



MEETING OF THE EXPERT GROUP ON THE CITIZENS' INITIATIVE

4 March 2013

SUMMARY REPORT

The meeting was chaired by Mr Mário TENREIRO, Head of Unit G.4 "General institutional issues", Secretariat General, European Commission.

1. STATE OF PLAY BY THE COMMISSION

The Chair noted that 14 proposed citizens' initiatives were currently registered with the Commission. Eight requests for registration had been refused by the Commission, while five proposed citizens' initiatives had withdrawn (three of those had re-registered). All details were on the Commission's website on the citizens' initiative (hereafter 'the ECI website')¹.

Of the proposed initiatives that were collecting statements of support, the Chair indicated that one, 'Right2Water', claimed to have collected more than one million signatures; it could continue to collect until 1 November 2013, although its organisers were free to submit the statements of support to the competent national authorities earlier. Based on publicly available information, the Commission was not aware, at the time of the meeting, of any other proposed initiative having collected more than 100,000 signatures.

The Chair informed delegations that ten of the registered initiatives were collecting online: eight online collection systems were hosted on the Commission's servers in Luxembourg, two were hosted by private service providers in Germany. The certification for the online collection systems of two further initiatives was pending with the competent Luxembourgish authority.

The Chair thanked the Luxembourgish authority for its excellent on-going cooperation, and acknowledged the (administrative and financial) burden it had taken on. In order to analyse the state of the market for the hosting of online collection systems, the Chair asked all Member States' delegations to identify suitable service providers on their respective private markets that would be able to host proposed initiatives, and the cost

¹ <http://ec.europa.eu/citizens-initiative/public/welcome>

of their services. This information should be communicated to the Commission as soon as possible.

2. STATE OF PLAY IN THE MEMBER STATES

The Chair indicated that all Member States (with the exception of one) had by now informed the Commission of the provisions adopted to implement the Regulation on the citizens' initiative (Regulation (EU) No 211/2011; hereafter 'the Regulation'), or, in certain cases, signalled to the Commission that there was no need to adopt specific provisions.

The national provisions were available on CIRCABC², and would soon be published on the ECI website.

EU Pilot letters had been sent to 12 Member States. The Chair pointed out that the Commission was available for bilateral meetings to discuss or clarify the content of these, or other issues.

The Chair asked those Member States concerned to inform the Commission as and when further provisions are adopted. The Commission, he added, was available to provide advice and support for the drafting, if necessary.

In reply to a question, the Chair confirmed that the respective online collection systems of two proposed citizens' initiatives, namely 'Right2Water' and '30km/h – making the streets liveable', were hosted in Germany.

3. MODIFICATION OF ANNEX III TO REGULATION (EU) NO 211/2011

The Chair informed delegations that, in addition to minor amendments (for clarification purposes) proposed by the Commission, three Member States had formally requested changes to Annex III of the Regulation:

- ES requested (i) the removal of the requirement to provide a permanent residence; (ii) the addition of the signatory's date of birth among their data requirements; and (iii) the inclusion of a personal identification number to the list of personal identification numbers/document numbers available in Part C of Annex III, which would enable non-Spanish EU citizens resident in Spain to use the statement of support form for Spain;
- LU requested the removal of the personal identification number among their data requirements;
- NL requested to include the possibility for Dutch nationals residing outside the Netherlands to use the statement of support form for the Netherlands.

The Chair pointed out that the Commission had been receiving an increasing number of complaints from EU citizens who were unable to sign statement of support forms. This mostly concerned citizens who had moved away from and could therefore no longer

² <https://circabc.europa.eu/w/browse/ee315281-eeec-4510-922c-c40491409a78>

sign the statement of support forms of their country of origin (the case of IE, NL³ and the UK), and/or who were not entitled to sign the statement of support forms of their country of residence. He welcomed all moves that lowered the data requirements and that reduced the number of EU citizens unable to support proposed initiatives, and encouraged Member States, where relevant, to follow the lead of LU, NL and ES.

During the exchange of views, FR indicated that it wished to add the place of birth as a data requirement on French statement of support forms. In addition, it wanted to reduce the number of eligible types of personal document identification numbers.

The Chair invited FR to send a formal request to the Commission, and asked that it (and any other Member State that wanted a modification of Annex III) to do so quickly.

The Chair also noted that organisers whose 12-month collection period coincided with an amendment of Annex III via a delegated act would be entitled to use both versions of the form for the duration of their respective campaigns. They would, however, be encouraged to use the new forms, which would be the ones made available to them in the organiser accounts in the Commission's register.

Following a question from IE – which wanted to ensure greater coherence with the wording of the Regulation – it was agreed that "permanent residence" in the statement of support forms should be replaced by "residence" instead of "address". IE also informed delegations that it would formally request to add Ireland to footnote 4 (new) in Part A of Annex III, which cited those Member States for which signatories need indicate only the date of birth (and not also the place of birth)⁴.

In agreement with ES, it was also decided to delete the words "as permanent resident" from the new reference requested by ES to the foreigner's identification number, which will be added to Part C of Annex III.

Also after a short exchange of views, it was decided that it was not necessary to refer to the inclusion of points 1 to 10 on one side only or on each side in the new footnote 1 of Parts A and B of Annex III, which could therefore be amended to read: "The form shall be printed on one sheet. Organisers may use a double sided sheet."

4. GUIDELINES AND RECOMMENDATIONS FOR PRACTICAL IMPLEMENTATION OF THE REGULATION

The Chair informed delegations that the purpose of the guidelines was to compile in one single document a large number of elements that had already been discussed with the Member States (e.g. in non-papers or at previous meetings of the ECI expert group) and/or raised with organisers. They built on the experience of all interested stakeholders, and were intended for the use both of the Member States and the organisers. The document would be published on CIRCABC and on the ECI website.

³ Although this would no longer apply to the Netherlands when the amended Annex III comes into force.

⁴ The footnote would therefore read: "For Finland, **Ireland** and the United Kingdom, please state only the date of birth."

The guidelines covered, inter alia, the proposed early-warning information exchange system, the certification of online collection systems, the data protection notification procedure, statement of support forms and the verification of statements of support.

The debate focused on three main issues:

1) Age of signatories

Responding to doubts raised by certain delegations, the Chair underlined that, according to the Regulation, signatories "shall be of the age to be entitled to vote in elections to the European Parliament". This meant that the age to sign a statement of support form was 18, except for Austrian nationals, who are entitled to vote in elections to the European Parliament from the age of 16.

He confirmed the interpretation in the guidelines – which was in conformity with the corresponding provision of the Regulation – according to which Austrian citizens who are resident outside their country of origin are entitled to sign statement of support forms from the age of 16 years in their Member State of residence. Although, as one delegation pointed out, Austrian citizens could, in principle, sign statements of support online and therefore use forms for Austria, irrespective of where they reside, this could not be a justification for refusing 16 or 17 year old Austrian citizens the right to use the statement of support forms of their country of residence.

In reply to a question, the Chair indicated that a signatory who is a dual-citizen of Austria and another EU Member State should only be entitled to sign a statement of support form at the age of 16 or 17 if he or she signs as an Austrian citizen. This would be clarified in the guidelines.

The Chair invited those Member States that had adopted national provisions contrary to this interpretation of the Regulation to amend them accordingly. He also noted that this was an issue the Commission had raised in certain EU Pilot letters.

HU mentioned the specific case of Hungary, where citizens married before they reach 18 years of age are entitled to vote. According to the Chair, this fell outside the scope of the Regulation.

2) Verification of statements of support

As suggested at the previous expert group meeting in October 2012, the Chair confirmed that it was not acceptable for Member State authorities to impose on signatories additional requirements to those provided for in the Regulation. This had been formally requested by one Member State, and was provided for in the national provisions implementing the Regulation in another Member State, both of which wanted to validate only those statements of support confirmed by signatories in writing (letters or emails).

The Chair recalled that it was the Member States who had proposed and agreed the various data requirements included in the Regulation. At the time, they considered these to be sufficient for the purposes of verifying and certifying statements of support. The Regulation, as adopted by the co-legislators, only required the Member States to check the coherence of the data provided by the signatories; requiring them to confirm that they have signed a given statement of support (by replying to letters or emails) would

amount to introducing a new condition for validating statement of support forms that was not provided for in the Regulation. Given, therefore, that a signatory's failure to reply to such letters or emails could not serve as grounds for invalidating his or her statement of support (the benefit of the doubt should always go to the signatory), it made little sense to introduce such a requirement. The Chair warned about the danger of litigation.

3) Registration with the Commission and certification of online collection systems

Several delegations questioned the statement in the guidelines according to which Member State authorities "cannot require registration of a proposed citizens' initiative with the Commission as a precondition for the certification of the initiative's online collection system". They highlighted the potential risks (in particular related to resources) of this approach.

While acknowledging the concern, the Chair clarified that it was clear in the regulation that registration and certification were two distinct and independent phases of the ECI cycle; while both were necessary in order for a proposed citizens' initiative to start collecting online, the Regulation in no way prescribed the order in which they must occur. The Commission was proposing an 'early-warning information exchange system' as a means of ensuring the best use of time and resources throughout; one of the key objectives should be to ensure that organisers are in a position to collect statements of support online (if they so wish) for the full 12 months.

Following a short exchange on the one-month certification period (which certain delegations suggested was a very short time-frame), the Chair agreed that it would be helpful to clarify in the guidelines, in general terms, that a "request" for the certification of an online collection system has been made once organisers have submitted all of the documents required by the implementing Regulation, together with any specific forms required by the competent national authority in question. The guidelines should also advise organisers to contact the competent national authority concerned in advance of their formal request to ensure that both parties are well prepared.

The Chair also played down fears about "certification tourism", and again encouraged competent Member State authorities to notify one another when they received requests for the certification of online collection systems, including, where appropriate, the outcome of any assessment carried out.

5. ANY OTHER BUSINESS

1. Following a question from a delegation, the Chair reaffirmed the Commission's commitment towards organisers of initiatives registered with the Commission before end of October 2012 to take into account valid statements of support collected between the end of the formal 12-month period following registration and 1 November 2013. He again welcomed Member States' cooperation to implement effectively a measure for which the Commission was ultimately responsible. He recalled the three options available to each of the competent Member State authorities:

(i) verify and certify all statements of support collected from the date of registration until 1 November 2013;

(ii) verify all statements of support, formally certify only the ones collected during the first 12 months from the registration date and inform the Commission and the organisers about the number of valid statements of support collected during the additional collection period granted, without necessarily formally certifying these;

(iii) verify and certify only the statements of support collected during the first 12 months from the registration date; merely count the total number of statements of support collected during the additional collection period and inform the Commission and the organisers about the raw number; inform the Commission and the organisers about the percentage of statements of support which have been considered valid among the ones verified and certified. The Commission will then determine itself the number of statements of support collected during the additional collection period that it would take into account, on the basis of the same percentage.

Example for the third option:

- Initiative x was registered by the Commission on 1 July 2012. They collected until 1 November 2013.

- On 30 November 2013, they request the certification of their statements of support to the competent authority in Member State y.

- Their request includes 130,000 statements of support.

- The competent authority in Member State y proceeds with the verification. It concludes that 100,000 of the statements of support were collected between 1 July 2012 and 1 July 2013 and 30,000 between 2 July 2013 and 1 November 2013. Among the 100,000 statements of support collected during the first 12 months, 92,000 were considered valid, which means a percentage of 92%.

- The Member State authority formally certifies the 92,000 considered valid and informs the Commission and the organisers that 30,000 additional statements of support were collected between 2 July 2013 and 1 November 2013.

- The Commission will take into account 92% of the 30,000 additional statements of support, which means 27,600 statements. In total, the Commission will therefore consider that initiative x has collected $92,000 + 27,600 = 119,600$ statements of support in Member State y.

2. The Chair briefly presented the changes the Commission was proposing to Annex II of the Regulation, which would facilitate verification by the Commission that citizens' committees are formed in conformity with the Regulation (pursuant to Articles 3(2), 3(3) and 4(2(a) of the Regulation).

3. The Commission reminded delegations of the following day's workshop on the validation tool (to verify statements of support), which had been designed by Germany, and would be further developed by the Commission.

6. NEXT STEPS

The 'guidelines and recommendations' will be updated in the light of the exchange of views and published on the ECI website and CIRCABC.