal grounds (Regulation (EU) No. 211/2011) – can be seen at least as a moderate success, as they demonstrate the apparent interest of EU citizens to become involved and have a say in the EU’s legislative process.

However, the experience of the first three years of the ECI’s existence has also led to a certain sense of disillusionment regarding the European Commission’s rather restrictive use of its gatekeeper role: No matter how successful ECIs may be in terms of signature collection, they can always only request legislative proposals from the European Commission. Since the latter still has the exclusive formal right of legislative initiative at the EU level, the decision as to whether or not an initiative that has been successful in terms of signature collection also results in a concrete legislative proposal is thus entirely at the discretion of the Commission. When the Fraternité 2020 initiative became the first officially registered citizens’ initiative on “Schuman Day” in 2012, it was accompanied by high hopes that the European Commission would exercise its gatekeeper role in a non-restrictive way. At the time, the underlying assumption was that the Commission would have a hard time ignoring the invitation of successful initiatives.
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The normative expectation of a benevolent exercise of the Commission’s gatekeeper role has however been disappointed both as regards the treatment of formally registered initiatives supported by more than one million signatures and as regards at least some of the initiatives that were refused registration on formal grounds. As regards the former, it is already highly telling that only three initiatives over the first three years have managed to collect the required one million signatures and meet the prescribed quorums in at least seven different member states. Not one of them has resulted in a concrete legislative proposal from the European Commission. Of course, one might argue that the Right2Water initiative – aiming for the implementation of the human right to water and sanitation services – has been a success in the sense that it prompted the removal of water services from the Commission’s “concessions directive” in 2013, months before the initiative’s signature-collection campaign was concluded. The Commission’s response to the Stop Vivisection initiative could be characterized as highly ambivalent, arguing that while the Commission is generally sympathetic to the idea of ending laboratory testing of live animals (“vivisection”), the directive currently in force (Directive 2010/63/EU) “is paramount to increasing the welfare of animals still used today” (European Commission 2015: 7). Also the third initiative to successfully collect and verify more than one million signatures, namely One of us, failed to generate a concrete legislative proposal from the Commission, to a large extent based on the Commission’s observation that EU legislation regarding EU support for human embryonic stem cell research had been agreed democratically between the Council of Ministers and the European Parliament as recently as 2013 (European Commission 2014a).

But also the Commission’s gatekeeper role with regard to the question of the formal registration of an initiative – and thus of its admissibility – has caused some concern. Some cases have certainly been less controversial than others, as a number of initiatives submitted for registration clearly fell beyond the scope of the Commission’s legislative authority. Some initial rejections on the part of the Commission have in fact led to reformulations of the goals of the respective initiatives and ultimately resulted in the formal registration of the initiatives in question by the Commission (e.g. Unconditional Basic Income). A case that continues to be highly controversial at the time of writing in November 2015 has been that of the Stop TTIP initiative, aiming at ending talks on the proposed EU-US free-trade agreement Transatlantic Trade and Investment Partnership. The initiative was rejected in September 2014 on the grounds that it does not fall within the scope of the ECI Regulation (European
Commission 2014b). The Commission’s rejection prompted the initiation of what the organizers presented as an informal “European citizens’ initiative” with a remarkably successful signature-collection campaign. Although the signature collection mainly served symbolic purposes, the organizers were able to present close to three million signatures to the European Commission in early October 2015.

Certainly, the challenges that the ECI faces after three years of practical experience go far beyond the Commission’s hitherto somewhat restrictive exercise of the gatekeeper role. Participatory- and direct-democracy activists as well as ECI organizers have bemoaned the alleged lack of user-friendliness of the instrument, urging e.g. a longer signature-collection period (currently 12 months) with a more flexible start date, better legal and organizational advice from the European institutions or (more) harmonized signature-verification procedures across the union (see the contributions in Berg/Thomson 2014). But even the very nature of the ECI as a tool of participatory democracy remains contested, with a number of authors pointing out that in terms of its organizational requirements, the ECI more closely resembles a genuine citizens’ initiative, whereas its legislative impact is much more akin to a petition. Furthermore, the ECI raises highly intriguing theoretical questions about the future of democracy beyond the nation state and in this way links back to debates within transformationalist democratic theory, i.e. between proponents of “postdemocracy”, “postnational democracy” (Habermas, 2001; Crouch, 2004) and cosmopolitan approaches (Beck/Grande 2007; Delanty, 2009), respectively. Some authors have argued that democracy at the European level has to take the form of a transnational democracy of demoi (Bohman, 2007; Cheneval/Schimmelfennig, 2013), where transnational instruments of participatory democracy can have a profound impact not only on perceptions of a democratic deficit, but also on the gradual emergence of a European demos (Conrad 2011; Głogowski/Maurer 2013). Similarly, the ECI constitutes a democratic innovation that in different ways connects to debates about the EU public sphere deficit (e.g. Eder/Kantner, 2000; Eriksen, 2005; Trenz/Conrad/Rosén 2009; Conrad, 2014), both in the sense that its deliberative potential can make it an important resource in communicative power generation at the EU level and in the sense that it can contribute to the emergence of Transnational Discursive Spaces in the EU as a new forms of publics (Knaut/Keller, 2012; Knaut in this volume).

The contributions in this volume pick up on many of these themes from the perspective of a variety of social sciences. Following this brief
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introductory chapter, Katrin Böttger and Julian Plottka offer an extensive overview of the emerging literature on the ECI, which has grown considerably in size since the introduction of the ECI and will hopefully also continue to do so well into the future.

The chapters in the second part of the book address the ECI as a tool of transnational participatory democracy from a primarily theoretical perspective (chapters 3-6), whereas the contributors in the third part address empirical issues and present first research results from a variety of perspectives (chapters 7-11). In chapter 3, Annette Knaut proposes the concept of Transnational Discursive Spheres (TDS) as an alternative concept of publics. Against the backdrop of the term ‘public’ as an imaginary, which carries on the narratives and symbols of ‘methodological nationalism’, she argues that research on phenomena such as the ECI necessitates a new grammar to account for realities beyond the nation state. From a Habermasian perspective, Maximilian Conrad then discusses the ECI’s contribution to the emergence of a European public sphere. Linking the discussion on the ECI back to the debate on the EU public sphere deficit, Conrad argues that the ECI does indeed have considerable potential to foster transnational debate and thereby contribute to transnational communicative power generation, but that the success of the ECI in this regard hinges not last on the active role of the EU institutions (chapter 4). Regarding the nature of the ECI, Jeannette Behringer discusses the ECI from the perspective of experiences with direct democracy in Switzerland, showing the many ways in which comparisons between the ECI and direct-democratic elements are misleading. At the same time, Behringer also draws attention to the lessons that can be learned from such a comparative approach – both from the EU and from the Swiss perspective (chapter 5). Marie Dufrasne asks a much more fundamental question about the nature of the ECI as an instrument of participatory democracy, drawing our attention to the potential contribution of genre theory in understanding the ambiguities, contradictions and conflicting expectations that citizens and institutional actors may encounter when it comes to utilizing the ECI, with evident implications for the instrument’s usefulness (chapter 6).

The chapters in the third part of the book approach the ECI from a predominantly empirical angle. In chapter 7, Maximilian Conrad and Freyja Steingrimsdóttir criticize the conventional wisdom that the success of the ECI as a participatory project hinges on “average citizens’” ability to make use of the ECI and succeed with their initiatives. In an analysis of initiatives registered between 2012 and 2015, they present an alternative
and potentially more useful analytical distinction between citizen-driven, organization-supported and organization-driven initiatives. The question of what constitutes the success of any given ECI is at the center of attention in Justin Greenwood’s and Luis Bouza Garcia’s contribution. Emphasizing the agenda-setting function of the ECI, the authors demonstrate the success that ECIs can have in terms of e.g. awareness raising and channeling issues into the broader public sphere even when initiatives may be highly unsuccessful in terms of signature collection (chapter 8). Yannick Polchow picks up the concept of Transnational Discursive Spheres (TDS) and asks if ECIs promote TDS in particular in social media, in this case Twitter. By analyzing discourses of two ECIs (Right2Water and European Initiative for Media Pluralism), he arrives at the conclusion that at least in an embryonic form, TDS can in fact be identified and contribute to the generation of shared knowledge about the issues at hand (chapter 9). Julian Plottka explains the emergence of the ECI as a case of constitutional change in the EU and explores this process from the perspectives of primary and secondary law as well as constitutional practice (chapter 10). In the last empirical chapter, Carsten Berg and Pawel Głogowski present a skeptical perspective on the ECI as it is currently designed in the ECI Regulation. Drawing on material collected during the first three years of practical experience with the ECI, they observe a dramatic decline in the number of new registrations of ECI as well as a whole catalogue of improvements that would need to be made in terms of user-friendliness in order to fulfill the participatory potential of the ECI (chapter 11). The concluding chapter 12 presents a synthesis of the highly diverse theoretical and empirical contributions made in this volume, attempting to make sense not only of the nature of the ECI as a participatory project, but also to shed light on the extent to which it can become a meaningful tool to bridge existing gaps between citizens and the EU institutions.

References

Introduction


The ECI – An Overview of Opportunities and Constraints

Katrin Böttger and Julian Plotka

Since the European Citizens’ Initiative (ECI) is still a young instrument, it has only been dealt with by a small circle of researchers, many of whom are also active in politically promoting direct democracy (e.g. Berg/Thomson, 2014; Kaufmann/Pichler, 2010). In consequence, most of the literature takes a favourable approach to the ECI, mainly dealing with the expectations towards the instrument, discussing specific features of the procedure and reporting on the genesis of the ECI since the Convention on the Future of Europe (European Convention). On the political stage, there is consensus that the ECI is part of the answer to the question of how to bring Europe closer to its citizens (García/Del Río Villar, 2012: 312). Researchers examining the EU’s institutional structure are less enthusiastic about the ECI, as most of them are rather sceptical of its potential (e.g. Hrbek, 2012a, 2012b; Kaczyński, 2010). Few articles have so far been published on the outcome of initiatives, as the empirical basis for research has been limited. A notable exception is the special issue “The European Citizens’ Initiative: a First for Participatory Democracy?” of Perspectives on European Politics and Society (García/Greenwood, 2012). Thus far, 49 initiatives have been submitted to the Commission, of which 29 have been registered.¹ This should allow for further research in the near future, including the other chapters in this volume.

The major aim of this chapter is to review the state of the art of research and political debates on the ECI and give an overview of the main issues discussed. To this end, the chapter’s structure will reflect the major research fields alluded to before: The history of the ECI (1) and the making of the Regulation No. 211/2011 on Citizens’ Initiative (ECI regulation) are recapitulated (2), followed by a brief overview of the ECI procedure, and some preliminary conclusions from the first reviews (3). The ensuing three sections discuss the state of the art on types of actors (4), the issues of initiatives (5) and hypotheses about the ECI’s potential influence on the political system of the EU (6).

¹ The data presented in this chapter are the state of art of October 2014.
Opportunities and Constraints

1. The ECI Entering the European Treaties

The potential role of direct democracy has been debated throughout the history of European integration. The key question was whether treaty reforms should be legitimised by popular vote. Until the ECI was included into the draft “Treaty on a Constitution for Europe” (Constitutional Treaty), the question whether direct democracy should play a role in EU law making, was an issue of minor importance. Until then, the debate had focused on treaty reforms and was structured along two different cleavages.

The first cleavage runs between advocates and opponents of direct democracy on the EU level and reflects the general debate on the advantages and disadvantages of direct democracy. In this debate, advocates of representative democracy underline the potential harm that people’s direct involvement in decision-making might do to democracy. Direct democracy might irresponsibly empower demagogues (“[…] Prämie für jeden Demagogen”; Heuss, 1948: 63) and hand decision-making powers to “un-informed” citizens (in general Merkel, 2014: 5; with regard to the Constitutional Treaty Jopp/Matl, 2005: 16).2 Advocates of direct democracy counter these arguments by assuming that coupling representative democracy with direct democratic instruments might reduce citizens’ increasing disillusionment with politics (“Politikverdrossenheit”).

The second cleavage first appeared in the European Convention, which drafted the Constitutional Treaty (The European Convention, The Secretariat, 2003) between 2002 and 2003. Members of the European Convention debated whether the Constitutional Treaty should be approved in an EU wide referendum or not (Jopp/Matl, 2005: 16–17). It was feared that critics of further European integration would try to exploit the veto power of referenda on EU treaty reforms to bring European integration to a halt. Meanwhile, some advocates of further European integration strongly opposed any direct democracy on the EU level, because including another veto-player into the process of treaty reforms could result in “more cautious (less integrationist) treaties” (Hobolt, 2006: 160).

A compromise in the form of a “European Citizens’ Initiative” was included in the draft treaty at the last minute, bringing forward the previously minor question of “direct democracy” in EU law-making. A group including Jürgen Meyer (2003), a representative of the German

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2 For other arguments against direct democracy, which cannot be repeated here, see Merkel (2014) and Montag (2011).
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Bundestag in the European Convention, submitted an amendment to the draft treaty, which was included in the draft version of 12 June 2003 (European Convention, 2003), one day before consensus was reached on the “Draft Treaty establishing a Constitution for Europe” (Green European Foundation, 2010: 51). In analogy to the Council’s right to “request the Commission […] to submit to it any appropriate proposals” (art. 241 Treaty on the Functioning of the EU, TFEU) and the European Parliament’s (EP) similar right (art. 225 TFEU), the amendment aimed at assigning the same right to request the Commission to propose a legislative act to more than one million EU citizens from a significant number of member states (MS; Kaufmann/Wolfram, 2008; Vogel, 2009: 38; Hierlemann/Wohlforth, 2010: 2; Cărăuşan, 2011: 24-25; Schnellbach, 2011a: 2–3; Cuesta-López, 2012a: 8; Kaufmann, 2012: 2; 9–10; Kaufmann, 2012a: 9; Kaufmann/Plottka, 2012: 3; Monaghan, 2012: 285; Szeligowska/Mincheva, 2012: 63). Slightly modified, it later became art. I-47 of the Constitutional Treaty. Interest groups advocating direct democracy, such as Democracy International, claimed it as being their achievement (Green European Foundation, 2010: 53).

While the Constitutional Treaty failed twice in referenda, in the Netherlands and France, the ECI survived like many other innovations of lower symbolic value and became part of the EU’s primary law (art. 11 (4) Treaty on the European Union, TEU, and art. 24 TFEU) when the Treaty of Lisbon entered into force.

2. The ECI in the Making: Questions of Accessibility and Implementation

As early as May 2009, the EP requested the Commission to draft a proposal for an ECI regulation (European Parliament, 2009). In its resolution, the EP defined one quarter of MS as significant, proposed to connect the eligibility of participating in an ECI with the right to vote and drafted an ECI procedure very close to the provisions of the final ECI regulation (see below). As a preparation for its proposal the Commission published a green paper on the ECI (European Commission, 2009) to start the consultation procedure in November 2009. It consisted of an online consultation (325 contributions) and a stakeholder hearing (40 participants). The participation of more non-registered (as opposed to registered) organisations might be interpreted as an indicator that the debate spread out to stakeholders beyond the inner circle of Brussels (Plottka, 2012a: 426), but it did not attract the attention of a wider public.
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Points of contention included first and foremost the question of how to define a significant number of MS and whether there should be a quorum of signatures from each MS. Some contributions aimed at minimizing the threshold for ECIs to make it more citizen-friendly (e.g. Active Citizenship Network, 2010: 3), while others (one third of MS) agreed with the Commission’s proposal to ensure that ECIs reflect EU-wide concerns (e.g. The Parliament of the Czech Republic, Senate, 2010: 3).

The user-friendliness of the ECI procedure is furthermore closely linked to the information requirements for statements of support and where they can be made. The thresholds of having to appear in a public office and provide one’s ID number are considerably higher than filling in one’s name to support an ECI online. Hardly anybody doubted that online statements of support should be allowed. Concerning the required information, a debate between proponents of high verification standards and of a citizen-friendly procedure took place. The latter emphasized that an ECI does not initiate a legislative procedure, while the former presented two arguments in favour of high standards. First, the responsibility for verification lies with the MS, in each of which various different verification procedures are in place. To avoid any increase in bureaucracy (House of Lords, European Union Committee, 2010), the required information should fit all existing procedures. Second, the more details are required, the more reliable the verification is; and reliability of the verification is a question of the equality of citizens (Müller-Török, 2012: 26–27).

A third disputed element was the minimum age to support an ECI. It was also discussed with both administrative and normative arguments. The normative argument of equality of all citizens stressed that the minimum age should be the same in all MS. To increase political participation among the youth, several actors favoured a lower minimum age of 16 (European Commission, 2010a: 3–4). For practical reasons and with regard to the principle of subsidiarity (Land Salzburg, 2010), the idea of connecting the eligibility of signing an ECI to the minimum age for voting in European elections in the respective MS was proposed. This way, electoral lists for the European elections could be used for the verification procedure (Müller-Török, 2012: 26–27).

A fourth aspect was the registration and the timing of the admissibility check. The Commission underlined the necessity of a formal registration, but rejected the idea of ex-ante admissibility checks. As its final response to successful initiatives, it proposed a communication including the admissibility check and its political consequences (European Commission,
2009: 10–13). There was agreement on the need for a formal registration (European Commission, 2010a: 5) to control the time limit for collecting signatures and avoid populist ECIs that violate the EU’s values. But most respondents favoured an ex-ante admissibility check (European Commission, 2010a: 5), because otherwise organisers would risk investing resources in an initiative that is rejected on formal grounds.

Two additional issues were raised during the consultation, which were barely addressed in the green paper. First, a debate on the binding character of successful ECIs was initiated. While the TEU is clear on this matter, some participants favoured “a kind of self-obligation” of the Commission to react on successful initiatives (European Citizens’ Initiative Office, 2010: 17). Taking into account that the Commission would be unlikely to relinquish its exclusive right of initiative, the EP proposed to bring the Commission and organisers of successful initiatives together to discuss the matter of concern (European Parliament, 2009). This alternative option received strong support (Mehr Demokratie, 2010).

The second additional issue was the admissibility of ECIs aiming at treaty amendment. EU primary law is also clear in this respect: the subject matter has to have “the purpose of implementing the Treaties” (art. 11 (4) TEU). Even though this wording excludes ECIs aiming at treaty reforms (Cuesta, 2003; Auer, 2005; Priollaud/Siritzky, 2005; Laurent, 2006), some advocates of direct democracy tried to reinterpret the clause (Efler, 2010: 51). Maurer and Vogel (2009: 22) tried to reach a compromise, by arguing that admissibility depends on the reform procedure. They doubted that minor treaty reforms (art. 48 (7) TEU) and those under the flexibility clause (art. 352 TFEU) were excluded as ECI subjects. Others (Aloisio/Grimaldi/Morelli/Padoa-Schioppa, 2001: 78–80) assumed that it would be up to the European Court of Justice to decide on this question. The ECI “One Million Signatures for ‘A Europe of Solidarity’” (European Court of Justice, 2012) has already appealed to the court in this matter.

Based on the consultation results, the Commission published its proposal for an ECI regulation (European Commission, 2010b). The EP and the European Economic and Social Committee (2010) demanded a more user-friendly ECI. Again, they opposed overly demanding information requirements and favoured the provision of support to (potential) ECI organisers. During the final negotiations between the EP, Commission and Council (trilogue), a significant number was defined as one quarter, instead of the proposed one third of MS. It foresees that the Commission provides organisers with open-source online collection software. The Commission’s draft had allowed legal persons to become organisers.
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(European Commission, 2010b: art. 2 (3) and 3), ultimately restricted to citizens in the regulation. The Commission had initially planned to decide upon admissibility after the collection of 300,000 signatures (European Commission, 2010b: art. 8). In the end, the admissibility check became part of the registration procedure, preventing non-admissible initiatives from putting their efforts into collecting signatures in vain.

Debates in the Council of the EU focused on the implementation at the national level, such as information requirements and verification procedures. Some MS considered the verification procedure a crucial point and opted for high standards, while others took a much more liberal position and opted for lower thresholds, considering the ECI an agenda-setting instrument. Concerning the information requirements (especially the need of an ID document), no agreement could be reached. In 18 MS, signatories have to present an ID document. A final compromise was reached during the trilogue in December 2010 (Council of the European Union, 2010).

3. The ECI Procedure in Practice: Lessons Learned in Two Years

Between the entry into force of the ECI regulation and its application, the Commission and the MS had one year to implement the provisions of the regulation. According to the ECI regulation, the procedure consists of five consecutive steps (see table 1), which are briefly discussed in this section: (1) the setting up of a citizens’ committee; (2) registering the ECI with the Commission; (3) collecting signatures; (4) verification and certification of signatures by national authorities; (5) examination of an ECI by the Commission.

- As a first step, at least seven EU citizens residing in at least seven different MS have to establish a citizens’ committee. A representative and a substitute of the citizens’ committee are the contact persons for the Commission during the process of the ECI (art. 3 ECI regulation). Organisations are not allowed to become ECI organisers, but they are allowed to support ECI organisers. Furthermore, Members of the European Parliament (MEPs) are allowed to be members of a citizens’ committee, but they are not counted with regard to the quorum of seven.

- In a second step, an initiative has to be registered with the Commission. To do so, the organisers have to send the title of the initiative (max. 100 characters), the subject matter (max. 200
characters), the description of its objective (max 500 characters), the treaty provisions considered to be relevant, information on the citizens’ committee and on all sources of funding to the Commission. Additional material and/or a complete legislative proposal can be included as an annex (annex II ECI regulation). Upon having received this information, the Commission has to complete an admissibility check within two months. It may refuse the registration of an ECI if not all information is provided, if it is “manifestly abusive, frivolous or vexatious” (art. 4 (2) c ECI regulation), if it is “manifestly contrary to the values of the Union as set out in article 2 TEU” (art. 4 (2) c ECI regulation), or if it falls manifestly outside the framework of the Commission’s powers to implement the treaties (art. 4 (2) b ECI regulation). Compared to other instruments of participatory democracy or governance (Kohler-Koch, 2011: 47), the Commission’s gatekeeper role is significantly reduced. With the exception of online consultations (Quittkat, 2011a), the Commission has full control of the participants of the other instruments of participatory democracy (Quittkat, 2011b: 121–124). Organisers fulfilling the criteria defined in art. 4 (2) ECI regulation cannot be prevented from starting their ECI.

- After the registration of an initiative, the organisers have twelve months to collect the required number of statements of support. A successful initiative has to fulfil two quora: First, the total number of collected statements of support has to be at least one million (art. 11 (4) TEU). Second, in at least one quarter of all MS (currently seven), national quora according to annex III ECI regulation have to be fulfilled. They range from 4,500 in Malta and other MS with the minimum number of deputies in the EP to 74,250 in Germany. The quora are calculated on the basis of the number of MEPs from each MS (art. 7 ECI regulation; Commission Delegated Regulation No. 268/2012). Statements of support can either be collected on paper or online. For the latter, the organisers have to set up an online collection system that is certified by a responsible national authority. This authority has to confirm that the online collection system meets all requirements pertaining to security (Commission Implementing Regulation No. 1179/2011).

- After twelve months, or after having collected a sufficient number of statements of support, these have to be verified by the respective responsible national authorities within three months (art. 8 ECI