

# Ralf Dahrendorf Taskforce on the Future of the European Union

*Working group I “Reform of the EU institutions – re-Democratisation of the EU”*

## Strengthening European Civic Society

Democratic innovations for a participatory democracy<sup>1</sup>

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<sup>1</sup> This paper is based on the discussion of the first meeting of WG 1 of the Taskforce and a project proposal submitted to ELF in June 2014 together with CentreForum and Novum. The project will shed light on the different topics addressed in this paper and contribute to strengthen our expertise in the field.

## Introduction

Liberalism places the maintenance of a vibrant, pluralistic democracy at the heart of its philosophy. Active citizen engagement in the process of political discourse and their participation in the democratic process by the broadest cross section of the population is central to the preservation and wellbeing of liberal democracies. Liberals trust in the ability of individuals to participate in political processes. This is why the ALDE Party supported the Treaty of Lisbon that stipulates the right of citizens to initiate legislation at the European level by proposing European Legislation to the European Commission.

Strengthening EU democracy and a European political identity depends on the emergence of a European public sphere. Ideally, the European constitutional process would spur the mobilisation of civil society and activate public debates about the nature and purpose of European Public Policy and the European Union. The presence then of a growing, and some would contend, deepening 'democratic deficit' in **active participation by European citizens in the European Union (EU)** is, for liberals, a matter of considerable concern.<sup>2</sup>

European Citizens can engage in participatory activities on the EU level in two different ways: 1) They can become active in **Civic Society Organisations (CSOs)**, lobbies of specific concerns of citizens on local, national, European or international level. 2) They can initiate or support a **European Citizen Initiative (ECI)**. These forms of public participation do not necessarily overlap. Whereas CSOs lobby for specific interest and even might open offices in Brussels, ECIs aim to initiative legislative procedures based on broader trans-European public involvement.

## Towards Participatory Democracy in the EU

Participation of the broader public in state-sanctioned policy-making venues is conceived as a means to promote citizen empowerment, improve governance, encourage social justice, and deepen the overall quality of democracy. The European Union actively supports the participatory democracy approach, such as many other political actors and organisations do (e.g. the World Bank, UN Habitat, political parties from a wide range of ideological stripes, many non-governmental and civil society organizations). Many efforts were made to give citizens direct access to these new policymaking venues; an endeavour which is facilitated by new forms of digital participatory democracy and public deliberations.<sup>3</sup>

Contrary to the idea that participation of the broader public counteracts the democratic values of efficiency and stability, the engagement of citizens is viewed as precondition for functioning democracies. Participatory democracy 'has been championed as a way to give people a sense of ownership of, and therefore commitment to, the enterprise, and to prefigure an alternative to a world in which bureaucratic structures stifle creativity, autonomy, and equality.'<sup>4</sup>

The relationship between participation and democracy in the context of the EU can be seen on three levels:

- in terms of building a European political community or demos-foundation
- in terms of democratic governance and decision-making
- in relation to the development and empowerment of individual citizens.<sup>5</sup>

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<sup>2</sup> Conrad, M. 2013. 'A small-states perspective on the European Citizens' Initiative.' *Icelandic Review of Politics and Administration*. Vol. 9. Issue 2. (301-322), page 6.

<sup>3</sup> Boulding, C. and Wampler, B. 2013. *Voice, Votes, and Resources: Evaluating the Effect of Participatory Democracy on Well-being*. *World Development*. Vol. 38, Issue 1. (125-135), page 125.

<sup>4</sup> Poletta, F. 2013. 'Participatory Democracy in the New Millennium'. *Contemporary Sociology* Vol. 42 Issue 1. (40-50).

<sup>5</sup> Monaghan, E. 2012. 'Assessing participation and democracy in the EU: the case of the European Citizen's Initiative.' *Perspectives on European Politics and Society*. Vol 13. No. 3. (288-298), page 295.

Difficulty in accessing EU institutions has been cited as a primary reason behind the lack of civic participation. Recognising this, the EU itself has sought to introduce various **measures to directly and indirectly facilitate civic participation**. Directly it has introduced additional powers to the European Parliament and facilitated a democratic rebalancing between the Commission, the Parliament and the Council of Ministers.<sup>6</sup> Additionally, the **European Citizens' Initiative (ECI)** entered into force to increase participatory democracy in the EU as a complement to existing forms of representative democracy.

Indirectly the EU has promoted various different types of **Civil Society Organizations (CSOs)** - operating as institutional catalysts and proxies for active participation by citizens. CSOs have significantly contributed to raise awareness on the necessity to foster broad civic participation at the European level, as many intellectuals such as Jürgen Habermas did, by referring to the prospects of participatory and deliberative democracy.

### **(European) Civic Society and the role of CSOs**

The important role of civil society in modern democracies has first been recognized by theories of classical liberalism such as those developed by Alexis de Tocqueville. From a liberal point of view a vibrant civil society contributes to democratization. It does so by mediating between citizen and state, by mobilizing and conveying citizens' interests to politics, by constraining public policy by stimulating citizen activism, and inculcating democratic values. In this vein a vibrant civic society is a precondition for a participatory and/or deliberative democracy.

CSOs play a crucial role for engaging a wider section of society. They are defined as 'the aggregate of non-governmental organizations and institutions that manifest interests and will of citizens; individuals and organizations in a society which are independent of the government.'<sup>7</sup> The **Convention on the Future of Europe** dedicated itself to increase citizen engagement and to listen to the demands of civil society. The aim was to produce policies closer to the needs of the broader public and to disseminate knowledge on EU policies and politics. Particular measures were established to create interfaces for CSOs, such as the Forum website, where CSOs can exchange ideas, post comments and policy initiatives, and a number of (largely in Brussels based) public hearings.<sup>8</sup>

The Treaty of Lisbon brought forward several additional measures to support active participation by citizens. In 2008 the **Civil Society Facility (CSF)** was established to support the development of civil society financially.<sup>9</sup> The CSF consists of three strands supporting national, local and multinational civic initiatives and has also contributed to professionalise CSO engagement at the European level.

*To sum up*, CSOs are important actors to support participatory democracy within the EU and important knowledge holders with regard to the barriers and obstacles for civic engagement at the EU level. However, not all CSOs share the idea and mission to strengthen civic engagement. The development of a CSO community at EU level includes the danger of reproducing the democratic deficit of these organisations at the EU level, insofar as these rather behave in terms of interest driven "lobbying groups".

### **The European Citizen Initiative (ECI)**

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<sup>6</sup> Monaghan, E. 2012 'Assessing participation and democracy in the EU: the case of the European Citizen's Initiative.' Perspectives on European Politics and Society. Vol 13. No. 3. (288-298), page 290.

<sup>7</sup> <http://dictionary.reference.com/browse/civil+society?r=66>

<sup>8</sup> De Clerck-Sachse, J. 2012. 'Civil Society and Democracy in the EU: The Paradox of the European Citizens' Initiative.' Perspectives on European Politics and Society. Vol 13. No. 3. (299-311), page 301.

<sup>9</sup> [http://ec.europa.eu/enlargement/tenders/support-for-civil-society/civil-society-facility/index\\_de.htm](http://ec.europa.eu/enlargement/tenders/support-for-civil-society/civil-society-facility/index_de.htm)

The European Citizen Initiative is hailed as an innovative and important tool for civic involvement in EU policy-making, originates from the Constitutional Convention on the Future of Europe in 2002-2003 and '[...] the tireless campaign work of pro-democracy activists and like-minded Convention members.'<sup>10</sup> It entered into force in April 2012 after long and hideous debates on the design and arrangement of this new instrument.<sup>11</sup> The initiative to create the instrument of an ECI was aiming to promote greater democratisation of EU institutions, to 'add a new dimension of European Democracy, complement the set of rights related to citizens of the Union and increase public debate around European politics, help to build genuine European public space.'<sup>12</sup> The procedures and conditions required for ECIs shall be determined in accordance with paragraph 1 of Article 24 of the Treaty on the Functioning of the European Union.

According to **Article 11 of the Lisbon Treaty** the ECI

*'[...] is an invitation to the European Commission to propose legislation on matters where the EU has competence to legislate. A citizens' initiative has to be backed by at least one million EU citizens, coming from at least 7 out of the 28 member states. A minimum number of signatories is required in each of those 7 member states.'<sup>13</sup> The rules and procedures governing the citizens' initiative are set out in an EU Regulation adopted by the European Parliament and the Council of the European Union in February 2011.'* (Art. 11.4 of the Treaty of Lisbon)

Since 2012 nearly 6 million citizens have supported an ECI. 43 initiatives submitted an application for registration to the European Commission. Of those, 24 initiatives were accepted for registration by the European Commission and started the ECI signature gathering process. 19 proposed ECIs were declared inadmissible by the European Commission for being 'outside the Commission's competence'. Of the 24 ECIs registered, two were withdrawn and never resubmitted. 9 ECIs stopped collecting signatures before the end of the 12-month signature collection period. They did not officially withdraw. As of the first of September 2014, 21 ECIs have ended and 3 are still ongoing. All three have managed to collect over 1 million signatures from at least seven European member states.

Even though the ECI is the most innovative instrument the Treaty of Lisbon has brought forward, it is criticized by EU experts and CSO representatives for its bureaucratic and burdensome nature. One challenge concerns the collection of signatures: Each EU member state requires different personal data from supporters of particular ECIs. This means campaigns must create 28 different signature forms and submit signatures for verification to 28 different national authorities. A lot of information is required from citizens supporting ECIs this is problematic with regard to privacy and the administration of ECI signatures at the European level. The personal data needed is not coherent within the 28 EU member states and has resulted in 28 different sets of personal data. In some member states supporters have to be citizens of the EU state on other it is based on residence.

In the face of the third birthday of the ECI on 1 April 2015, discussions on the suitability of the ECI to ensure direct citizen participation in the EU have reached a new peak level. Groups such as *Democracy International*, the *European Youth Forum*, *An ECI that Works*<sup>14</sup> and past ECI campaigners have been working on proposals for how to make a significant reform. On 26 February 2015 the European Parliament held a

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<sup>10</sup> For a short overview on the historical process see: <http://www.ecicampaign.org/eci/what-is-the-eci/>. For an analysis of the role of CSOs within the process see: Monaghan, E. 2012. 'Assessing participation and democracy in the EU: the case of the European Citizen's Initiative.' *Perspectives on European Politics and Society*. Vol 13. No. 3. (288-298).

<sup>11</sup> It has gone '[...] through a series of iterations as discussions have moved on from whether there should be an ECI to what kind of ECI there should be; in the process it has brought into sharp focus questions about the relationship between participation and democracy. (Monaghan 2012: 285).

<sup>12</sup> European Commission 2009. Green Paper on a European Citizens' Initiative. Page 3. Available at: [http://ec.europa.eu/dgs/secretariat\\_general/citizens\\_initiative/docs/com\\_2009\\_622\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/docs/com_2009_622_en.pdf)

<sup>13</sup> For example: In Austria 13.500, in Germany 72.000, in France 55.000.

<sup>14</sup> <http://ecithatworks.org/>

public hearing organised by the Constitutional Affairs and Petitions committee entitled "*Lessons to be drawn from the implementation of the European Citizens' Initiative (ECI) regulation*". The aim of the hearing was to discuss and analyse the legal and technical obstacles of the existing procedure and to identify room for improvement of the ECI. Many policy makers and experts pointed out that the ECI reforms under discussion are inadequate, insofar as the proposed reform steps are perceived as not making the ECI user-friendly or impactful enough to increase the trust of citizens in this instrument.<sup>15</sup>

The reform proposals covered a wide range of reforms ranging from the preliminary stage of drafting ECI proposals (e.g. greater legal assistance in drafting proposals, establishment of ECI officer to accompany admissibility check) to the obstacles and requirements throughout the submission and processing process (e.g. harmonisation of personal data requirements across member states<sup>16</sup>, ability to collect email addresses of signatories to keep them updated), to the consequences of successfully submitted ECIs (e.g. greater involvement of European Parliament, co-decision process involving another institution such as the Ombudsman of EESC to put an end to the "arbitrary rulings of the European Commission").

*To sum up*, the ECI is an important innovative democratic innovation. However, the way in which it is designed and the low role, which is attributed to the instrument by the broader public, should trigger a debate on how to reform the ECI in terms of "real" citizen engagement. The reform of the ECI, which is planned for 2015, should take the potential of the ECI to foster participatory democracy in the EU and to counteract the democratic deficit of EU institutions into account.

## Synthesis

All in all, the approach that has emerged to ensure participation in the EU is primarily one that favours interest groups and 'organised civil society' with the emphasis on functional representation. Contrary to theories of deliberative and/or participatory democracy that rely on the existence of a vibrant pluralistic democracy and an active culture of open political debate, the Convention on the Future of Europe fostered interest representation. This has three main reasons:

- **The legitimacy problem of the EU in general:** Theorists and critics particularly point to the lack of a sense of political efficacy, a lack of public concern for identifying and solving collective problems, and a citizenry, which is not sufficiently knowledgeable about EU policy and policies and does hence not take sustained interest in the governing process as such. The relationship between state and citizen is characterised by the granting of citizenship rights. In the EU's case there is still a difference between the act of conferring the rights and their activation. The Convention on the Future of Europe did not succeed in strengthening European Civic society, but the representation of citizens by CSOs. In doing so, CSOs are likely to face the similar challenge of lacking democratic legitimacy.
- **The constitution of a European CSOs community:** In the last decade CSOs became proficient in engaging the wider public in EU affairs. They function as transmission belts bringing citizens' concerns to the attention of EU decision-makers and activating citizens to hold them to account. However, not all CSOs do engage in the empowerment of individual citizens and turn out to work rather as 'lobbying professionals'. Furthermore, recent developments suggest, that the professionalization of CSOs as interest groups at the European level (investments in administrative skills, efficient PR activities, small staff, Brussels centred career patterns, proximity and frequent informal encounters to EU institutions) impacts negatively on the role of CSOs as

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<sup>15</sup> Carsten Berg, coordinator for The ECI Campaign, for example pointed out: "The ECI Regulation is fatally flawed. It lets the Commission limit free speech by rejecting ECIs for questionable legal reasons [...] It makes ECI organisers use burdensome procedures. It frightens away citizens by demanding sensitive personal data. Then it lets the Commission dismiss successful ECIs, with no real action. Campaigners tell us that the ECI must be redesigned or it won't be used". See:

<http://www.euractiv.com/sections/eu-priorities-2020/parliament-gearing-european-citizens-initiative-review-312485>

<sup>16</sup> Single data requirements for signing the ECI across member state are foreseen since the beginning but not realised yet.

transmission belt to individual citizens and the local level. In this regard CSOs tend to become a self-referential European CSO community, dismissing its objective to foster participatory democracy.

- **The genesis, role and design of the ECI:** The above mentioned examples show that the ECI design and its role within the legislative process call for a simplification and harmonisation of the ECI regulation. The challenges of establishing an ECI and the many conflicts in place have resulted in structural problems inhibiting both, the CSOs work at the EU level and the mobilisation of the broader public in EU policy-making by CSOs. In this regard the improvement of participatory elements at the EU level necessitates a redefinition of CSOs role in public engagement (at the national and local level) and a reform of the ECI particularly with regard to its procedures and its role in EU policy-making. However, if more outsider organisation can be mobilised (e.g. by pilot ECIs or the Green Paper consultation) the ECI could become an impetus for participation of new and more individuals and groups in EU policy-making.

## Recommendations

- 1. Strengthen participatory and deliberative democracy** at the EU level based upon a diversity of instruments, formats and methods to ensure collective and individual participation of citizen in EU policy-making.
- 2. Reconfigure CSOs** as interfaces between local, national and European level of citizen engagement.
- 3. The ECI:** There is a clear need for a simplification and harmonisation of the ECI regulation and related rules. In line with proposals made by the groups mentioned above, the following amendments could be endorsed:

### **3.1. In terms of EU Institutions:**

- 3.1.1. The European Commission should not be the authority that decides on whether an ECI should be rejected or taken into account.
- 3.1.2. A new Treaty – or even a Convention- should ensure that the Parliament gets the right to device legislative acts and hence become the contact point of the ECI.
- 3.1.3. Development of a support infrastructure for ECIs with legal advice, translation and funding.
- 3.1.4. Provision of an EU legal status for ECI citizens' committees.

### **3.2. In terms of Supporting/Signature Requirements:**

- 3.2.1. Personal data requirements across member states should be reduced and harmonised.
- 3.2.2. ID number requirements should be eliminated
- 3.2.3. All EU citizens should be able to support an ECI independently from where they live.
- 3.2.4. Lower the age of ECI support to 16.

### **3.3. In terms of Collecting Procedures:**

- 3.3.1. Redesign the online signature collection system (OCS).
- 3.3.2. Allow to collect e-mail address within the main ECI support form.

**3.4. In terms of Collecting Framework**

- 3.4.1. Lengthen the signature collection time to 18 months.
- 3.4.2. Give ECI campaigns time to prepare: let them choose their launch date.

**3.5. In terms of Public Awareness**

- 3.5.1. Increase public and media awareness of the ECI.
- 3.5.2. Increase expertise on ECI in local and national administration.

- 4. Additionally, alternative instruments should be strengthened, modified or developed** to ensure the direct involvement of citizens in EU governance (e.g. citizen conferences, referenda, digital participation etc.)

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