



Direct Democracy for the European Union

On March 31, 2010, the European Commission issued its final report on the oversight that the European Parliament and the European Council will exercise over the European Citizens' Initiative (ECI), one of the principle provisions of the Lisbon Treaty that was ratified by EU member states at the end of 2007 and went into effect in 2009. The overall import of the report is that Europeans can essentially bypass the EU legislature and create laws on their own — if they follow some guidelines.



The legal basis for the ECI is set forth in Article 11, paragraph 4 of the Treaty on European Union. Basically, the initiative permits one million citizens of the EU to unite in proportion to their numbers in the overall population of the member states of which they are nationals (citizens must represent nine of 27 member states) and propose laws that will be applicable throughout the EU. The authors of such a proposal have one year to collect the one million signatures necessary to place the proposal before the European Parliament.

This move toward direct democracy is touted as “an important new tool to bridge the large and growing gap between citizens and the EU.” Citizens will now be empowered (within the restrictions noted above) to take direct control of the government of the European superstate. No longer will citizens of the EU have to suffer the interposition of elected representative between themselves and the legislative power. As long as the backers hail from nine countries and the signatures are collected on time, the law in Europe will be whatever 1 million people says it is.

The report issued by the European Commission identifies 10 important elements of any citizen legislation necessary to meet the basic requirements as set forth by the Commission and the European Parliament.

First, any such proposal must be endorsed by signatories of at least nine member states. This, the Commission explains, is necessary in order to ensure that any legislation enacted under the ECI promotes trans-European harmony and “stimulates the feeling of a European identity.”

The second hurdle to be cleared on the track to enactment is a minimum number of citizen signatories per member state. The Commission rejected an earlier suggestion that a set percentage of national population be set as a requirement and instead opted to adopt a formula to determine the necessary number of signatories from each state. The formula states that the minimum number of signatories



Written by [Joe Wolverton, II, J.D.](#) on April 22, 2010

required from each member nation is 750 times the number of members of the European Parliament who represent that nation. For example, 72,000 Germans would need to endorse any proposal, along with 24,750 Romanians and 4,500 citizens of Malta.

Third, the EC has set a minimum age requirement for a qualified signatory. The required age is the age at which a national is able to vote in the election held in his home nation for European Parliament.

The fourth obstacle regards registration of the proposed legislation. In order to permit widespread evaluation of the bill, the text of it must be registered with the European Commission and posted on a website that the EC will set up to accommodate this requirement.

The next requirement is that all signatures must be collected on an official “statement of support” that will be made available by the EC to all organizers of initiatives. In order not to infringe on the “freedom” of organizers and potential supporters of a bill, the signatures on these statements of support may be collected physically (pen to paper) or online through an electronic hub that will be established to record the qualifying statements.

The sixth step that must be taken in order to legislate from the sofa sets a time limit on the collection of signatures on the statements of support. Proponents of an initiative have one year to compile the one million endorsements. This time constrain is necessary, says the EC report, in order to “ensure that citizens’ initiatives remain relevant” to the needs of Europeans. Any longer time and the proposal might not be germane and the urgency may have passed.

Next, when one-third of the necessary signatures have been collected from one-third of the minimum number of member states, the proposal must be submitted to the EC for its acceptance. The report mandates that as long as the proposed legislation falls within the powers of the EC as enshrined in the Treaty of Lisbon (and other applicable treaties), the EC must permit the bill to pass on to the next stage: the collection of the other two-thirds of supporter endorsements.

The eighth check on the initiative plan to be exercised is the requirement that signatures be verified. The EC’s guidelines obligate member states to verify the validity of the signatures of their own nationals. The individual governments have three months to certify that all signatories from their countries are real and have been verified as such. Three months for some bureaucrat in Berlin to certify the genuineness of 72,000 signatures. Given the typical circumspection of government apparatchiks, how likely is it that every name on every statement of support, especially those uploaded via the website, will be appropriately and adequately vetted for veracity? On second thought, if the EU is determined not to let elected representatives stand in the way of direct democracy, it surely won’t let a little thing like accuracy do so either.

The next-to-the-last hurdle for a valid citizens’ initiative is that the EC has four months to certify that the proposal has met all the foregoing requirements. If the Commission determines that all the qualifications have been met, the initiative is passed on to the European Parliament for deliberation and a vote. Well, not so much a vote as a formal recognition that the citizens’ initiative as proposed is now the law of the European Union, enforceable against all member states and the citizens thereof.

The final step is the most frightening and in light of the nine provisions outlined above, that is a severe condemnation. In the process of validating the identity of supporters of a citizens’ initiative and for the purpose of determining whether a particular proposal furthers the goals of a unified Europe, significant amounts of personal data will be collected and shared. Based on previous acts passed by the European Parliament that included similar provisions regarding the handling of personal data, the information



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gleaned will be of an extremely personal nature. For example, sexual preference, income, and political affiliations and associations are among the sensitive subjects that will be collected, collated, and commeced.

It is true that the storing of this cache of otherwise private information is disturbing; it is the EC's regulation of the entities responsible for controlling that data which is most disquieting. According to Section 3.10 of the EC's published regulations, whoever organized the initiative will be designated by the Commission as the "data controller" and will be authorized to gather, store, and disseminate the data he deems pertinent to the initiative. So, while the citizens of Europe look disdainfully on relying on their duly elected representatives to legislate faithfully, they happily entrust an "organizer" to traffic in of their most intimate data.

Imagine the variety of initiatives that can become the law in Europe if one million citizens from 9 different member states can agree. Religious denominations and political parties could be outlawed wholesale in the text of one popular proposal.

As Europe careens hazardously toward the anarchy that always erupts in the wake of the confusion and calamity that have been the constant companions of democracy, let us raise the warning voice and elect representatives that are committed to protecting the Republican form of government bequeathed to us by our wise forefathers. Men who acted as coroners examining the mortal remains of the democracies of history and discovered the maladies that infected and eventually caused the death of every one of them.



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