

**The European Citizens' Initiative:
An early assessment of the European Union's new
participatory democracy instrument**

Marcel Sangsari* ^

This brand new tool for participatory democracy...will strengthen the democratic foundations of the Union and bring Europe closer to the citizens by providing a direct gateway through which they can make their voices heard in Brussels.

- Maroš Šefčovič, Vice-President of the European Commission

Introduction

The world's first transnational, digital right of initiative, the European Citizens' Initiative (ECI) took effect on April 1, 2012, when the *EU Regulation on the citizen's initiative* (No 2011/2011) entered into force. The ECI gives citizens within European Union (EU) Member States the right to call on the European Commission to propose new or change existing EU legislation. For an ECI to be considered, the subject matter must be within the Commission's legislative competence and organizers must gather at a minimum 1 million signatures (0.2 percent of the EU's population of 502 million) from at least ¼ of EU Member States (currently seven) in one year. Two years since its entry into force, the new instrument has met with several difficulties in this experimental phase of implementation, including early challenges with setting up an online signature collection system. While it is too early to cast judgment on whether the ECI will become a useful tool for citizen engagement and participation in EU policy-making, this policy paper explores the reasons for the ECI, some of its early challenges, and its policy relevance for Canada. Despite its rocky start, the ECI represents an innovative first step towards a more inclusive and democratic Europe, and it could help in the development of a European public sphere and in the building of greater solidarity within the Union. To achieve this, EU institutions and civil society organizations (CSOs) can play a key role in providing the supportive infrastructure and assistance to ECI organizers to ensure that EU citizens are afforded the genuine opportunity to utilize their new right.

The ECI as a step towards a more democratic and legitimate EU

* Marcel Sangsari holds a master's degree in International Affairs from the Norman Paterson School of International Affairs at Carleton University and is currently a Policy Advisor in the Department of Foreign Affairs, Trade, and Development Canada.

^ *The views herein are solely the author's and are not, in any way, representative of the views of any organizations to which the author is affiliated with.*

Working Paper – Not for Distribution

There is a debate over whether or not a “democratic deficit” exists between EU institutions and citizens in the EU’s political system (see for example Moravcsik 2002 and Follesdal and Hix 2006). An underlying concern is that the EU’s electoral, institutional, and consultation processes are not able to provide the necessary democratic legitimacy for its policy-making. The economic and financial crisis has exacerbated doubt over the EU’s democratic legitimacy.

Hurrelmann (2012) surveys the mechanisms of democratic input in the EU and raises several concerns over how effective citizens can be in democratically influencing the EU’s decisions. He notes (2012, 6) that despite citizens’ ability to elect Members of the European Parliament (MEPs), the “second order” characteristic of EU elections—the fact that most citizens elect MEPs based on party popularity in the domestic arena, rather than on important EU issues—means that the substantive representative connection between citizens and MEPs is tenuous. Moreover, voter turnout in the last elections to the European Parliament in 2009 reached an all-time low of 43 percent of eligible voters (Vucheva 2009), lower than most Member State national voter turnout records. Hurrelmann also discusses (2012, 7) a second channel for citizens to democratically influence the EU: through their Member States’ national elections (thereby having a stake in their government’s representatives to the EU’s intergovernmental Council of Ministers) and via national referendums on certain EU topics (e.g. the EU Constitution, the Treaty of Lisbon, joining the Eurozone, or acceding to the EU). Hurrelmann notes however, the limitations to this channel of input: national elections are “no more about Europe than EP elections” and, although referendums are of greater significance for EU level politics, given that they are held on issues of European integration (which is a fairly good basis to judge perceptions on EU legitimacy), the range of issues put to a referendum is relatively narrow (2012, 9). While important for assessing the Union’s democratic legitimacy, the EU’s electoral system and the role of the European Parliament and that of national Member States are topics beyond the scope of this policy paper. Alternatively, in its focus on the ECI, this paper relates to a third channel for democratic input into the EU: citizen and interest group involvement in EU policy-making.

Hurrelmann asserts (2012, 14) that the ECI could help reduce the significant power that established lobbies have in Brussels, but that it will not solve two other deficiencies in the EU system: (1) that the Commission ultimately has the power to decide on whether or not to take action, and (2) that even if the Commission adopts a decision, legislation may still be altered by the Council of Ministers and by the European Parliament. However, as will be outlined, it is too early to assess the Commission’s and other institutions’ track records vis-à-vis the ECI, there is nothing inherently wrong with the institutions modifying citizens’ proposals, and these concerns do not detract from the notion of the ECI representing a first step towards greater citizen-led democracy.

The ECI can help bridge the gap between the EU and its citizens, many of whom feel detached from policies being made for them by Brussels, do not see the relevance of the EU to

Working Paper – Not for Distribution

their everyday lives, or see EU institutions as being too bureaucratic. Fritz Scharpf (1999) differentiated between the concepts of input legitimacy (“governance by the people”) and output legitimacy (“governance for the people”). As a citizen-initiated agenda-setting tool, the ECI could improve the EU’s input legitimacy, which may, in turn, lead to better output legitimacy. The ECI could equally help address the trend of low voter turnout and low citizen engagement¹ with EU policy-making, given the media attention and political spotlight that may be placed on ECIs. What follows is an introduction to the ECI and its requirements.

The ECI was included in the Treaty of Lisbon (Art. 11.4), which entered into force in December 2009.² It took over a year to draft and pass legislation on the ECI, in order to provide time for public consultation and for the EU institutions to provide proposals on the Regulation’s provisions. Following the adoption of the Regulation in February 2011, the Commission was given until January 2012 to develop the free of charge open-source online collection software, and Member States, many of whom did not have prior experience with such a participatory instrument, were tasked with preparing for implementation of the Regulation, including the designation of national authorities for the verification of online collection systems and for the certification and verification of collected signatures. In April 2012, the Regulation entered into force, giving ECI organizers the green light to start signature collection following registration of their ECIs with the Commission.

According to the Regulation, ECI organizers must follow these steps sequentially:

- Prepare their initiative as either a draft legal proposal or as general principles (in any of the EU’s languages), form a citizens’ committee comprising at least one individual from at least 7 Member States, and designate a contact person and alternate;
- Register their initiative with the Commission, which will answer the organizers within 2 months;
- Find a host provider for signature collection (that must be certified by the national authority in the country where the server is housed), using either the Commission’s free of charge open-source online signature collection software or software from a private supplier;

1. Moravcsik (2002) argues that low citizen engagement results from a lack of interest in the EU’s main powers—trade liberalization, agricultural policy, and technical regulation, etc.—rather than a deficiency in its institutions. Regardless of the source of citizens’ lack of interest, the ECI does at a minimum provide a new avenue for citizens to enter the EU’s political arena, and through attention given to it, it could generate greater citizen interest in how the EU’s policies affect them.

2. A right to a citizens’ initiative was first proposed to the European Constitutional Convention and included in the 2003 Draft Constitutional Treaty. For more on the history of the ECI and the story of how citizens from civil society organizations like Democracy International and the Initiative and Referendum Institute Europe successfully lobbied to include the ECI in the Treaty of Lisbon see here: http://www.citizens-initiative.eu/?page_id=2.

Working Paper – Not for Distribution

- Collect at a minimum 1 million handwritten and/or online signatures (referred to in the Regulation as “statements of support”)³ in at least seven Member States over a maximum period of 12 months. Further, there are threshold requirements for each Member State to qualify among the seven, currently equivalent to the Member State’s number of Members of European Parliament (MEPs) multiplied by 750;
- Get statements of support certified by national authorities⁴, who will provide an answer to organizers within 3 months; and,
- Submit the ECI to the Commission, which will examine and reply to the initiative.

The Regulation envisions that a citizens’ committee, rather than individuals, corporations, or non-governmental organization (NGOs) shall spearhead an ECI. This is to ensure that the ECI has reasonable prospects for achieving its signature target, and so it cannot be captured by powerful interests such as large lobby groups and well-established European associations. While ECI organizers may collect funding, information about contributions over 500 euros must be made publicly accessible; the information is posted by the Commission on its official online register for the ECI.⁵

Before signature collection, organizers must register their initiative with the Commission, which will check to see that the ECI meets certain minimal legal criteria. As per the Regulation, the ECI shall be registered, provided that the subject matter of an ECI is not manifestly contrary to the values of the EU⁶, not abusive, frivolous, or vexatious, nor outside the scope of the Commission's powers to propose legislation “for the purpose of implementing the treaties” (Art. 4.2). The ECI provides organizers with substantial scope to influence the EU in any area where the Commission has a legal base to act under the Treaties, including in matters related to energy, environment and climate change, consumer protection, the internal market, research and innovation, transportation, public health, agriculture, fisheries, the EU’s budget, external trade, regional policy, and certain means of taxation. Treaty amendments or initiatives in policy areas where the Commission has neither exclusive nor shared competence are ineligible. For example, initiatives on social security benefits across Europe, on school systems, or on the European Security and Defence Policy would be rejected by the Commission. Should the Commission reject registering an initiative, it must provide clear reasons for doing so in a communication to ECI organizers, who are given the right of appeal to the European Court of Justice.

3. To support an ECI, one must be an EU citizen (national of an EU member state) and be old enough to vote in European Parliament elections (18 except Austria where the voting age is 16).

4. In 18 Member States, national authorities require a personal ID number (for example, a passport number or national identity card) to be provided by supporters of an initiative. In ECI pilots, the need to provide personal information was a deterring factor for potential supporters.

5. The Commission’s official online register for the ECI: <http://ec.europa.eu/citizens-initiative/public/welcome>

6. Article 2 of the Treaty on European Union: ‘The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between men and women prevail.’

Working Paper – Not for Distribution

Should the required thresholds be met—a minimum number of signatures in at least seven EU Member States and a total of at least one million signatures⁷—organizers of a successful ECI will be invited to explain their initiative to the Commission and to a public hearing at the European Parliament. The Commission will then decide whether or not to initiate legislation⁸ on the ECI or perhaps, take time to study it further. The Commission is not obliged to propose legislation on a successful ECI; however, the weight behind the voice of 1 million citizens would make such an initiative difficult for the EU to ignore.

The ECI thus gives citizens the same right as the European Parliament and Member States to propose legislative measures for the Union. Under the Lisbon Treaty, the Commission remains the sole EU body actually able to initiate legislation. The ECI is therefore an “agenda-setting mechanism and is in the realm of participatory democracy as opposed to a more binding form of direct democracy” (such as “ballot-box” initiatives and referendums) (ECAS 2011) that is the practice in countries such as Switzerland or in the State of California.

While the ECI presents a new avenue for citizens to affect the EU’s policy agenda, organizers must do the necessary preparatory work—defining their purpose and objectives, finding an appropriate legal base, building coalitions and fundraising—to ensure that it is the right option and that they can achieve success. As noted by the Commission (2012), there are other ways of influencing the EU. For example, EU citizens can participate in public consultations, petition the European Parliament (for cases where a petitioner is personally affected), or approach the EU Ombudsman for cases of maladministration within EU institutions. An ECI may be the best vehicle⁹ for organizers who wish to place a new issue on the EU’s agenda or to change or repeal current EU legislation.

The first two years...

Experience of organizers of the first ECIs show where there are weaknesses and challenges, as well as opportunities for the ECI to become a successful instrument. The ECI Regulation will be reviewed in 2015, and the first ECIs will inform authorities on areas where revisions may be needed. It is too early to assess how receptive EU institutions will be to ECIs; however, one may

7. Statements of support collected in countries where the threshold has not been reached will also be counted toward the one million target.

8. Even if the Commission decides to present a successful ECI as a legislative proposal, it must go through the normal legislative process involving both the Council of Ministers and the European Parliament, which may result in amendments to the ECI organizers’ proposals. Organizers therefore need to follow the legislative process even after a successful initiative is tabled as legislation.

9. In the *European Citizens’ Initiative Pocket Guide* (Initiative and Referendum Institute and the Green Foundation, March 2012, Belgium), Bruno Kauffmann identifies six potential uses of the ECI: getting the EU to do something new; stopping the EU from doing something; improving current EU legislation; using the ECI as a “bargaining chip” to influence EU policy-making; using the ECI as a catalyst to build broad alliances and networks across Europe; and, using the ECI to make oneself/one’s group better known in the public sphere.

Working Paper – Not for Distribution

look at the early record to see where and how improvements could make the ECI a more citizen-friendly and useful tool. As of the end of April 2014, the Commission received 47 ECI proposals and registered 28. A wide-range of subjects are covered in the registered initiatives, among them: a proposal for funding more exchange programs—like Erasmus or the European Voluntary Service, a call to end roaming fees across Europe by introducing an all-inclusive, monthly flat-rate communication tariff within the EU, a call to protect media pluralism across the EU, a request to suspend the EU’s climate and energy package, and an initiative demanding the right for EU citizens to be able to vote in their country of residence regardless of their nationality. Seven ECIs were registered and then withdrawn by organizers due to insufficient support or to re-register their initiative with clearer objectives. The 19 initiatives refused for registration by the Commission were deemed not to have fulfilled the conditions of the Regulation. 3 refused ECIs have brought the issue of legal admissibility of the ECI to the European Court of Justice (ECJ), whose response will shed light on the Commission’s discretion over the terms and conditions outlined in Article 4 of Reg. 211/2014.¹⁰

In its early registration record—28 registered, 19 rejected—the Commission has adopted a narrow interpretation of the Regulation requirements that an “ECI does not manifestly fall outside the scope of the Commission's power (outside EU competences) (art 4.2b), the ECI is not “manifestly abusive, frivolous or vexatious” (art 4.2c) or “manifestly contrary to the values of the EU” (e.g. against the Charter of Fundamental Rights) (art 4.2d). It is clear that organizers should seek sound legal advice before proposing their ECI to the Commission, as the language and legal base used could make the difference between whether or not an ECI is registered (as was the case for some of the rejected ECIs on issues related to the economic crisis). Nevertheless, according to an assessment produced by the European Citizen Action Service (ECAS), an NGO providing support on the ECI to citizens, the start looks promising, given the broad range of subjects registered and their conflicting nature, a sign of health in a democracy (ECAS 2012).

As of the end of April 2014, two ECIs have successfully met the requirements set out in the Regulation and achieved over 1 million verified signatures: *Water and sanitation are a human right! Water is a public good, not a commodity* (“Right to Water” - over 1.6 million signatures collected, achieving the threshold in 13 EU Member States) and *One of Us*, whose organisers call on the EU to 'establish a ban and end the financing of activities which presuppose the destruction of human embryos, in particular in the areas of research, development aid and public health' (over 1.7 million signatures, achieving the threshold in 18 EU Member States;

¹⁰ Right to Lifelong Care: Leading a life of dignity and independence is a fundamental right!, Minority SafePack – one million signatures for diversity in Europe, and ONE MILLION SIGNATURES FOR “A EUROPE OF SOLIDARITY” appealed to the European Court of Justice. See ECJ, “Action brought on 11 October 2012 - Anagnostakis v Commission (Case T-450/12), available here: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=132107&pageIndex=0&doclang=EN&mode=lst&dir=&occ=fi rst&part=1&cid=240242>

Working Paper – Not for Distribution

there will be a public hearing and a reply from the Commission by end-May 2014). A third ECI, *Stop Vivisection* collected over 1 million signatures and is verifying those signatures with national authorities.

The first successful ECI, “Right to Water,” represents a test case for how seriously the new petition right is being taken by EU authorities. The Initiative asks the Commission to implement the human right to water and sanitation as recognized by the United Nations into European law and to promote water and sanitation as essential public services for all, as well as for EU Institutions to refrain from liberalizing water services and from having the supply and management of water subject to Internal Market rules. The campaign may be a useful model for other Initiatives, with respect to its strong organization, professional management and media attention, as well its minor successes in having its objectives fulfilled by the EU. It attracted €140,000 from the European Federation of Public Service Unions, crucial funding for organizational and communications success, built a strong network of NGOs and citizens across the Union, and proposed an issue that resonated with the public. The Initiative achieved initial success in June 2013 when Michel Barnier, EU Commissioner for Internal Market and Services, bowed to vocal opposition (Berg 2013) from citizens and NGOs, and media attention in Member States, by excluding water from the EU Concessions Directive on the awarding by public authorities of “concession” contracts to procure works or services from private suppliers.¹¹ In February 2014, organizers participated in public hearing at the European Parliament, and the Commission responded to the campaign in a Communiqué in March 2014.¹² While the Commission did not state whether or not it will propose legislation, it did commit itself to take action in some areas relevant to the goals of Right to Water, including the launch of an EU-wide public consultation on the Drinking Water Directive, the promotion of public-public partnerships and of universal access to water and sanitation in development policies, and an improvement of efforts towards full implementation of EU water legislation by Member States. The Commission also recalled the importance of the human right to water and sanitation and of water as a public good of fundamental value, as well as stating, “water is not a commercial product.” However, the EU’s actions are not considered a success by the Right to Water Campaign which calls for explicit legislation: “The reaction of the European Commission lacks any real ambition to respond appropriately to the expectations of 1.9 million people” said Jan Willem Goudriaan, vice-president of the Campaign, in its press release, “I regret that there is no proposal for legislation recognising the human right to water.” Should no legislation be forthcoming, organizers and signatories of the initiative will continue to be disappointed.

Right to Water and other ECIs able to get their campaigns started had to overcome major technical problems in the early stages of the ECI related in setting up an online collection system on a secure data server (necessitated by the strict data protection and privacy requirements for ECIs¹³). These difficulties resulted in only eight ECIs being able to collect online signatures in the first nine months of the ECI entering into force. Initially, ECI organizers were left to invest

11 See Michel Barnier’s Statement of 21 June 2013 here: http://ec.europa.eu/commission_2010-2014/barnier/docs/speeches/20130621_water-out-of-concessions-directive_en.pdf

12 Communication from the Commission on the European Citizens' Initiative "Water and sanitation are a human right! Water is a public good, not a commodity!" 19.3.2014 COM(2014) 177.

13 For a full list of these requirements, see here: <http://ec.europa.eu/citizens-initiative/public/data-protection>.

Working Paper – Not for Distribution

their own energy and funds to find a host platform, notify data protection authorities, install the software, and prepare and submit risk and business management documents for certification of the online collection system. These actions are costly and not intuitive for citizens without the necessary technical and legal expertise. ECAS, which has investigated the possibility of establishing an online collection system on a secure server in Brussels, estimates the cost of setting up one's own secure online system as falling within the range of 20,000 to 30,000 euros, an amount beyond the means of most organizers (ECAS 2012).

While they have the option of using the Commission's free open-source software for signature collection, organizers recommend more user-friendly software. In this spirit, Carsten Berg, Director of the ECI-campaign for a citizen-friendly ECI, suggests for a simple measure of giving signatories the option to check a box if they wish to stay in contact with the ECI organizers to receive updates and to build longer-term networks (Berg 2012). Without such a feature, ECI organizers are limited in their ability to communicate with supporters of an initiative.

To address the early difficulties and the complaints by ECI organizers and CSOs, the Commission offered, in an exceptional measure, to temporarily install the organizers' online collection system on a platform in the Commission's Datacentre in Luxembourg free of charge and to support organizers in their certification of the system with Luxembourgish authorities. The Commission also extended the period of collection for ECIs registered before November 1, 2012 until November 1, 2013 (ECIs registered after November 1, 2012 have the normal one year for signature collection from the date of registration). While these were positive measures to facilitate the usability of the ECI, organizers and CSOs closely involved see the need for the Commission to provide further supportive infrastructure and assistance. For example, while the Commission provides a point of contact for information and assistance, and uses its 800 Europe Direct offices across Member States for basic citizen enquiries, the resources dedicated to the ECI in Brussels are limited. A fully staffed ECI help centre as well as provision of an improved online collection system, and a permanent host datacentre would better facilitate the ability of citizens to make use of their new right. Indeed, one ECI – now closed for signature collection – called for the EU to establish a central online collection platform for ECIs, a “low barrier tool which works instantly and without [the need for] technical expertise.”

Turning the ECI into an opportunity for real innovation in policy-making

Although it sounds relatively straightforward to achieve one million signatures and thresholds in at least 7 Member States, it is a complex and challenging task, which involves collecting an average of 2,740 signatures a day! To reach the thresholds, a successful campaign requires coordinated efforts over an extended period of time before and after the one year signature collection period (ECAS 2011).

Working Paper – Not for Distribution

First, a sustained campaign over one year requires the human and financial resources to reach out to the pan-European public. Organizers need to build broad networks, alliances and coalitions between civil society and non-governmental organizations, as well as with the media, in order to raise awareness, generate debate, and cultivate support for an ECI. Energy, patience, and strategic thinking are needed to succeed. Campaigners must mobilize volunteers, and assertively promote and advertise the initiative. Additionally, organizers must develop a website and allocate resources for translation costs for the ECI and communications materials. Based on the 20 pre-Regulation pilots (four of which were successful, but none of which were in accordance with the Regulation), ECAS estimates that organizers would need an estimated 1 million euros each (or 1 euro per signature) for the entire campaign; however, the greater resonance the topic has with the public, the less funds are necessary (ECAS 2012), as demonstrated by *Right to Water* which received total funding of €140,000, *One of Us* which received €159,219, and *Let me Vote* which received only €14,501.

In an assessment of the ECI, Kaufmann (2012b) suggests that revisions to the ECI Regulation should include measures that focus on the needs of organizers and authorities at the EU and Member State levels, including: better training, education, and support from EU institutions and CSOs; the development by CSOs, academia, and the media of a mutual understanding as to the necessary preparations, pre-assessments and strategic readiness, including the need for fundraising for a successful ECI; and, reconsideration of the financial aspects to enable citizens to make efficient use of the instrument. According to Kaufmann, “there is at this time no serious question as to *whether* the European Citizens’ Initiative can ultimately deliver more democracy to Europe(ans); [however,] *how* and *when* it will be possible to identify and assess such added-value remains in question” (2012b).

Fortunately, the digital age and communications technologies are making it possible for individuals to efficiently connect across borders, enabling citizens to easily network with limited structures and budgets. Media coverage now reaches beyond borders instantaneously. While not a panacea, using social media can be a cost-effective way to communicate and discuss ECIs. Online forums, such as initiative.eu, can provide an online space to federate would-be organizers of ECIs sharing similar interests and to foster discussion. Funding collected by organizers in one country can be rapidly transferred to another country. Should a topic resonate well enough with the public, crowd-sourced funding¹⁴ could be a viable way to raise resources. In short, the capability for mass transnational collaboration facilitated by information communications technologies is within reach for EU citizens wishing to make use of the ECI.

14. Small amounts of money provided by large numbers of people, often before a product is made or an initiative is launched.

Working Paper – Not for Distribution

The ECI is a response to a broader trend of citizen-led governance. Citizens around the world are increasingly expecting open democracy and institutions that respond to their needs, and demanding a voice and direct involvement in matters that affect them. Jurisdictions have responded with new collaborative forms of citizen engagement and the opening up of their democratic institutions. Some examples include the crowd-sourced drafting of Iceland's new Constitution and of law-making in Finland, and the fall of regimes during the Arab Spring. These citizen movements suggest that the call for more participatory institutions, open government, transparency, and accountability is becoming the norm. It has indeed become an era of global citizen engagement.

In this context, ECIs have the potential to drive forward measures in the EU that could either strengthen the Union or weaken it. Citizens can now take the driver's seat over, and possibly overcome institutional paralysis on issues, by proposing action in important areas such as the EU's social, economic, environmental, and energy policies, and its development aid. Martin Schulz, European Parliament President, suggested (Mahony 2012) that an ECI could be used to pressure EU politicians into adopting a financial transactions tax, which was proposed, alongside a Carbon Tax and public investment programs, in an ECI registered in March 2014: NEW DEAL 4 EUROPE - FOR A EUROPEAN SPECIAL PLAN FOR SUSTAINABLE DEVELOPMENT AND EMPLOYMENT. Despite its potential, the average citizen in the EU is not yet aware of the existence or potential of the ECI. To be successful, European participatory democracy through the ECI would benefit greatly from a communications campaign by EU institutions to inform EU citizens of their new right. While the 2013 European Year of Citizens could have, but was not used for this purpose, the run up to the EU Parliamentary elections in May 2014 provide another excellent opportunity to promote the ECI.

The ECI represents a first step to a more citizen-driven and inclusive Europe. According to ECAS: "It should better enable citizens to focus not only the Commission's attention, but also that of the media and of the general public to a certain topic and to, perhaps, initiate a European-wide debate and possibly, legislation, on it" (ECAS 2011). Despite its early difficulties, the ECI also promises to embrace an era of transnational, e-democracy and, through the use virtual social networks, there is an opportunity to develop more active citizen participation in EU affairs. Thompson notes (2011) that now that there is a "space inside Europe for the public"—the creation of new, temporary spaces inside the EU for citizens, media, and communities to discuss an ECI topic and affect the EU's policy-making machine—there is a better chance to develop a "European public space" and to facilitate greater EU public engagement.

The revision of the ECI Regulation in 2015 should take into account the early implementation challenges, including the need for supportive infrastructure, a more citizen-friendly ECI, and better public education on the new right. These measures will ensure that the

Working Paper – Not for Distribution

ECI is designed in a practical and user-friendly way so that a real European public space can emerge and citizens can realize their right.

A road for Canada to follow?

As an innovative policy experiment, the ECI could be considered in Canada (also a multi-level system of government, which faces, arguably, a democratic deficit between citizens and elected officials) as a way to try to address a decline in voter turnout and in political party membership, and a general lack of engagement in politics.

While Canada has experience with direct, legally-binding democracy—some notable examples include British Columbia's (BC) vote to defeat the HST (CBC 2012), referendums on electoral reform in BC and in Ontario, the 1980 and 1995 referendums on the question of Quebec separation, and the national referendum on the Charlottetown Accord—these approaches are the exception rather than regular practice, and referendums in Canada have more often been driven by political leaders than by citizens at the grassroots. Moreover, existing initiative legislation in Canada sets such demanding requirements that initiatives are rarely brought to a referendum. The most well-known and widely used legislation at the provincial-level is BC's Recall and Initiative Act (Elections BC), which allows BC voters to propose new laws or changes to existing laws within the jurisdiction of the Legislature of British Columbia and to petition to remove a Member of the Legislative Assembly from office—the process is unique in Canada. The only successful initiative and referendum in BC was on the HST, due to the demanding requirements of BC's legislation (i.e. the need to achieve 10 percent support of constituents in each riding across the province) (Delaney 2010). The last Parti Québécois (PQ) government in Quebec pledged to introduce citizens' initiative legislation for the province, which could have led to a third referendum on Quebec sovereignty¹⁵ (Schwartz 2012). However, when PQ premier Pauline Marois came to power in September 2012, the idea of a citizen's initiative was dropped.

While initiatives could be used for contentious motives such as the PQ's goal for Quebec secession, a democracy, by nature, should be open to healthy political debate amongst citizens. A participatory, initiative-type vehicle such as the ECI could offer a potential avenue to engage Canadians and to act as a catalyst for greater democratic participation. While preserving and balancing the representative system of democracy, an ECI-like instrument could open the door to directly involve citizens who in the 21st century are more likely to join issue-based, direct action campaigns, and to cluster temporarily around issues that appeal to them than to join a political party. The digital and participatory elements could equally provide a window for the younger, technology-savvy generation to become more politically engaged. Developed correctly, such a

15. While former PQ Premier Pauline Marois did not introduce legislation or details on the proposal, the PQ platform stated that it would call a referendum when it gets the support of 15 percent of the electorate, the equivalent of 850,000 Quebecers.

Working Paper – Not for Distribution

tool at the federal, the provincial/territorial (including possible modifications to BC's Act) or the municipal level would be an intriguing policy proposal. There are risks to not developing the tool correctly, as well as in a case where politicians do not pay serious attention to the implementation of the right. In Canada, as in Europe, such situations may serve to increase citizens' distrust in, frustration with, and alienation from their democratic institutions.

ACKNOWLEDGEMENTS

The author would like to thank Dr. Joan DeBardeleben and Dr. Achim Hurrelmann at Carleton University for their review and commentary on this policy paper.

REFERENCES

- Berg, Carsten. 2012. "Online Collection System Needs to Be Urgently Up-graded." *The ECI Campaign*, October 28. <http://www.citizens-initiative.eu/?p=1287>.
- Berg, Carsten. 2013. "EU Commission backs down after successful "Water is a Human Right" ECI – water now excluded from EU directive." *The ECI Campaign*, June 22. <http://www.citizens-initiative.eu/?p=1801>.
- CBC. 2011. "B.C. votes 55% to scrap HST." *CBC News*, August 26. <http://www.cbc.ca/news/canada/british-columbia/story/2011/08/26/bc-hst-referendum-results.html%20>.
- Delaney, Chris. 2010. "Amend the recall and initiative law." *The Globe and Mail*, August 12. <http://www.theglobeandmail.com/news/british-columbia/amend-the-recall-and-initiative-law/article1376908/>.
- Elections BC. *Referenda / Recall / Initiative*. <http://www.elections.bc.ca/index.php/referenda-recall-initiative/>.
- Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative. <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2011:065:SOM:EN:HTML>.
- European Citizen Action Service. 2012. 'European Citizens' Initiatives – A first assessment', Background Discussion Document No. 1 for the Conference "Building the EU Citizen pillar," held on Monday 5 November 2012 at the European Economic and Social Committee, Brussels, Belgium. <http://www.ecas-citizens.eu/content/view/468/>.

Working Paper – Not for Distribution

European Citizen Action Service. 2011. *Bringing transnational participatory democracy to life: tips for the would-be organisers of an ECI*. July. ECAS publication. Brussels, Belgium.

European Commission. “Alternative ways of approaching or influencing the EU.” From the Commission’s Official Register of ECIs. <http://ec.europa.eu/citizens-initiative/public/alternative-ways-eu>.

Follesdal, A. and S. Hix. 2006. Why There Is a Democratic Deficit in the EU: A Response to Majone and Moravcsik, *Journal of Common Market Studies* 44: 3, pp. 533-562.

Hurrelmann, Achim. 2012. Democratization in the European Union. Paper prepared for the ECSA-C Ninth Biennial Conference, held on 26-28 April 2012 in Ottawa, Ontario. 1-27.

Kauffmann, Bruno. 2012a. *European Citizens’ Initiative Pocket Guide*. Initiative and Referendum Institute and the Green Foundation. March 2012. Belgium.

Kaufmann, Bruno. 2012b. “ECI 1.01 Training Camp Report: Brief assessment of the first seven months of the emerging European Citizens’ Initiative practice.” Part of the ECI Link Project Evaluation. Available from: <http://www.ecas-citizens.eu/content/view/468/>.

Mahony, Honor. 2012. “Schulz: 1 million EU signatures could spur finance tax.” *EU Observer*, March 28. <http://euobserver.com/political/115734%20>.

Moravcsik, A. 2002. In Defence of the Democratic Deficit: Reassessing Legitimacy in the European Union. *Journal of Common Market Studies* 40: pp. 603-624.

Scharpf, F. W. 1999. Legitimacy in the Multi-actor European Polity. In M. Egeberg, & P. Lægreid (Eds.), *Organizing Political Institutions* (pp. 261-288). Oslo: Scandinavian University Press.

Schwartz, Daniel. 2012. “Citizen-initiated referendum possible with PQ minority.” *CBC News*, September 6: <http://www.cbc.ca/news/canada/quebecvotes2012/story/2012/09/05/f-quebec-citizen-initiative.html%20>.

Thomson, Janice. 2011. ECI: ‘A Space inside Europe for the Public’ before ‘A European Public Space.’ *Involve* briefing paper. <http://www.involve.org.uk/eci-a-space-inside-europe-for-the-public-before-a-european-public-space/>.

Vucheva, Elitsa. 2009. “European elections marked by record low turnout.” *EU Observer*, June 6. <http://euobserver.com/news/28262%20>.