



ECI Day 2016

Presentation of European Ombudsman, Emily O'Reilly

European Economic and Social Committee, Brussels

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I would like to thank the organisers for this my third visit to the ECI Day event organised by the European Economic and Social Committee. This is the 4th anniversary of the April 2012 activation of the ECI, a measure described at the time by Commissioner Vice President Maros Sefcovic as potentially ground-breaking.

He said, "This new approach to European policy-making will, I believe, reinvigorate the European Union, strengthen European identity and give much-needed momentum to the European political arena. We are really at the start of something new and exciting, so let's ensure we make full use of this opportunity!"

Four years later, we can at least judge the short term outcome of that optimism. It is evident that the ECI has yet to live up to expectations and there have been clear expressions of frustration – although for different reasons – voiced by the Commission, by Parliament, and by ECI supporters and activists.

Numerous reports have recommended how to make the ECI an instrument of value in the democratic life of the EU and there is

general agreement that we have now reached a point where essentially political decisions have to be made about the future of the ECI.

I want first to comment on what might possibly be called the ECI's existential crisis. Critics of the failure to date of the ECI to bring forward significant legislative change in any area of EU policy and competence have exhaustively outlined their concerns and made proposals for improvement. These concern both logistical and legal issues, from the harmonisation of data collection to the manner in which the Commission evaluates the ECIs at the point of registration.

Some of these issues may be clarified in the Courts, but even comprehensive court judgments cannot address what is perhaps key to this existential crisis and that is, its politics.

Vice President Timmermans has frequently said that ECIs have to be approached politically rather than strictly procedurally or legalistically and recent Commission comments on the ECI confirm this.

In December the minutes of a College of Commissioners' meeting stated *"...the Members (i) regretted that experience to date had shown that citizens' initiatives did not always move European law or the European project forward, but tended instead to involve highly controversial and emotionally charged issues of greater interest to minorities than to the vast majority of EU citizens and, ultimately, generated Euroscepticism, (ii) called for a debate on how to rectify this situation and (iii) stressed that, in the current European context, the Commission should take account of the political consequences that this mechanism could have in the longer term."*

Certain ECI proposals do indeed concern politically difficult issues, but any objective overview of the type of issues raised through this process, irrespective of the outcome, points to citizen concerns of great interest arguably to every single EU citizen.

They include how we will be cared for as we grow older, how our environment is protected, how member states who may have violated the fundamental values of our Union should be dealt with, media pluralism, animal welfare, investment in education, making our roads safer.

They provide, at the very least, valuable signposts to the Commission as to citizen concerns and it is, I believe, the Commission's job to work with ECI organisers to find ways in which, to the greatest extent possible, those concerns can be moulded within the ECI process, to achieve positive outcomes.

The Commission is correct that some ECIs call for measures that cannot be directly implemented at EU level, but it is an understandable confusion particularly in Member States that have experienced the Troika programme. While Member States in general had sole discretion over what budgetary measures had to be taken, the citizens EXPERIENCED cuts in health and other social protection budgets as a direct result of EU involvement. It is therefore hardly surprising that they now overestimate the reach of the EU.

The Commission can work only within the law, but legal interpretation of the ECI regulation differs. This may ultimately be resolved by the Courts, but the Commission's POLITICAL attitude to the ECI is also critical and it needs to explain what citizens ultimately can expect to achieve.

If the lawyers are confused, how can the ordinary citizen be expected to work complex matters out? And even if the law is clarified, can the Commission also clarify the type of political test implied in its December statement?

The importance of citizens feeling not only that they have a voice, but also that they have been listened to and *taken seriously* - was key in my ECI own-initiative inquiry with input from ECI organisers and other civil society groups, and the views of the Commission.

This time last year, I presented the Commission with 11 ECI guidelines.

I found that the Commission had taken a number of positive measures but that many of the rules and procedures still led to administrative and bureaucratic hurdles.

I asked the Commission to be clearer about the legal reasons for rejecting an ECI at the admissibility stage and about the political choices made in its response to a successful ECI to avoid the perception of an arbitrary decision.

I asked the Commission to ensure inclusive and transparent public debates. The public hearing in Parliament is of particular importance.

I noted that some EU citizens cannot sign an ECI, either in their own Member State, or in the Member State where they live and called on the Commission to address this.

Last month, I wrote to the Commission to follow up on its response. I acknowledged that it is aware of most, if not all, of the problems that ECI organisers are facing but questioned its claim that the ECI procedure, as a whole, is working, a statement that seems to conflict with its more negative December remarks.

Despite the positive efforts made by the Commission and the Europe Direct Contact Centre, there is still frustration about the **advice given to ECI organisers** about what would constitute an ECI falling within the Commission's mandate.

I note that the European Parliament's Committee on Constitutional Affairs, in its Report on the ECI¹, calls on the Commission to consider establishing an **independent body** to provide advice to ECI organisers at the preparation stage and I encourage the Commission to explore this..

Organisers need to understand the **reasons for a registration refusal**. If insufficient reasons are given I can assist in obtaining more comprehensive explanations.

The Commission considers that a legislative proposal is not the only criterion that determines the success of an ECI. However, I do not consider that the Commission has adequately explained what that means and how it intends to make sure that ECI organisers who fail to get 1 million signatures can still feel that their efforts were worth the hard work.

However I am encouraged that the Commission intends to explore, with the European Parliament, how to improve the **public hearing**. I also welcome its commitment to better explain its **political choices in the formal response to a successful ECI**.

I welcome too its effort to **improve the online collection software** and to take into account the **needs of persons with disabilities** when further developing the OCS.

I also acknowledge its continued efforts to encourage Member States to simplify their data requirements for the signature collection. I intend to raise awareness of this with my national counterparts in the European Network of Ombudsmen.

I also welcome that the Commission's ECI website informs ECI organisers that the European Economic and Social Committee can assist in translating, free of charge, the title, subject-matter and objectives of initiatives into all official EU languages, except Irish it seems.

To conclude, I welcome the measures for improvement taken by the Commission within the existing legal framework. I encourage its commitments to make further improvements and I also encourage any citizen with an ECI procedural problem, to turn to me for help and submit a complaint.

One final point, the Commission has expressed concern about the encouragement of Euroscepticism through the ECI process. However, Euroscepticism will also be encouraged if those committed to the treaties of the European Union, and who organise ECIs in good faith, never see them translated into actual legislation. As the Commission itself noted in its December minutes, a debate on all of this, with open and honest contributions from all, and especially from the Commission, is at this point in the history of the ECI very necessary indeed.

Thank you