

European Alliance for Initiatives of Applied Anthroposophy / ELIANT



Response to the Commission's Green Paper on a European Citizens' Initiative – COM (2009) 622 final –

ELIANT is an alliance of ten European associations of applied anthroposophy active in the fields of agriculture and nutrition, medicine, health, mainstream and special needs education. ELIANT is a civil society organisation (NGO) which advocates humanitarian and cultural aims. ELIANT is listed in the register for interest groups of the European Commission (Registration number 98897502693-37).

ELIANT calls for a legal framework in Europe which acknowledges and supports the citizens' rights for a diversity of lifestyle and cultural choices, particularly with regard to the areas mentioned above. Citizens not only need their freedom of such choices but also the realistic opportunity to choose e.g. that the products they want to choose are available to them.

To enhance the political influence of its activities, ELIANT has collected 1 million signatures (900,000 of which (to date) are within the EU). Thus ELIANT has gained valuable experience in the area of citizens' initiatives as now regulated in Article 11 § 4 of the Treaty on the European Union. In replying to the questions in the Commission's Green Paper ELIANT makes full use of this experience.

1. Minimum number of Member States from which citizens must come

2. Minimum number of signatures per Member State

ELIANT replies "no" to the first question of each of these two issues (9 Member States, quorum of 0.2% of population) and requests a more flexible solution which combines the two issues.

The basic principles should be: the higher the number of Member States (MS), the lower the quorum of signatures; bigger MS should have a lower quorum than smaller ones. If the minima are met, all signatures from other MS are counted, even if they are below the quorum.

The objective of ensuring that a citizens' initiative is representative obviously depends on the geographical spread of a minimum number of signatures. If one follows the suggestion of the Commission – 9 MS with 0.2% each – an extreme example would be that the criteria could be met with the 9 smallest MS and about 40,000 signatures. The other extreme would be that if the biggest MS (DE) is included about 170,000 signatures would be needed for this state alone. As the effort to get one single signature is almost the same everywhere, we think some balance between these extremes should be found. Therefore we suggest that the organisers of a citizens' initiative be given the choice between three alternative minima such as:

- 6 MS with a signatures' quorum of 0.2% for small MS (with a population below 10 Million), and 0.1% for larger MS
- 9 MS with a quorum of 0,15% for small and 0,075% for larger MS
- 12 MS with a quorum of 0.1% for small and 0.05% for larger MS

In all three cases it should be clear that signatures from additional MS should be counted, even if no quorum is met there

In order to illustrate our proposal we add a statistical annex 1 which shows the distribution in the 27 MS of signatures ELIANT has collected in its campaign (the difference between the total inside EU and 1 million is covered by signatures from outside EU, annex 2).

3. Minimum age

The answer to the question is “yes” (link to age required by each MS to EP elections).

4. Form and wording of a citizens initiative

The answer to the first question is “yes” (it is sufficient to state the subject matter and the objectives of the proposal).

To the second question (other requirements) we reply: there is a link to issue no 7 (Registration). Each initiative should submit an explanation of its motives together with its request for registration showing that all requirements of Art. 11 § 4 of the Treaty on the European Union will be fully met by the planned initiative. It might in particular be useful to name the article of the treaties on which the requested legal act could be based.

5. Requirements for the collection, verification and authentication of signatures

This issue is complex and at the same time important. For that reason it is not possible to answer the four questions separately.

As a basic principle, the Implementing EU Regulation to Article 11 § 4 should set up an appropriate common procedure for EU wide citizens’ initiatives, which provides for close cooperation between the Commission and MS. It should enable EU citizens to sign regardless of their country of residence and to sign online if they wish. In order to make this procedure simple it should make use of modern electronic means as much as possible.

In that sense we answer “yes” to the two last questions (signing regardless of country of residence; signing online) and give a qualified answer to the two first questions (MS alone should verify the signatures), emphasising that the Commission should not leave all the administrative work to the MS but should be involved in the procedure itself.

We can illustrate how such a procedure could operate by making the following proposal, based on the experience gained in the ELIANT campaign. The main feature of this proposal is that the authentication of all signatures of an initiative be undertaken by one single entity experienced in processing of electronic data (ELIANT charged a private firm with this work and we are prepared to explain the details any time to the Commission services). The organisers of the initiative would send the signatures they have obtained to the entity and all MS concerned would provide to it the relevant data from their registers of electors in electronic form, so that the entity could do the cross checking. The entity would have to report the result to the Commission and the MS. Data protection requirements must, of course, be respected at all times.

The advantages of such a procedure are simplicity and uniformity. It also allows signing by EU citizens regardless of the country of residence and it puts very small administrative burdens on MS. It also gives organisers of initiatives a lot of flexibility to collect signatures, addressing themselves directly to interested people in all MS.

Carrying out this procedure in a given case needs good cooperation between the organisers of a campaign, the Commission services and national administrations. The appropriate rules of procedure could be laid down in the Implementing Regulation:

The organisers of an initiative should set up their sheets for collection of signatures and their website in the appropriate form, allowing all relevant data to be obtained from the person signing: name, first name, age, address, nationality. The organisers will have to respect data protection requirements. The organisers should also draw attention of their supporters to the fact that only nationals of EU MS having the right to vote for the EP may sign.

Signing online should be made secure by asking for confirmation by e-mail. This proceeding might also be made available for signing by mobile phone.

The Commission should conclude a contract with the said entity on authentication by electronic data processing. This contract should in particular provide for the data protection aspects. The expenses for the services of the entity should be borne by the EU and/or the MS.

MS would be asked to provide the relevant data of their nationals in an appropriate electronic form. It might be useful for the Commission to create an informal working group with MS officials to have an opportunity to discuss all relevant details of cooperation at any time.

6. Time limit for the collection of signatures

ELIANT's answer is: "yes", a time limit should be fixed, but it should provide for sufficient time. A maximum of 3 years seems to be appropriate. From our experience we have learnt that a campaign involving volunteers from different MS using several languages can be organised more easily after the initiative has been registered by the Commission (see item 7 below). Therefore the actual collection of signatures can normally only begin some time after registration.

7. Registration of proposed initiatives

Our answer to the two questions (registration through a website provided by the Commission) is "yes". The website should open a link to the websites of each registered initiative.

In addition, ELIANT asks the Commission to provide for a preliminary check of the admissibility of a planned initiative. The collection of 1 million signatures is a costly affair (our experience: 0,75 Euro per signature) and the Commission should assist civil society organisations to avoid costly mistakes. We think the Commission should at least check whether the two basic requirements of Article 11 § 4 are met by an intended initiative:

- Does the proposal which the Commission is invited to take, lie within the framework of its powers?
- Does the EU have the competence to adopt a legal act on the matter concerned?

In its Resolution on the citizens' initiative, the European Parliament broke down these two requirements for the admission of an initiative into four. We fully agree with this approach and urge for its inclusion in the Implementing Regulation. We underline the requirement that the requested legal act should not manifestly be contrary to the general principles of law as applied in the Union such as non-discrimination or fundamental rights.

Once the initiative has been found admissible and is published on the said website, the Commission should help by all publicity means at its disposal to spread information concerning the start of the citizens' initiative.

8. Requirements for organisers -Transparency and funding

ELIANT agrees with the Commission's considerations in the Green Paper (provision of information on support and funding).

9. Examination of citizens' initiatives by the Commission

The Commission only considers the question of a time frame for its examination of an initiative. Here our answer to the question is "yes" and six months seems to be appropriate.

However, the Commission fails to examine another crucial issue: the Commission should take a formal and final decision both on the admission of an initiative and whether it will give formally a positive or a negative response to its substance.

On this point, ELIANT again supports the Resolution of the European Parliament.

On admissibility, the Commission, in addition to the points examined at the time of registration should decide whether the representativity requirements of 1 million citizens supporting the initiative are met. The Commission will have to base this part of its decision on the report submitted by the entity having checked the authenticity of the signatures (see issue 5 above).

On substance, the Commission has to decide whether or not it will submit an appropriate proposal for a legal act on the matter concerned. On this question the Commission certainly has a margin of discretion. Before taking its decision, the Commission should hear the point of view of the organisers of the initiative. If the Commission declines to make a proposal, it should give reasons in its formal decision and notify it to the organisers and the other institutions.

This negative decision 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 (Article 263, end of § 2).

The final decision of the Commission should also be published on the specific website for citizens' initiatives and thereby officially end the procedure on the initiative, which started with the registration (issue 7 above).

ELIANT considers it highly important that the Commission takes a formal decision on the follow up of a submitted initiative in order to give credibility to this new instrument in the EU Treaty. Civil society would regret if the Commission remains on the position expressed in the Green Paper.

10. Initiatives on the same issue

ELIANT considers this to be a non-issue and answers "no" to the two questions (rules to prevent the successive presentation of initiatives). The launching of an EU-wide campaign to collect 1 million authentic and representative signatures is a costly matter. It puts heavy administrative burdens on those who undertake it. Organisers will be well advised to check first whether others have the same idea and to cooperate with them. The special website provided by the Commission will help to avoid duplication. For the same reasons, misuse seems very unlikely

Additional issues

After having responded to the ten issues raised by the Commission in its Green Paper, ELIANT would like to draw the attention of the Commission to another related matter not mentioned by the Commission in its Green Paper but of particular importance to civil society, namely

A transitional regime for citizens' initiatives launched in view of the coming into force of the new instrument

Already the Treaty on a European Constitution signed in October 2004 contained an article similar to the new article 11 § 4 of the Treaty on the European Union. ELIANT established itself as an NGO in 2006 and started its campaign to collect 1 million signatures at the end of that year. It did so in the perspective of and believing strongly in the coming into force of the new instrument. With this in mind, ELIANT, along with some other organisations of civil society, was engaged in a sort of pioneer exercise. ELIANT was convinced of the usefulness of participatory democracy and acquired practical experience which it can now offer to all who are interested.

ELIANT very much hopes that the Commission will acknowledge its activity and similar activities of other NGOs. The Commission might honour them by paying specific attention, not only to the practical experience gained but also to the substantial concerns of the organisers of those campaigns, in particular when they have completed a million signatures.

For those reasons we suggest to integrate a transitional regime into the regulation implementing article 11 § 4 of the Treaty on the European Union. This transitional regime should grant to organisations having campaigned for signatures already during the time of ratification of the Lisbon Treaty an equivalent treatment as to those starting their campaign only now after the coming into force of the new instrument. Naturally, the quality of those early collections of signatures must be reasonably high.

Finally, we would like to mention the issue of **Participative Democracy in general**.

The new Article 11 of the Treaty on the European Union contains not only § 4 but also §§ 1 to 3. Along with other organisations of civil society, ELIANT would very much appreciate being consulted at a later stage by the Commission on the issue how these paragraphs of Article 11 will best be put in motion under the new circumstances of the Lisbon Treaty.

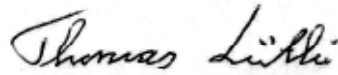
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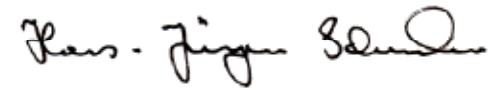
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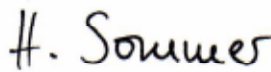
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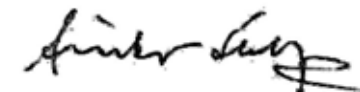
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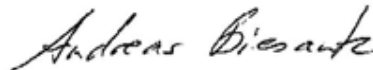
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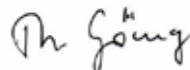
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Statistical Annexes