

## European Alliance of Initiatives for Applied Anthroposophy / ELIANT



### **First comments on the European Commission's Proposal for a Regulation on the Citizens' Initiative**

ELIANT welcomes the Commission having taken up in its proposal comments NGOs made in their response to the Commission's Green Paper. This is in particular the case for the minimum number of citizens per Member State giving their statement of support (Article 7 and Annex I). ELIANT suggested a system allowing a lower number of signatories for large countries and a higher number for small countries. The Commission has found a simple and convincing way to put this into praxis.

Unfortunately the Commission did not take up some other suggestions which ELIANT, basing itself on the experience gained in collecting Europe wide almost 1 million signatures up to now, made in its response to the Green Paper. Three of these suggestions are particularly important in order to make the ECI workable and as user-friendly as possible:

#### Decisions of admissibility of proposed citizens' initiatives (Article 8)

ELIANT suggests that the admissibility check should be combined with the initial registration of a proposed initiative (Article 4) and not be done later when 300 000 signatures have been collected. The Commission rightly proposes in Article 4 §§ 3 and 4 that it will not register proposed initiatives regarded improper or manifestly against the values of the Union. At the same time the Commission can as well check whether the proposed initiative concerns a matter where a legal act of the Union can be adopted and whether it falls within the framework of the powers of the Commission. Indeed, this check is normally not very complicated. Also, already the collection of 300 000 statements of support in three Member States needs a very important organisational and financial input that would be wasted, if the ECI is finally not admitted.

The arguments put forward by the Commission to have the admissibility check at a later stage are in ELIANT's view not compatible with the character and purpose of an ECI. The constitutional instrument of an ECI is not meant to be used for just promoting a public debate on European issues irrespective of whether it concerns a matter where a legal act of the Union could finally be adopted.

#### Verification and certification of statements of support (Article 9).

ELIANT appreciates that the Commission's proposal provides for collecting statements of support in paper format or online. But unfortunately the proposal puts an undue cumbersome burden of complicated procedures on organisers to fulfil the requirements for the verification and authentication of these statements. All of the work is left to Member States with whom the organizers have to communicate with. This means in practice in

most cases 27 different national procedures in 21 languages for a Europe wide ECI campaign. This is an impossible task for the organizers.

During its campaign ELIANT used the services of two private firms experienced in modern IT data processing techniques to do the authentication of the signatures collected in all 27 Member States. The communication with the firms was only done in English. The signatures were crosschecked with the registered addresses the firms had in their central data bases. The firms produced reports on their findings with respect to every Member State. Data protection was agreed with the firms.

Based on this experience ELIANT suggests that the regulation provides for the establishment of one single common entity responsible for the authentication and certification of statements of support using all modern IT possibilities in close cooperation with the competent national authorities. Such a common single procedure, once established, would be easy to be used by every citizens' initiative, would put little burden on Member States and would have the great advantage of allowing EU-citizens to sign who do not live in their country of nationality.

#### Examination of a citizens' initiative by the Commission (Article 11)

Like other NGOs ELIANT is concerned about the outcome of the examination by the Commission. Article 11 provides for the Commission setting out in a communication its conclusions, the action it intends to take, if any, and its reasons for doing so. This is fine, if the Commission intends to submit in due course the proposal it was invited to take. But what happens, if the Commission says no? It is nice for the organizers just to read the reasons given by the Commission. But if they do not agree, they have no legal means to react. That's why ELIANT suggests that the Commission should write a negative reply into a formal decision which will be open to scrutiny by the European Court of Justice, Article 263 of the Treaty on the functioning of the Union. The Court may consider whether the Commission has misused its discretion in an arbitrary way.

The introduction of this element of formality would give a greater value to the new instrument of the ECI and more confidence in the opinion of EU citizens.

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ELIANT has other more detailed comments which it is prepared to submit to the European Parliament in a hearing, if so requested.

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