The European Citizens' Initiative Handbook

Your Guide to the World's First Transnational Direct Democratic Tool

EUROPEAN PARLIAMENT

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Produced in cooperation with

iRi *Initiative and Referendum Institute Europe*

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by Heidi Hautala

Many countries all over the world suffer from authoritarian regimes that deny political competition, crush opposition and steal elections. At the same time however, the limits of purely indirect representative democracy are challenged in so-called mature democracies. More and more people want to participate in decision making between elections through the instruments of modern direct democracy. The lack of such political rights can partly explain the decreasing participation in democratic elections in these countries. Many mature democracies have now become rather tired democracies in need of renewal.

The European Union is a unique experiment in democracy, with the first directly elected parliament with transnational competences and quasi-federal decision-making structures. However, the distance between EU citizens and the European institutions has become a major problem for the legitimacy of the European Union as such. This was one of the reasons why a Constitutional Convention to revise the European Union Treaties was established in 2001.

The work plan of the Convention came to include two innocent words: 'participatory democracy'. These words were not left unnoticed by a number of movements and groups which had developed far-reaching ideas on participatory democracy at all levels of decision-making, including the level of the European Union. Due to the hard work of the united friends of modern direct democracy, the outcome of the Convention also showcased a new Treaty article on the European Citizens' Initiative.

Years passed, and the creation of a new foundation treaty of the European Union, now known as the Lisbon Treaty, did not pass without incident. Still, the article on the Citizens' Initiative was kept in the Treaty all along, even if many governments were skeptical about the idea. The European Citizens' Initiative became known as the only real democratic innovation of the Treaty.

This handbook is closely linked to the struggle over many years for the realisation of a European Citizens' Initiative, as the author, Bruno Kaufmann, has been one of the key people behind it. As President of Initiative and Referendum Institute Europe he lectures and encourages people and their governments worldwide to introduce modern direct democracy rights.

Gerald Häfner, the author of the authentic introduction chapter to this handbook, as a key figure at the German NGO Mehr Demokratie (More Democracy), has been instrumental in convincing German States to introduce referendum and initiative rights. He was elected to the European Parliament in 2009 as a Member of the Greens/EFA Group. He now works hard to make sure the right of initiative will be implemented with all its important details intact, in order to be truly an instrument to invigorate the still evolving EU democracy.

It is only natural that the European Greens have been involved in the campaign for the right of a Citizens' Initiative from the very beginning. The first edition of this handbook is being published at a crucial time; the European Parliament and the European Council are concluding the details of the implementation rules which will govern the future use of the initiative right. At the same time the first European Citizens' Initiatives are already in the making as we speak.

The Green European Foundation is proud to announce this very first user's guide to the instrument for all those interested in the process or already preparing their ideas for Europe. This first edition will be updated in the future.

Heidi Hautala

Co-President
Green European Foundation

Istanbul, 1 November, 2010

A glimpse at legislation cookery
by Gerald Häfner

The European Citizens' Initiative – toothless tiger or effective instrument of citizen participation?

The first edition of this handbook on the European Citizens' Initiative (ECI) is being published while negotiations over the ECI are still in progress. I am currently meeting with others almost every day in order to negotiate the best possible structure for the ECI: with my colleagues from the other parliamentary parties, with representatives of the Council and the Commission, with representatives of NGOs and national governments, and with scientists, specialists, etc. In the midst of this heated phase of ECI negotiations, the author and the editor of this book on the ECI asked me to write an introductory contribution that would not only introduce the book but also, at the same time, report directly about this work on the ECI. The result is a text which is simultaneously an introduction and a "glimpse at the cookery", which is also very much a personal interpretation in places. It provides a direct and authentic insight into the work of the legislature and thereby into the development of the regulations for the ECI.

We are on the brink of a breakthrough. The European Citizens' Initiative will be the first of its kind: the first instrument of transnational citizen participation in the world.

Politically, Europe is becoming increasingly significant, and it is becoming increasingly important to organise Europe, politically speaking, in a way that is appropriate, modern, efficient, democratic and citizen-oriented.

That does not mean, however, as some believe, that the nation states will soon have outlived their purpose. This is even less true of provinces, regions and municipalities. In a globally networked world it is especially important, wherever feasible, for decisions that affect the life and work of the people to be made as closely to them and as directly as possible, and to increase the influence that citizens have. Anything that can be regulated locally should also be decided locally.

At the same time, there are an increasing number of issues today that can only be solved at a transnational or supranational level. The steady increase in the number of decisions made at the level of the European Union is a reflection of this development: perhaps two thirds of legal acts (estimates here vary) that concern citizens in the EU Member States now no longer originate in the national organs and institutions but in European ones.

In the light of this development, there is a greater focus on European democracy than ever before. Without intelligent, progressive solutions to this serious problem within the EU, an increasing number of people will turn away from the European level in frustration, rather than turning towards it.

For, in the eyes of the citizens, European institutions are very distant and the decision-making processes there still lack transparency. Citizens simply do not know how they can get involved and have an active influence when it comes to European discussions and decisions. Moreover, we still have barely any transnational discourse in Europe. We tend to hold national debates rather than European ones, even with regard to European issues.

A Europe, however, that claims to regulate more and more areas of people's everyday lives needs to alter its decision-making processes and the way it sees itself. It needs to change from being a Europe of the governments, as it began, to being a Europe of the citizens. Only a democratic Europe will survive in the long run; one in which citizens see themselves not only as the object of the decisions made but also, especially, as their subject. For the Green Party in the European Parliament, and especially for me personally, introducing and further developing democracy and citizen participation at a European level is, therefore, absolutely central and a top priority in politics.

Open up the doors for the citizens!
The necessity and opportunity of the European Citizens' Initiative

The European Citizens' Initiative (ECI), suggested from within European civil society, accepted by the Convention for a future European constitution and recorded in Article 11 of the revised EU Treaty, the Treaty of Lisbon, will, in the future, give citizens of the European Union the opportunity to get involved directly in EU politics for the first time ever. Once a minimum of one million signatures from a significant number of Member States have been gathered for such an initiative, the European Commission must deal with the request expressed by the citizens and can develop an appropriate legislative proposal where required.

The European Citizens' Initiative does not give citizens any direct decision-making power however. It will take some time yet and a considerable amount of argumentative and political effort before referendums or plebiscites are possible at a European level. This instrument will also be necessary if citizens within the European Union are really to feel sovereign and, as such, also to have the opportunity to make decisions on issues of substance following an appropriate debate.

The ECI can, however, directly bring citizens' problems, requests and suggestions to the attention of the Commission. Moreover, it can and must oblige the Commission to deal with citizens' demands.

Its most important impact therefore lies in making European institutions receptive to the requests and wishes of the citizens. European citizens should have the chance to join in the discussion in matters that concern them. Brussels, which always has a tendency of revolving around itself, needs to open up the doors to the worries and desires of Europeans.

In this way, the European Citizens' Initiative can bring Europe closer to the people and the people closer to Europe. It will make a significant contribution in initiating Europe-wide debates, thereby creating a European public sphere – something that has been all too scarce until now, despite the fact that a corporate Europe so urgently needs it.

Laws do not just appear from nowhere
The struggle to have the ECI included in the Constitutional Treaty

Just like everything else in the legal, political and social world, the ECI did not appear from nowhere. There is a history behind its development.

Usually we do not find out about laws until they are written in the law gazette. This obscures the process by which they come into existence. It would be good if we could get to know the history behind them once in a while. Shining a light into the darkness here would often reveal some surprising, enlightening and informative facts. This is true of laws that are conceived by the executive boards of certain companies or their lobbyists, as well as laws that originate in the bureaucratic world and those suggested by committed citizens or the population in general. For the history of a law's development says a great deal about the spirit, goals and background behind it.

It also demonstrates that history is not only the consequence of the activities of anonymous institutions but the sum of ideas, interventions and actions of specific people. Furthermore, it can teach us a considerable amount about the possibilities for (and the reality of) the involvement of certain individuals, and the subsequent effects of their involvement.

In this regard, a great deal could be said about the conception and development of the ECI. Some of it is written in this informative book by Bruno Kaufmann, who is, himself, one of the most important participants. Since history is primarily made by people, those people should not be forgotten. They should especially not be forgotten today, as we structure this instrument, and certainly not later, when the ECI is a reality and countless initiatives and millions of Europeans use this instrument to put important issues on the political agenda.

Many people have been involved in the formation of the ECI, but there are a few that I would like to name. Alongside *Bruno Kaufmann*, key people have been *Michael Efler, Carsten Berg* and *Arjen Nijeboer.* Behind them were initiatives such as *Mehr Demokratie* (D), *Referendum Platform* (NL), WIT (B) and the *Initiative and Referendum Institute Europe (IRI Europe),* who have been working on the development of democratic participation possibilities for some time, particu-

larly the introduction of public petitions, citizens' decisions, petitions for referendums and referendums themselves on all levels. *Mehr Demokratie*, the largest and most influential of these initiatives, made a crucial contribution, for example, towards the possibilities of direct citizen participation, at both a federal-state and municipal level, which exist today in all of Germany's federal states.

It became increasingly clear to these initiatives, however, that the introduction and consolidation of direct citizen participation at a municipal, regional, federal-state and national level within a corporate Europe was not sufficient. If more and more decision-making power is being transferred to the European level, citizens need significant possibilities for participation at this level, too. They therefore developed concepts as to how the direct participation of citizens could also be strengthened on a European level.

The next step was to promote these proposals among the members of the Convention for developing a European constitution. They attended almost every Convention meeting. Over the course of time, they succeeded in talking about their proposals with all of the Convention members without exception. In this way, they introduced their proposals to the debates. It was only through these talks that support for more direct citizen participation at a European level developed and grew over time among the members of the Convention.

Yet, of all the proposals introduced in this way, the European Citizens' Initiative was the only one to make it into the final Convention document. At that stage it was still too early for further, more binding participation rights, although these were likewise suggested. A non-binding right of initiative for citizens finally secured a majority, however, not only in the Convention and its Committee (the true decision-making body), but also at the subsequent European Council among the heads of state and heads of government.

Since that day, the European Citizens' Initiative has been slumbering in the text of the European Treaty. Like Sleeping Beauty, it has been waiting to finally be awakened with a kiss. Unlike the fairy tale, it should not take one hundred years. It has, however, been waiting a full decade now, along with Europe's citizens. So it really is high time for that kiss to wake it up.

Bringing Sleeping Beauty to life
The battle over the legal form of the ECI

For this, too, we need people who will attend to the matter presently. After all, the question as to how the ECI is implemented is far from irrelevant. The Lisbon Treaty leaves almost all of the important questions unanswered – they can either be answered in the interests of the citizens or in a bureaucratic way that is not citizen-friendly. What is to become of the ECI is, therefore, still very much up in the air: a functioning instrument of citizen participation or an empty promise that just brings disappointment. To merely leave its implementation to the world of administration and bureaucracy would be a clear preliminary decision in favour of the latter.

After all, if the obstacles were too great, the process too bureaucratic or the legal consequences too insignificant, the promise would be worth very little in reality. Why, for example, should citizens gather a million signatures in several member countries if all they are able to achieve in the end is a letter from the EU Commission that appears in the post months later, thanking them for the signatures and politely informing them that the Commission is, unfortunately, not willing to take action on this matter?

For this reason, I decided to run for the European Parliament in 2009 in order to become actively involved in the upcoming implementation of this first transnational citizens' right of initiative. Prior to that, over a period of almost three decades, I had been putting intense effort into the organisation of direct democracy and citizen participation at a municipal, federal-state and national level in my role as co-founder of the German Green Party and as their spokesperson for matters of legal and democratic policy in the German Bundestag. At the same time, as founder and Board spokesperson of *Mehr Demokratie* and as co-initiator and co-worker of the *European Referendum Campaign*, of the *European Citizen Initiative* campaign and of *Democracy International*, I concerned myself in many ways with the development and strengthening of democracy at a transnational and especially at a European level and also, in particular, played a crucial role in the proposal and implementation of the ECI.

A more democratic structure to the EU and the ECI, in particular, were therefore matters particularly close to my heart. For the decisions

regarding its administration, it seemed to me that we required not only people with an administrative background but also people who could take care of its structuring from the perspective of the citizens themselves and with precise knowledge and both theoretical and practical experience of all kinds of citizen participation systems and processes in numerous countries. For this reason, too, and with the explicit goal of campaigning for stronger, well-functioning citizen participation at a European level, I decided to run for the European Parliament.

The ECI – much too important to leave it to the Greens
The battle over reporting in Parliament

Since June 2009, with the support of the Green voters in the European Parliament, I can now concern myself with this question and many others regarding stronger participation of citizens and an increasingly transparent and democratic European Union. Being elected to the Committees on Constitutional Affairs, on Legal Affairs and on Petitions, as well as being appointed Coordinator of the Green Party in the Committee on Constitutional Affairs, created the best possible conditions for this.

Nonetheless, the efforts towards an effective ECI have been anything but easy. The resistance towards it has been, and partly continues to be, huge. Initially, this was particularly reflected in an unusually long and fierce dispute over the question of reporting.

In the European Parliament, rapporteurs are appointed for all proposed legislation. The task of the rapporteur is, among other things, to structure the debates on specific proposed legislation in advance, to write the draft of the opinion of Parliament and to discuss it and come to an agreement on it with all those involved both inside and outside Parliament (NGOs, stakeholders, members of Parliament, political groups, the Commission, the Council, etc.). They phrase the proposal which is subsequently voted on.

As you might imagine, my candidacy for rapporteur for the ECI was severely thwarted from the outset. Fortunately not by those who knew me or those sitting on the same committee as me, but rather by those in influential positions further up, who were therefore all the more effective. They said, for example, that Gerald Häfner was

far too citizen-friendly to be able to leave reporting on the ECI to him. Alternatively, the simple explanation was given that this report was far too important to Parliament, the Council and the Commission for it to be left to a Green. The matter had fallen into the hands of power politics; as merely the fourth-largest parliamentary group, the Greens had no realistic chance despite (or precisely because of?) having the greatest possible competence. After several months of vain efforts, I therefore had to admit that the battle would not be won in this way, even despite huge support from numerous colleagues.

The ECI is, in fact, by far the largest and most significant project within the jurisdiction of the Committee on Constitutional Affairs during this legislative period, as far as we are currently aware. Consequently, the large parliamentary groups were not willing to forego the subject. It soon became clear to me, following the interventions from above, that only one of the two large parties had a realistic hope of getting this report. It was therefore necessary to develop a new strategy. Rather than fighting to be the sole rapporteur, I now fought for a joint report – one which several rapporteurs would compile together. This is possible in exceptional cases, although only if the Conference of Presidents gives its approval. The report is then shared between two different rapporteurs from different committees. Although this was successful, it did not help very much however, since the two large parliamentary parties agreed to split the report between them, meaning there would be one rapporteur from the Conservatives and one from the Social Democrats.

Look for a rapporteur and find a clover leaf
The "gang of four" is born

Thus only a different, highly unusual method could now salvage the chance to be involved in the report and thereby have the desired influence on its content. A method that had never been used before and for which there was no provision (but thankfully also no prohibition) in the Rules of Procedure. This is what I had for months been campaigning for. It was a success – and can now also be used as a model for future, large legislative reports: We divided up the report on the ECI several ways (with the consent of the Conference of Presidents), firstly between two committees and then again between two different members of Parliament within each of these. This has re-

sulted, therefore, in there now being four of us rapporteurs. We come from four different countries and simultaneously represent the four largest parliamentary groups in the European Parliament. In order of the size of the groups, the rapporteurs are: *Alain Lamassoure* (EPP, France, AFCO), *Zita Gurmai* (S&D, Hungary, AFCO), *Diana Wallis* (ALDE, United Kingdom, PETI) and *Gerald Häfner* (Greens/EFA, Germany, PETI).

Not only was this unusual course of action the only way for the Greens, and therefore for me, to be involved in drafting the report, but it also ultimately reflects the particular appreciation that my colleagues have for the subject of the ECI. Moreover, in my opinion, it is very much an example worth emulating in other cases, too, for transnational, cross-party, objective cooperation in the EP. In addition, the fact that all four of the large political groups are involved in creating the report from the outset not only gives it significant weight (which will be important when it comes to the negotiations with the Commission and the Council) but also, hopefully, increases its chances of ultimately gaining the support of the entire Parliament. For that is what we need.

Legally and politically, this approach was only made viable by the Parliament commissioning two different reports: one report from the Committee on Constitutional Affairs (AFCO) and one from the Committee on Petitions (PETI). In addition, several other committees are involved in expressing "opinions" on this report. We are meeting regularly with them and with the so-called "shadows" (shadow rapporteurs) in order to be able to hear and incorporate their points of view.

However, regarding our work on the two (in theory) reports, Diana Wallis, Zita Gurmai, Alain Lamassoure and I agreed on an ambitious goal very early on: our intention is to achieve a consensus to such an extent that, in the end, we are able to present one single joint report. Although, on legal grounds, it will have to be printed on different letterheads, our goal is for us together to present the plenum with one uniform report with identical contents. Therefore, if everything works out, the end result will be two reports *de jure*, but just one jointly created and jointly backed report *de facto*. In practice, this means that we will generally have to meet not in groups of two but regularly in a group of four in order to struggle together to find the best possible wording.

The dispute over the reporting actually cost us more than six months. More than anything, the dispute was conducted at the level of power politics and personnel policy, with virtually no objective arguments. A consensual and satisfactory conclusion to the matter was only then achieved when the suggestion was made, contrary to the previously customary procedures, to split the report in such a way that all four of the parties mentioned could be involved in creating it.

When we were then finally able to get down to work, the circumstances changed; from now on, it was no longer primarily a question of claims to power. Instead, it became possible and necessary to debate the matter itself. In practice, a wrestling over different solutions and the search for the best possible procedure are what characterise the discussions between the rapporteurs. Indeed, to the extent to which these discussions finally revolved around the matter in hand, the atmosphere and the mood improved from one meeting to the next. The "cloverleaf", as we sometimes call ourselves (or "the gang of the four", as Alain Lamassoure is inclined to refer to this highly unconventional bunch in the EP), is working together constructively and in a good spirit. As soon as the doors are closed and we are sitting together, it is no longer a question of parties and groups, nor of claims to power and manoeuvres to eliminate the opposition, but rather of arguments related to the subject in question and suggestions for wording. Predominantly, though not always, the better argument prevails. Not only has the task become an increasingly pleasant one, but also our draft report has got thinner, more citizen-friendly and more efficient as time has gone on.

Negotiations in all directions
A glimpse at the legislator's cookery

As I write this introductory contribution, our negotiations continue. In other words, there is no final result as yet. However, this makes it possible to get a glimpse at the cookery and into the cooking pot here, rather than simply waiting for the finished dish, nicely presented on a plate. This makes things particularly exciting and authentic, but simultaneously brings with it a certain risk. So even with the best will in the world, I could not in this text, predict to you, the readers, what will finally result from it all; that has not yet been determined.

Many things are, admittedly, already emerging. However, even in the areas where we rapporteurs have now agreed on a particular course, it is still very much up in the air as to whether our committees, our political groups and finally the plenum of the Parliament will follow our proposals. Even if that were the case, it still very much remains to be seen how the Commission and the Council will respond to our proposals. After all, the final decision is not in the hands of Parliament alone. The definitive regulation ultimately has to be negotiated by the Council, the Commission and the Parliament on the basis of the Commission's proposal and the report of the European Parliament that is currently being compiled.

These discussions can only officially begin when the European Parliament has completed its report and passed it on to the Council and the Commission. Informally, however, we are already, of course, in contact with both of the other institutions involved, and are trying to gauge where there are as yet insurmountable dividing lines and where a step in each other's direction might be conceivable. Perhaps we will even succeed in what we are currently striving for, namely, to achieve a "first reading agreement": a compromise reached in parallel consensus discussions with the Council and the Commission which we would immediately put to the vote in the European Parliament.

However these final negotiations may progress, they still contain a great deal of dynamite. The course they take and the way they turn out could vary greatly, depending on whether they occur during the current Belgian Council presidency or the subsequent Hungarian one, since the way the negotiations are conducted for and within the Council rests with the respective Council presidency. It therefore has a crucial influence on whether a good result emerges and what that is to look like. If the negotiations are conducted badly or even just ineptly, the project could theoretically still fail. One country alone could possibly suffice to inhibit or sabotage the project, at least for a long while.

If, however, everything runs optimally, 2010 could be the year in which we take the final vote on the parliamentary report and also achieve a positive outcome from the trialogue with the Council and the Commission. Then, a good year after the Treaty of Lisbon came into effect, Europe would have kept its promise: to give citizens more, direct influence.

Time to tremble after 300,000 signatures
Impractical ideas about the "admissibility check"

Now to the promised glimpse at the cookery. It could hardly come at a better time; right now all the pots are on the stove and something is constantly being stirred. At the same time, it is already possible to predict to some extent what the end result might be.

It is still up in the air as to what will ultimately become of the ECI. It could become an effective instrument of citizen participation – or a useless, empty promise. It could advance European political debates and encourage citizens to get actively involved – or it could disappoint precisely those who are dedicated, heightening the sense of frustration for the long term. All this depends on the way it is structured. As part of the European legislative process, we are in a position to decide whether the ECI will be an effective instrument or a toothless tiger.

Anyone wanting to work out a regulation for the ECI first needs to decide, above all, from what position they are doing it from. The Commission and the Council have taken on a relatively anxious stance. Their proposals contain a multitude of provisos that severely hamper the use of the ECI. Some of these might even deter citizens from using this instrument at all.

A good example of this is the "admissibility check" that the Commission intends to carry out as a mandatory requirement once 300,000 signatures have been collected. This means that an initiative could spend months preparing a campaign, motivating hundreds, if not even thousands, of volunteers in a large number of member countries to collect 300,000 signatures at considerable cost of time and energy, only to put everyone and everything on hold in order to enquire in Brussels as to whether it is actually even admissible. This idea is ludicrous and unworldly. What is to happen if the Commission then informs them that, although the request is justifiable, the existing form is not "admissible" and the initiative needs to change some of the wording – should the collecting of signatures start all over again? Will the same people sign a second time if you come to them again with the same request? How do you explain to the 300,000 who have already signed that they need to sign once more? Who will be

able to remember which text they finally ended up signing? How do you even track down the signatories in order to ask them to sign again?

All of this has clearly not been thought through. It reveals a disconcerting lack of awareness, if not to say ignorance, of the practical circumstances of active citizen participation. These clauses have been written by people who have presumably never once organised the collection of signatures.

In reality, there is no objective reason as to why the Commission should not state from the outset whether they deem a project admissible or not. The only reason they shy away from this is that they shy away from the work it involves. That cannot be the criteria however. It is neither economically nor politically wise to avoid doing your own homework by having 300,000 others do the extra work and letting them play the guinea pig. This is hardly made any better by demanding 100,000 instead of 300,000 signatures for the legal admissibility check, as the Council suggests in its opinion. Proposals like this will put such a strain on the ECI as to make it unable to function!

A million signatures for merely a letter?
Better regulation of the legal and procedural consequences of the ECI

The same applies to the question as to what would actually happen if a million signatures were submitted. This question is a crucial one. It is the central criteria as to whether there is even sufficient cause to undergo the painstaking task of collecting a hundred thousand signatures in the first place. Even today, any European can, for example, address the European Parliament with a petition. All that is needed is one single signature, nothing more. To write a letter to the Commission, too, requires nothing more than a single signature. So what is the benefit of the ECI? What do citizens who invest a million signatures get in return?

If we read the draft of the Commission, the answer is simply a letter. The Commission will examine the request and inform the initiators in a letter as to whether it is willing to become active in the manner desired. That is not much if you consider that the dedication and passion, hopes and expectations of millions of people have gone into this initiative. Both the initiators and the supporters rightly expect their request to be taken totally

seriously. I am not convinced that they would feel themselves and their efforts to be adequately appreciated if, at the end of all their endeavours, they received nothing more than a polite letter from the Commission, thanking them for the signatures but simultaneously explaining that it was not willing to take the matter on. I fear that if the first dozen initiatives were to have no other legal consequence but a polite letter of this kind, the European population would soon have passed its verdict on the ECI, and rightly so: "ineffective!" "Nothing more than a sticking-plaster." "An empty promise!" This must be avoided – in the interest of the citizens, in the interest of the institutions and in the interest of Europe. They all need a strong, citizen-friendly, effective ECI.

In the talks between the rapporteurs, a growing consensus in this direction is emerging. Initially, there certainly may have still been some fears and apprehensions and some sympathy for complicated, bureaucratic provisions. In the meantime, however, the aim of structuring the European Citizens' Initiative in a simpler, more efficient, more citizen-friendly way than, for example, the Commission's draft has envisaged to date, has become increasingly firmly established. Considering the initial comments and positions, this is an unexpected success that cannot be valued too highly.

Lowering the hurdles, extending the time limit, involving young people
Staggering successes for the Greens

This is also, incidentally, a success from the Greens' point of view, bearing in mind the positions that I first drafted for the Green Party, which were also initially disputed within the Green party but finally accepted after four thorough and, in places, heated discussions. In the course of the intensive, specialised debates among the rapporteurs and shadow rapporteurs, these positions, which were the most citizen-friendly from among the spectrum of the parties involved, have increasingly developed to become the foundation of our joint work. None of the other political groups managed to assert themselves in these discussions nearly as much as the Greens. There is numerous evidence for this very pleasing development that no-one could have initially foreseen. A few examples:

What is a "significant number of Member States"? How many should be required here? While, in the previous legislative period, Parliament argued for

a quarter of the Member States, the Commission and the Council opted for an even greater hurdle of a third. The Greens, on the other hand, took a completely different approach. With a multitude of good, practical, empirical arguments, they called for a lowering of this hurdle to a fifth (which currently means seven) of the Member States. Precisely this – a fifth – is today, however, the mutual position of all four rapporteurs.

The same is true in another area: While the Commission and the Council argued that only those citizens who possess the right to vote in one of the member countries should be allowed to sign an ECI (which would generally mean they had to be either 18 or 21), we suggested an alternative approach from the start. Our central argument was that the ECI was not a referendum. No binding decisions are made here that will subsequently be found written in the Official Journal of the EU. This means there is also no need to link participation to the voting age. Rather, the ECI is an agenda-setting initiative. Its goal is the ability to put matters on the agenda. Young people, especially, should have the right and the opportunity to do so. Why should young people not have the chance to get involved, to express what they request and desire from politics and make this heard in Brussels? From the outset, therefore, we argued in favour of making it possible for all people over 16 to support an ECI. Here, too, the Greens have (for now) been able to find acceptance for their ideas.

The same is true of the time limit for collecting signatures. The Commission's proposal of twelve months is all too short. With online collecting, this might be feasible. However, if the signatures are collected on real paper, even if only in part, in 27 member countries and, potentially, 23 languages, it will take longer. At least the process should not be placed under too much time pressure. We therefore argued in favour of an extension of the limit to 18 months. This proposal will also be adopted by the rapporteurs of all four parliamentary groups – at any rate, that is the current position at the time of writing of this text (the beginning of October 2010).

Seven initial signatories instead of 300,000
The change in the admission requirements

In other issues, too, Green ideas have found acceptance. For example, we managed to delete without

replacement the hurdle, mentioned in detail above, of 300,000 signatures. If the proposal of Parliament is followed, the Commission must and will examine all necessary questions right at the beginning, when an ECI is registered and, unlike in the provision made in the Commission's draft, it will only be allowed to reject an initiative if it is flippant (...), if it concerns a subject that is not under the jurisdiction of the European Union or, alternatively, the Commission does not possess the right of proposal on the subject named, or if the initiative represents a serious violation of the values of the EU named in Article 2 of the EU Treaty. The truly binding, final examination of the request takes place at the end of the whole process, following the submission of all the signatures collected.

We will make a different provision, however, to deal with the Commission's concern that it will be flooded with countless submissions of ECIs, day after day, which it is unable to examine adequately. The Commission itself created the reason for this concern. By regarding any and every message, whether sent by computer or post, as an ECI if its author desires it to be registered as such, the Commission puts itself at risk of an (avoidable) inundation.

A competently structured instrument such as the ECI should also be treated as such. The rapporteurs will therefore propose that it be obligatory for an ECI to be signed by at least seven eligible people from seven member countries before it is registered. This ensures that not just any paper sent spontaneously or indiscriminately can lay claim to being an ECI. Instead, we want legitimate initiatives and well-thought-out texts that are worded or backed and supported by more than one person, to be the ones that bear this name and reach the stage of being submitted and having signatures collected for them.

Ending up in the recycling or as an appreciation of citizen commitment?
The fate of successful ECIs

The most important point yet to be clarified is: what will happen after a successful ECI? The answer to this question will determine the success of the entire instrument.

Naturally, the Commission is completely free to choose whether or not it follows an initiative. That is what is written in the Lisbon Treaty. However, the Commission is not free – and must not be

free! – regarding the question as to whether and how it deals with a request of this kind submitted by 1,000,000 citizens. A polite letter that is delivered some time or other is in no way adequate here. There must be a clear procedure, and a public one at that.

For this reason, the report will propose to Parliament, among other things, that the Commission be obliged to organise a public hearing in which it has to hear the initiators of every ECI, along with their proposals, reasons and arguments. The decision of the Commission as to whether the request be accepted or rejected, which would only be made after the hearing, must be furnished with precise and adequate reasons and recorded in writing. At the same time, the Parliament can also intervene in the procedure and, for example, for its part, invite the Commission, the initiators and possibly others involved, e.g. the European Ombudsman, to a public debate of the issue. (These proposals, too, can already be found in our Green Party position paper, which preceded the work on the report.)

Getting involved for a good ECI
A step towards a Europe of the citizens

The ECI could become a kind of citizens' language. It gives citizens who are otherwise condemned to silence and powerlessness the chance to speak up actively and self-confidently and be heard by the institutions. The entire process should be designed to strengthen the dialogue between citizens and the institutions that function on their behalf. It should also contribute towards a gradual cultural change, towards the Brussels institutions and their procedures and ways of thinking opening up to the concerns of the citizens.

If it is successful, the ECI will help to bring about something that European democracy needs as urgently as a fish needs water and a human air: the realise of ideas and initiatives, the promotion of active citizen commitment, European debate and, indeed, the creation of a European public sphere.

For that is what is lacking most at present: we have open borders for goods, services, traffic, capital and people, but we do not yet have truly open borders for debates that are held jointly.

That is why Europe needs citizen participation; Europe needs the ECI!

Parliament is currently working at full steam on its report. We have agreed on an ambitious schedule, but we do not have the last word in EU legislation – not yet. This means that we cannot determine the schedule by ourselves. The formation of the ECI will therefore also, and primarily, depend on the approval of the Council and the conduct of the individual Member States in its implementation. We, as the rapporteurs of Parliament, representing the European citizens, want to ensure that there will be a viable, citizen-friendly ECI. We hope that such an ECI will contribute to a flourishing of commitment, discussions and democracy in Europe, and that it will counteract the widespread frustration and resignation felt by many people.

Until then, it remains for us to tremble, cross our fingers and, where possible, exert influence in favour of a good and citizen-friendly ECI – the first important step towards the development of a Europe of the citizens.

Brussels, October 2010

Gerald Häfner, Member of the European Parliament, is one of the four European Parliament rapporteurs who are currently working hard on the timely implementation of the European Citizens' Initiative. He has been actively involved in citizens' movements since the late Seventies, before becoming a member of the Greens/EFA Group in the European Parliament in June 2009.

Gerald Häfner was a founder, and is a member of the board of Mehr Demokratie e.V. (More Democracy). He was co-founder of the political party Die Grünen (The Greens), and served as an elected representative for them several times in the German parliament. He is the author of numerous legislative proposals, in particular those dealing with the introduction of plebiscites, initiatives or referendums on federal or national level in Germany. In the European Parliament Gerald Häfner is the Greens/EFA coordinator in the Committee on Constitutional Affairs. He is also a member of the Committee on Legal Affairs and a substitute member of the Committee on Petitions, alongside holding several memberships in delegations, for example the delegation for relations with the countries of Southeast Asia.

1. Introduction: Into the Future

1.1 How a single mother of two might soon be able to change Europe

Let's start with a short story from the very near future. It's about a young mother of two in a small South Tyrolean town: a mother who was able to change Europe.

Romana Lavagnoli could not sleep that night. It felt as though every other minute another heavy lorry was coming into her small Brixen apartment, alongside Autostrada 22, the motorway connecting the north and south of Europe. Since the green light was given to the use of super-heavy trucks back in 2013 by the European Union, the quality of life at the entrance to the Puster Valley in South Tyrol had worsened dramatically. It was not only the nightly noise that disturbed mothers such as Lavagnoli, but also the growing air pollution and potential health risks from the often unknown goods being transported through Brixen. That night Signora Lavagnoli made a decision: "I have to change this", she thought as she looked at her two small daughters sleeping in another, slightly quieter room. Lavagnoli had followed the debate on the heavy trucks which

had been covered extensively in the local daily newspaper "Dolomiten" a few years earlier. At that time – the summer of 2011 – the people of Brixen had launched a local citizens' initiative asking their mayor to contest the new, higher weight limit on trucks using the A22.

However, the decision to allow heavier trucks had not been made in her hometown or in the nearby provincial capital of Bolzano – or even in faraway Rome. Change to "The decision had been made by the European Union in Brussels, so Lavagnoli had to approach this transnational political body if she wanted something to be changed. She resolved to do more than just complain about the problem; she wanted to propose alternatives. But how could a lone Italian mother of 35, with a small salary as a nurse and very little spare time, do that? On the official EU website, Lavagnoli found a section called "Make Your Voice Heard", describing a series of methods for contacting the European authorities. At the very end of a long list of e-petitions, chat rooms and contact help desks, Lavagonoli found an item called "Take the Initiative – ten steps to becoming a European policy-maker".

Megaliners on the Brenner Motorway

Lavagnoli carefully studied the displayed manual on the European Citizens' Initiative, which had been introduced in 2011, in the second year of operation of the new Lisbon Treaty of the EU. "One million signatures from at least seven countries, that's a lot", thought Romana Lavagnoli, and then she suddenly felt a surge of energy and made a decision: "but I can do it". The mother of two was aware that she would need an extensive network to pull off a successful European Citizens' Initiative: she would need to get in touch with the authorities, look for support, build alliances across national borders – and, last but not least, draft a law proposal which was within the specific powers of the European Union.

It took her weeks to find out where the new 60-ton "megaliner" regulation had already triggered popular reactions across Europe. Eventually, she discovered many souls battling noise and heavy traffic similar to her own in Slovenia, Southern France, the Netherlands, Denmark, Germany, and even Finland, where the anti-truck protestors had occupied the roads leading from Helsinki east to the Russian border.

Lavagnoli contacted people in these places by email and through social online networks, she googled their actions and proposals, gathered information on petitions, initiatives and referendums conducted since the beginning of the millennium. At home in the bilingual town of Brixen/Bressano she created a local network of activists, including citizens from across the political spectrum. She even got the local mayor, a member of the conservative SVP, to support her case. Based on the manuals and forms provided by the European Commission online and additional hints given by the European Citizens' Initiative Office (ECIO), a Salzburg-based non-governmental support agency established in late

2010, Lavagnoli started to draft a first legislative text under the title "The European Goods on Tracks Initiative".

Preparing and registering the GOT Initiative, as the proposal was later labelled, was rather simple: the European Citizens' Initiative website guided Lavagnoli and her cohorts through the administrative requirements and offered a few hints along the way. From the Salzburg ECIO experts she learned how to design an initiative which was likely to pass both the initial registration check and the later admissibility test. Even better, after the first 50,000 signatures had been collected in both online and street collection in several European regions, Lavagnoli's initiative qualified for special support from the European Commission: she got the full text of her initiative translated into all 23 official languages of the Union.

Gathering Signatures for a European Citizens' Initiative

By the end of 2014 the initiative had secured more than 750,000 signatures for its draft legislative proposal; and by April 15, 2015, 16 months after the launch of the "European Goods on Tracks Initiative", it had succeeded in gathering 1,211,564 signatures from 18 EU Member States. More than half of them had been collected online using the open source software offered by the EU and certified in each of the Member States by specially mandated ECI authorities. The same authorities also carried out the required sample testing of the "statements of support" (the signatures) delivered by the GOT initiative team.

An important factor in their success was the ability of the initiators to win the support of several political groups within the EU Parliament, including the Greens/EFA (European Free Alliance) and the liberal ALDE (Alliance of Liberals and Democrats for Europe), as well as many individual MEPs from both the conservative EPP (European People's

Party) and the socialist PES (Party of European Socialists). Even before the required one million signatures had been gathered, these supportive forces in the Parliament enabled the holding of hearings, media conferences and coordination meetings. In other words: the EP shared some of its infrastructural resources with the European Citizens' Initiative and contributed to making the proposal better known across Europe.

So, what, after all, did Romana Lavagnoli propose through her initiative? The proposal asked the EU Commission to draft Europe-wide legislation requiring at least half of all transit goods (those which merely pass through the territory of a Member State) to be transported by rail instead of by road, and that the road use of international trucks be controlled by allotting slots which are sold within the framework of a heavy vehicle stock exchange system. In fact, the European GOT initiative got a lot of its inspiration from outside the European Union, in Switzerland, where a citizens' group – the Alpine Initiative – had forced a similar modal change in international goods transport at the beginning of the millennium.
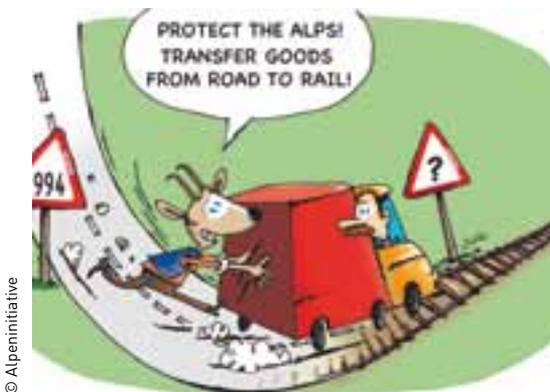
Hard to implement a Citizens' Initiative

It took the Member States' authorities a couple of months to check the various piles of signed statements of support. By summer, the GOT initiative headquarters, which had acquired an office sponsored by a local transportation company in Brixen, had assembled all the national signature certifications. On September 1, 2015, the first day of work of the EU institutions after yet another chaotic summer at the Brenner route and many other European transit routes, the initiative was submitted to the Commission in Brussels. After receiving and checking the signatures in cooperation with the responsible institution in each Member State, the EU Commission declared the initiative to be valid. Now the proposal by

a single woman in the Alps had become an official proposal of the many. It took the Commission another four months to prepare a report and its own proposal on the issue. During this period Lavagnoli and her fellow initiators were invited to several hearings in the European Parliament, the Economic and Social Committee, the Council of Ministers and the various Commissions. Their local issues had indisputably become an important European matter.

By the end of 2016, the European Union had adopted a new transport policy, based on two key proposals of the GOT initiative. This was one of the 36 European Citizens' Initiatives (out of the 187 that were launched) that finally managed to attract one million signatures from more than seven Member States, and one of the 21 initiatives which were more or less fully implemented during the first five years of the existence of this transnational direct-democratic tool, the first of its kind in world history.

Romana Lavagnoli was proud and happy when, a few years later, she saw the new fully-laden trains passing the station of Brixen. She could really notice that there were fewer trucks passing by – especially during the nighttime hours. More than that: as Lavagnoli's problem was not just a local one, her solution brought improvements for millions and millions of people across the continent. It was this new experience of relief and this awareness of the Europe-wide effects which made all the strenuous and often difficult efforts, nightly Skype conferences and continuous fundraising events ultimately worthwhile. The new tool of the European Citizens' Initiative had provided for new rules on goods transportation.

Here ends our brief story about this single mother and her great initiative. It's a fictional story, with fictional people in a real world setting using a new democratic instrument-in-the-making: the European Citizens' Initiative. And this is where this Handbook begins: the very first guide to transnational participative democracy in practice.

■ ■ ■

With the European Citizens' Initiative our democracy is indeed entering new territory. For the very first time, we the citizens of the European Union legally stand on an equal footing with the bodies of the elected representatives – the European Council and the European Parliament – when it

comes to the agenda-setting power *vis-à-vis* the EU Commission. From a national point of view, where participative and direct-democratic rights may be already much more developed – in the use, for example, of decision-making powers in popular votes on substantive issues (referendums) – this may seem to be a humble and limited step. It is. And yet, at the transnational level, it is a major historic and innovative step forward. Why? Because never before have individual citizens had the right to directly influence a legislative process beyond their own national borders. The new instrument is thus very timely, as a growing proportion of legislative acts are in fact taken transnationally – in the European Union, for example. Having said this, many things are still up in the air. We do not know anything as yet about the practical consequences and potential of the European Citizens' Initiative. This openness produces some fears, which have to be taken seriously: will, for instance, extremist forces or racist groups be able to hijack the process? Will the well-intended new tool of transnational direct democracy ultimately work? We do not yet know, as non-fictional European Citizens' Initiative stories are still waiting to be told.

But what we do already know is that a modern representative democracy of today has to be based both on indirect (parliamentarian) and direct (participative) forms and that this democratised democracy of the 21st century has to be supported in all possible ways towards the great future it deserves to have. What we in fact need is a proper supportive infrastructure for this new tool-in-the-making: the European Citizens' Initiative, the ECI. This new Handbook, published by the Green European Foundation in cooperation with Europe's global direct democracy think-tank, the Initiative and Referendum Institute, is one building-block of such a supportive ECI infrastructure. It offers all the knowledge and facts you need to better assess the options and limits of the new process and to prepare yourself to become a key player in European politics, by using the ECI in the future.

The Handbook is divided into three parts:

First, we want to familiarise you with the growing world of participative and direct democracy. The direct say of citizens on issues – through citizens' initiatives, for instance – has become one of the cornerstone institutions of modern representative democracy around the globe. Read

about the hows and whys and when citizens right across Europe and the world are asked, invited and in fact needed as agenda-setters and decision-makers. Brief yourselves also on the basics of direct democracy in the 21st century, which for the very first time now extends beyond national states and enters the area of transnational politics. The first part of this Handbook makes you ready to meet the most important challenges when it comes to the European Citizens' Initiative.

Second, learn the full background to the making of the European Citizens' Initiative. Read the fascinating ECI story, from its beginnings in the mid-1990s up to the inclusion of the new tool in the EU Constitutional Treaty during the very last session of the Convention in June 2003. Who were the key actors, and what were the basic motives, the big ideas and the long struggles over this democratic innovation? Based on this information, we then offer you our assessment of all the important features discussed and decided on during the 2010 implementation process – as well as an understanding for you as a potential user, observer or administrator of the ECI in the years to come.

Third, learn more about how you and your friends, supporters and partners can prepare for the forthcoming use of the ECI, a practice which can change Europe forever – and hopefully for the better – if we really learn some lessons from the past and use the new instrument on a well-informed basis and with the necessary care. This last part of the Handbook gives you a short ECI Manual – a step-by-step guide to the successful preparation, launch and conduct of a European Citizens' Initiative.

As this is a joint publication by the Green European Foundation – a pan-European political foundation linked to the European Green Party and the Green Group in the European Parliament – and the Initiative and Referendum Institute Europe (IRI Europe), this Handbook pays special attention to "green" and "environmental" issues. However, as democratic instruments and processes must be designed in an all-inclusive and transpartisan way, the ECI will clearly offer a platform for many different perspectives and views. It should not and cannot be assessed purely from one political viewpoint and will have to demonstrate its ability to deliver better informed citizens, more dialogue between EU citizens and institutions and, last

but not least, an increased legitimacy for the European Union as such in the longer term.

The design of the ECI Handbook is multifunctional: you can read it as one long essay, or you can browse through it in order to find specific facts about the ECI and direct democracy. The Handbook also offers many points of interest, featuring fact boxes, maps and illustrations. Having worked together with the most renowned experts and institutions on the issue, we feel confident, in launching this Handbook, that we are offering you the most up-to-date publication available on the ECI. However, as errors are always possible and developments are dynamic, please do not

hesitate to send us your feedback and comments and share with us any new information you have on the subject. These will be included in forthcoming editions of the GEF/IRI Handbook on the "European Citizens".

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2. Context: A truly modern representative democracy

2.1 Why the European Commission "suddenly" wants to promote real direct democracy

Never before did a reform proposal receive so much appraisal ahead of its implementation as the European Citizens' Initiative. And never before has an institutional innovation created so much legislative activity across national borders as this new tool established by the Lisbon Treaty's Article 11.

At first sight this may be somewhat surprising, as the European Citizens' Initiative brings "real progress for direct democracy in Europe" (former Vice-President of the European Commission, Margot Wallström[1]). Direct democracy? At the top level of politics, the principle of having the people directly involved in the agenda-setting and decision-making on substantive issues hasn't always been so popular.

In fact, not only powerful politicians but also many academics, legal experts and journalists have, for a very long time, tried to make us, the citizens, believe that representative and direct democracy are two different things and hence not compatible with each another.

In reality, however, this distinction has never been true. Neither in principle nor in practice. Democracy, after all, means "people rule" – or, as Abraham Lincoln put it in his famous Gettysburg Address, that a democratic government must be "of, for, and by the people". This understanding is today mirrored in the constitutions of most modern countries. These key rules of the game hold that under representative democracy citizens must be able to participate indirectly (via their elected representatives) and directly (via popular votes on substantive issues). However, as democracy is a dynamic, ever-changing reality of power struggles and institutional designs, the forces striving to keep modern democracy purely indirect have been, and still are, quite strong. In the case of Germany, for example, a minority in the parliament has for many decades been successful in blocking the implementation of the country's basic law and preventing the people of that country from being directly involved as decision-makers on substantive issues.[2]

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1 Margot Wallström, during a speech in Prague on Europe Day 2005.
2 Germany's Basic Law (Grundgesetz) says, in Art. 20: "All state power derives from the people. It is exercised by the people in elections and referendums [...]".

The German Omnibus for Direct Democracy

Like the worldwide struggles over the introduction of universal suffrage in the 18th and 19th centuries, the efforts to secure "full democracy" (as the weekly "Economist" terms a modern representative system based equally on indirect and direct democracy) have been countered strongly by those already in power and by elitist thinkers. And yet, since the big geopolitical changes in Europe and across the world after 1989 (the fall of the Berlin Wall), most countries have introduced some form of participative and direct-democratic tools aimed at making representative democracy more truly representative. Today, it is increasingly acknowledged that purely indirect and nation-state based democracies (such as the UK's Westminster system) are as unfit to handle change and evolving challenges as were the ancient direct, city-state-based democracies. As a result, we are increasingly dealing with a truly modern and more representative system of government that incorporates stronger features of both direct (participative) and transnational (cross-border) popular rule. In other words: we are in the middle of the making of a superdemocracy![3]

With the forthcoming entry into force of the European Citizens' Initiative in 2011, Europe and the European Union will introduce one of the first 'super-democratic' tools in world history. That is because this new popular right, firstly, is embedded in an indirect system of decision-making (by the EU Parliament and the Council); secondly, creates a direct link between citizens and institutions; and thirdly, offers a first transnational avenue for political agenda-setting. That's a lot of novelty in a tool which emerged from a long preparatory process, and which created the huge activity already mentioned above by its legislative implementation. Citizens across Europe (and beyond) are keen to be among the first to use the European Citizens' Initiative when it is finally implemented.

Before we address the details of the new initiative in the following sections of this Handbook, it is important to gain a better understanding of the foundations and the framework of an instrument such as the European Citizens' Initiative within the evolution, the theory, and the current status of democracy across Europe and the world. We therefore begin with a review of when and how direct-democratic processes – such as, for example, initiatives and referendums – have been introduced and used in the past; such a review will enable us to better assess the options and limits of direct citizen participation today and in the future. Then we offer you an introduction to the different types and forms of popular votes on substantive issues, in order to clearly position the new European Citizens' Initiative, for example, as a legislative Agenda Initiative – between non-binding Petitions on the one hand and popular, vote-triggering, full Citizens' Initiatives on the other. Finally, this section offers you a preview of the next steps for democratised democracies in Europe and the world. As we are about to be empowered by the European Citizens' Initiative to become the globe's first *de jure* superdemocrats, we have a responsibility to make the most of this new role – for the benefit of all!

Direct Democracy word cloud

The world of direct democracy

Recent decades have seen the expansion of democratic rights of popular participation in political decision-making in most parts of the world. In many states and regions, those rights have also been put into practice. For most people however, the reality still lags far behind their basic democratic aspirations. There is still far too little direct democracy, and the lack of quality in the provision is even greater than the lack of quantity.

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3 Cf. Lee, Jung-Ok & Kaufmann, Bruno (Seoul, 2010).

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The world of modern democracy – Hotspots

More than two hundred years after the French Revolution, one simple principle has become firmly rooted in the minds of most people: that the foundation on which all legislation and the exercise of executive power is based, should be the will of the people. Or, as Rousseau put it: if every man and woman takes part in drawing up the laws which govern them, then ultimately they must only obey themselves.

More than sixty years after the adoption of the Universal Declaration of Human Rights on 10 December 1948, the world has moved a little closer to the participative principles endorsed by that key document. Article 21 of the Declaration states: "Everyone has the right to take part in the government of his country directly …" and "The will of the people shall be the basis of the authority of government". At the 2005 UN World Summit, all of the world's governments committed to the democratic principle of "full citizen participation", which led the Secretary General of the UN to launch the decade "for the democratisation of democracy" in early 2010.

Whereas in the mid-1980s only just over 40 percent of all states in the world were judged to respect fundamental democratic values, the share had risen to more than 65 percent by 2010. The growth in the number of states which have participatory procedures is even more impres-

sive: nine out of ten countries worldwide now have provision for some form of direct influence by citizens on the political agenda and/or their participation in the legislative and decision-making processes. The growing awareness that people have of their democratic claim to genuine involvement: according to a poll of 19 countries by the organisation World Public Opinion, 85 percent of those polled believe that "the will of the people" should be the basis for the authority of government, and 74 percent believe that the principle of popular sovereignty is still inadequately realised in practice.[4] In other words, a large majority of people around the world agree that direct democracy must be a central pillar of public life – but most are also aware that this is far from being the case in practice.

2.2 Learning by doing: "Before democracy can spread further, it must take deeper root where it has already sprouted"

Anyone who has taken an active interest in the course of world events in recent years could not fail to be aware that the process of democratisation of societies around the globe is by no means linear. The euphoria over the whirlwind speed of change in the 1990s has evaporated. After the fall of the Berlin Wall, there was even talk here and

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4 http://www.worldpublicopinion.org/pipa/articles/governance_bt/482.php?lb=brglm&pnt=482&nid=&id=

there of "the end of history", and Western-style representative democracy was promoted as the universal 'gold standard' which every country in the world should adopt. However, that did not happen: old, submerged conflicts resurfaced and bloody confrontations broke out in many parts of the world – in Southeastern Europe, in Central Africa, in the Middle East.

In the wake of globalisation and the soaring price of some raw materials, autocratic regimes – including China, Russia and some Arab countries – were even able to consolidate their political hold. Cracks appeared finally even in 'old' de-mocracies such as the United States and Great Britain, where – in the name of the "war on ter-ror" – fundamental freedoms were curtailed.

Beyond this, a dynamically self-reinforcing glo-balisation began to undermine and eat away at the political and legal ramparts of the nation state, provoking national-conservative reactions from both ends of the political spectrum; Right and Left alike declared their opposition to inte-gration, in respect of both domestic and foreign policy. The assumed linkage of popular sove-reignty, human rights, the rule of law and the separation of powers – an understanding which arose in the wake of the French Revolution and which was increasingly formalised and ratified in charters and constitutions after the Second World War – began to be questioned, and still is. There are implications here for the future of democ-ratisation, as the Journal of Democracy editor Larry Diamond suggested with some scepticism in a recent article for the journal Foreign Affairs: "Before democracy can spread further, it must take deeper root where it has already sprouted".[5]

But where in the world, and how, has direct de-mocracy really taken root in the last two hundred years? The institution of the constitutional refer-endum was born in the upheaval of the American Revolution. The very first popular vote on a sub-stantive issue took place in 1639 in Connecticut – at that time an independent colony. However, the real impetus came with the constitution-making processes in Massachusetts and New Hampshire between 1778 and 1880. Since then, many US states have introduced and are today making frequent use of the Initiative and Referendum process, as our special feature on the United States will show.

Special Feature 1
United States of America – from petition to initiative

The old US states did not only invent the constitutional popular vote; the first amend-ment to the United States' constitution also guarantees the right to "petition government for redress of grievances". This fundamental principle is, however, not considered to guar-antee a formal process by which citizens can launch an initiative, a referendum or a popu-lar vote on a substantive issue. Since South Dakota became the first state to recognise some form of statewide citizens' initiative rights in 1898, twenty-five other states have joined in recognising the right of citizens to initiate laws through signature gathering and have created a range of processes for citizens to make their voices heard at the ballot box. These processes operate under widely varying laws, rules, regulations, and restrictions, so that the initiative rights of citizens in one state may be quite different - and far less secure - than the rights of citizens in another state.

As governments have grown at local, metro-politan, state, and federal levels, the power of entrenched political factions has also grown *vis-à-vis* the citizenry. Traditional representa-tive government has proven unreliable in restraining itself constitutionally and elector-ally, often to the point of uniting all branches of America's distributed powers against the very people it was meant to serve. Institutions of modern direct democracy have evolved to help restore this balance of power, in effect fulfilling a basic promise of democratic gov-ernance: the right to "petition government". Initiative and referendum thus serve as an expansion and perfection of one of the most basic principles of a limited republic.

The movement for statewide initiative and ref-erendum rights grew out of the "Populist" and "Progressive" movements of the late nineteenth and early twentieth centuries. During this per-iod voters became increasingly distrustful of government and the moneyed special interests that controlled it. Voters saw the power of ini-tiative and referendum to restore a voice to the people and allow for the enactment of other

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5 Larry Diamond, "The Democratic Rollback" , Foreign Affairs, March/April 2008. Link:
   http://www.foreignaffairs.com/articles/63218/larry-diamond/the-democratic-rollback
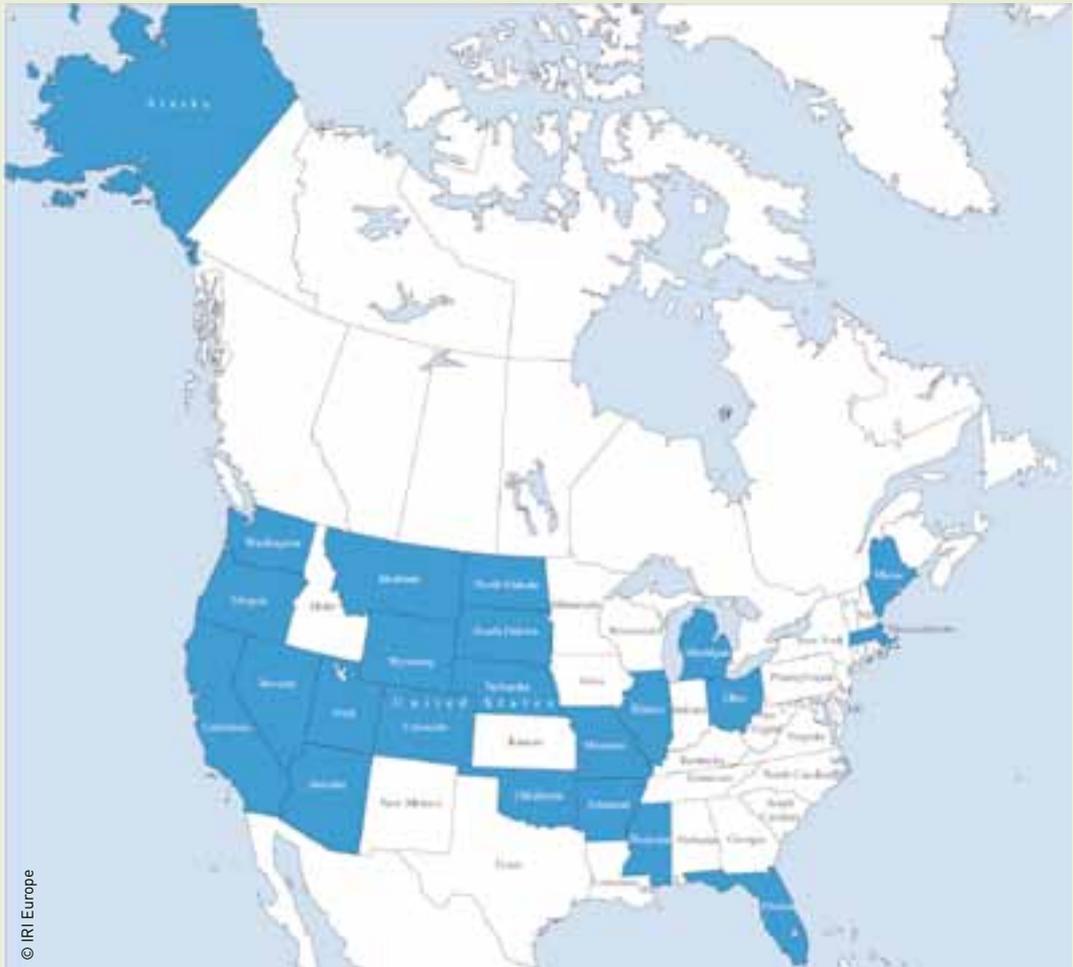
United States of America – Initiative states allowing for legislative and/or constitutional citizens' initiatives

reforms – such as women's suffrage, secret ballots, and primary elections – through the citizens' initiative. This push for an additional check on the power of politicians led to the amending of several state constitutions to provide for a citizens' initiative process, especially among western states, between the turn of the century and American entry into the First World War.

It was not until 1959, when Alaska entered the Union with the initiative and the "people's veto referendum", that another state recognised citizens' initiative rights. Since then, only three states have added or restored a statewide initiative or referendum process. The fight for statewide initiative rights continues today as activists in many states work to convince legislators to amend their state constitutions to provide for an initiative process. Because legislators are generally averse to initiative rights,

and because most states have high requirements for amending their constitutions, these activists face an uphill battle.

Statewide initiative rights come in three different forms: initiated state statutory laws ["legislative" PCI], initiated state constitutional amendments ["constitutional" PCI], and people's veto referendums on acts of state legislatures [PCR]. Of the twenty-six states that have some form of citizen-initiated rights, twenty-one allow for statewide statutory initiatives, eighteen allow for initiated constitutional amendments, and twenty-three allow for people's veto referendums.

Though the right to "petition government" has undergone several centuries of development, and institutionalised rights to initiative and referendum just over a century of practice in the United States, these procedures are by

Campaigning in America

no means universal throughout the US. Actual practices vary widely in how citizen-friendly the design is. Attempts to restrict initiative and referendum rights by putting up barriers to how signatures can be collected, who can work for I&R campaigns, and how campaign workers can be paid are common and often successful, though federal and state courts have regularly struck down certain barriers as violations of First Amendment rights. In many ways the politics of initiative and referendum has switched from securing initiative rights for more people in more states to maintaining existing rights in the face of opposition from politicians and special interests.

Sources: IRI Guidebook to Direct Democracy 2010, Special Thanks to: Brandon Holmes, Citizens in Charge, More info at:
www.citizensincharge.org
www.2010globalforum.com
www.iandrinstitute.org

The constitutional referendum was taken up in Europe by revolutionary France. The National Assembly declared that a constitution had to be decided by the people. In August 1793, six million eligible French voters were asked to decide on the country's new democratic constitution (the Montagnard Constitution). Almost 90 percent said 'yes' to the revolutionary house-rules, which

included a provision for ten percent of the voters to call a referendum.

It was not France, however, but neighbouring Switzerland which provided the stage for the next step in the evolution of popular rights. From there they returned to the Americas: to the northwestern states of the USA towards the end of the 19th century, and to Uruguay at the beginning of the 20th. When the Commonwealth of Australia was inaugurated in 1901, its constitution was inspired by both American federalism and the Swiss system of the double majority for constitutional amendments: as happens in Switzerland, and has now been the case for more than a hundred years in Australia, a constitutional amendment requires approval by both a majority of the total vote and a majority of the federal states.

Switzerland is unique insofar as it had the privileged opportunity to democratise its democratic system for more than a century, without being involved in any external or internal wars and without any undemocratic leaders to reverse the key achievements of popular sovereignty.

2.3 About gas pedals and brakes: the Swiss experience

The two main pillars of direct democracy in Switzerland are the citizens' initiative and the popular referendum.

The initiative is the more dynamic instrument. It allows a minority of the voters to place an issue of their own choosing on the political agenda and to have it decided by a popular vote. Eligible voters thus have the right to participate directly in legislation, regardless of whether the government or parliament likes it or not. The initiative gives a minority of citizens the right to place a question before all the citizens and to get a binding answer. This is the gas pedal in modern direct democracy.

It is the other way around with the citizens' referendum. It serves as an instrument for controlling government and parliament and gives citizens the chance to apply the brakes. It gives a minority of eligible voters the right to force a popular vote on a decision passed by parliament.

Swiss voters are well aware of their political rights and know the special status of these rights. As citizens of a federal state with 26 cantons (individual constituent states or provinces) and more than
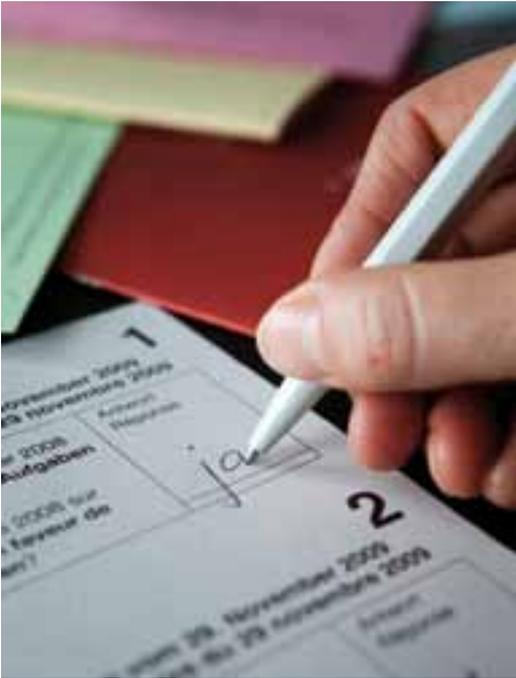
Swiss ballot

2700 communes (municipalities), Swiss voters have the right to cast their votes at federal, cantonal and local level. On average there are popular votes on substantive issues at all three levels four to six times a year. In a lifetime, an average Swiss citizen may have had a direct say in thousands of decisions on substantive issues and has been able to take part in as many agenda-setting processes as she or he wished. Such a continuous possibility of taking responsibility has clearly shaped a strongly democratic political culture.

The historical roots of today's modern direct democracy can be found in pre-modern, medieval forms of democracy. The Swiss cantons were bound together by a strongly rooted republican tradition, which set them apart from their monarchical neighbours. Thus the very idea of popular sovereignty, developed during the American and the French revolutions, fell on more fruitful soil in Switzerland than in the countries of its origin.

The cornerstones of modern direct democracy at the national level were the introduction of the citizens' initiative for a total revision of the constitution and the mandatory constitutional referendum in 1848, the optional referendum in 1874, and the citizens' initiative in 1891. The referendum on international treaties was introduced in 1921, being extended in 1977 and 2003. It allows citizens to be involved in decisions on foreign policy.

At the national level, a mandatory popular vote (referendum) must be held in the event of a total or partial revision of the federal constitution, or for joining an organisation for collective security (e.g. the UN) or a supranational community (e.g. the EU). Swiss citizens who are entitled to vote can also propose a partial or total revision of the constitution. Before a citizens' initiative can be officially validated, the signatures of 100,000 citizens who are entitled to vote (corresponding to approximately 2% of the Swiss electorate) have to be gathered within 18 months. If the initiative is valid, a mandatory popular vote has to be held on it. The title as well as the text of a citizens' initiative are decided by the proponents of the initiative.

As yet another key procedure, a facultative or optional referendum takes place when it is requested within 100 days after the official publication of a statute by either 50,000 citizens (corresponding to approximately 1% of the Swiss electorate) entitled to vote or by eight cantons. Subject to an optional referendum are all federal laws, as well as international treaties that are of unlimited duration and which may not be terminated. With regard to the optional referendum, it is worth mentioning that of the more than 2,200 laws passed by parliament since 1874 only 7% have been subjected to referendum. In other words, in 93% of cases the citizens thought that the legislative proposals of their parliament were good enough not to be opposed.

The instruments of initiative and referendum are available to Swiss voters not only at the national (federal) level, but at the cantonal (regional) and communal (local) levels too. Because each canton can choose its own way of allowing citizens to participate, there are even extra possibilities here: in addition to the constitutional initiative and the legislative referendum, all the cantons except Vaud also have the so-called finance referendum. One example: in the canton with the largest surface area, Graubünden, any non-recurring expenditure in excess of 10 million Swiss francs (currently 7.7 million Euros/9.7 million dollars) has to be approved by the voters in a popular vote. Any expenditure from 1 to 10 million Swiss francs can be challenged by the voters in a optional referendum if they can gather at least 1,500 signatures (about 1.2% of the total cantonal electorate).

In the heart of Europe: Switzerland

In terms of the continuous modernisation of direct democracy, Switzerland has also turned to the Internet. Since the first local e-voting tests in 2003, several cantons have started to offer e-voting during nationwide popular votes, using technical systems which ensure the security of the voting process. Since autumn 2010 many Swiss voters living abroad (there are about 600,000 of them) have the right to vote electronically in elections, initiatives and referendums, and maybe also to sign initiatives, making modern direct democracy yet another worldwide matter of fact – as our special feature on Swiss e-voting shows.

Special Feature 2
Electronic voting in Switzerland

E-voting is short for "electronic voting" and refers to the option of using electronic means (i.e. the Internet, email) to vote in referendums and elections, give signatures for initiatives and referendums and acquire information on elections and referendums from the authorities. In Switzerland, it is planned to use e-voting to complement conventional procedures (voting in person by ballot and postal voting), but not to replace them.

Postal remote voting was introduced widely beginning in the 1980s. Since then, Switzerland has tried to strengthen its democracy by using the new information and communication technologies. As a result, in August 2000 the Swiss government commissioned the Federal Chancellery to examine the feasibility of e-voting. To this end, the Chancellery set up a working party composed of federal and cantonal representatives and known as the "Preliminary Project on e-voting", which delivered a first report on the options, risks and feasibility of e-voting to the Federal Council. The report was approved by the Federal Council in January 2002 and noted in subsequent sessions of parliament. Both supporters and opponents of e-voting listed a series of weighty arguments. On the one hand are the opportunities which the electronic exercise of political rights might bring. E-voting can make voting in elections and referendums easier for many people. The considerable mobility of the Swiss population, the change in communication habits and the daily information overload could further reduce participation in political decision-making. But one might also think of those who are blind or visually impaired, who at present have only limited opportunity to exercise their right to vote in

secrecy; or of the Swiss who live abroad, who are often excluded from voting by distance and slow postal services. There is disagreement among experts as to whether e-voting would actually encourage more people to vote or not.

On the other hand, there are potential risks in e-voting, primarily in terms of the possible abuse of the system. Critics fear the unauthorised intervention of third parties in the voting process.

There is no guarantee, given the current state of information technology, that a programme could not be manipulated to allow someone to store and print out a different form or document from the one appearing on the screen. With electronic voting it is more difficult to detect and find the source of errors, technical breakdowns etc. than with conventional procedures, and public checking of recounts is less easy. If public doubts about the reliability of electronic forms of voting cannot be removed, the whole functioning of the democratic system may be brought into question.

A consultation exercise carried out in all the cantons showed that many cantons wanted to be involved in the pilot projects, which were partly financed by the Federation. Agreements were reached with Geneva, Neuchâtel and Zurich. One particular criterion was decisive in the selection of the pilot projects. The three pilot cantons form a set which covers those factors relative to the requirements for e-voting which are of central importance for all the cantons. The canton of Geneva, for example, already has a centralised administrative structure and a central register of voters. This has still to be created in the canton of Zurich. The canton of Neuchâtel is examining the implementation of e-voting as an integral part of its "Guichet unique" ("one stop e-counter"), an electronic public office for all cantonal authority matters. The differing requirements and goals, as well as the staggering of the three pilot projects over time, will allow the gradual building up of the know-how necessary for a nationwide solution.

Based on the results of this evaluation parliament decided in March 2007 to build, step by step, on the successful trials of e-voting and also to create the necessary prerequisites for Swiss citizens living abroad to be able to vote electronically. In order that the eligible Swiss voters living abroad could also take part in the e-voting trials,

the relevant voting registers had first to be harmonised. The first opportunity for participation in electronic voting was made available – for the federal referendum of 1 June 2008 – to expatriate Swiss who are registered in the "Guichet Unique" of the canton of Neuchâtel and who have settled in one of the EU Member States, in a member state of the Wassenaar Arrangement of 1995/96, or in Andorra, Northern Cyprus, Liechtenstein, Monaco, San Marino or the Vatican City State.

E-Voting participation

E-voting is also intended to be available to eligible Swiss voters living abroad who are not registered in one of the three pilot cantons. The first such voters to be able to vote online were those registered in the canton of Basle City. They used the electronic voting system of the canton of Geneva, for which an agreement had been signed between the two cantons on 15 June 2009. On 29 November 2009 the expatriate voters from Basle City were able for the first time to cast their votes electronically on the Geneva system. During autumn 2010 an additional 120,000 Swiss voters abroad were able to cast their electronic vote in the cantons of Fribourg, Solothurn, Schaffhausen, St. Gallen, Graubünden, Aargau, Thurgau and Lucerne.

The federal constitution inscribes the right to free decision-making and secure voting free from counterfeiting. From this result a series of requirements for e-voting which are set out in Articles 27a-27q of the Federal Decree on Political Rights. Voters must be informed about the organisation, the technology used and the temporal sequence of the process of electronic voting. It must be possible to change one's mind and/or to cancel one's vote before it is finally sent off; there must be no on-screen advertising which could influence voters in any way; and there must be a perfectly clear visual indication on the computer or machine being used to

register the vote that the vote has been transmitted. In order to maintain voting secrecy, the electronic vote has to be encoded from the moment of sending until the moment of arrival; it must remain fully anonymous and must not be traceable to the voter. The possibility of a vote getting lost must be technically ruled out, even in the case of a fault or failure in the system. It must be possible to reconstruct every individual use of the system and every vote given even if there is a system crash.

Sources: IRI Guidebook to Direct Democracy 2010, Special Thanks to: Nadja Braun, Swiss Federal Chancellery, More info at: *evoting.unisys.ch, demo.webvote.ch www.bk.admin.ch/themen/pore/evoting/*

The Swiss experience offers many concrete lessons for countries, regions or municipalities that want to modernise democracy. However, there is no one-size-fits-all blueprint for such reforms, as each political community has its own cultural context and historical background.

It was not until after WWII that direct-democratic tools acquired political significance in a large number of other countries of the world – such as Italy, the Phillipines, South Africa, Ecuador, Canada and many others. In the last two hundred years, more than 1500 countrywide popular votes on substantive issues have been held worldwide – half of them in the last twenty years.

In many places in the world today, the instruments of the citizens' initiative and the referendum have become a robust component of a modern representative democracy. This is true of around half the US states, of Switzerland, and even of the hereditary monarchy of the Principality of Liechtenstein.

Nonetheless, far more places in the world suffer from an absence of or severe weaknesses in the ability of citizens to be directly involved in policy- and decision-making. For a start, there has been a problem with confusing terminology – for example, when a consultative plebiscite launched by a president is referred to as a referendum, while a citizens' initiative is often called a petition. Then there are the serious problems associated with badly designed procedures – such as excessively high turnout and approval quorums which distort the democratic decision. On top of this come major practical flaws – such as impossibly short deadlines for signature gathering, and even the refusal to respect the outcome of a popular vote on a substantive issue. Then there is the fact that in practice, as with other core components of modern representative democracy (such as, for example, transparency and legally enforceable human rights), those in power often view direct-democratic procedures as threats to their control, seducing political parties into engaging in ugly attempts to instrumentalise issues. All of these factors can wreak serious harm on the basic idea of direct democracy.

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Worldwide practice - countrywide popular votes on substantive issues. First number = popular votes on substantive issues at the national level since 1793, second number in brackets = since 1989.

Modern direct democracy as an integral part of a modern representative democracy gives citizens the right to exercise popular sovereignty also between elections by voting on substantive issues. In direct democracy, decisions are made on substantive issues, not people. In this respect some procedures – such as direct elections for a mayor or a president, or even recall elections – are not really part of direct democracy, but represent a mixed form between indirect elections and direct popular votes on issues.

Direct democracy means power sharing: by using initiatives and referendums citizens can choose to decide on important questions directly. However, most legislation is still done by an elected parliament. By conferring the right to set the agenda and be involved in decision-making however, direct democracy empowers people – not presidents, governments or parliaments. Such a distinction between top-down and citizen-initiated procedures is critical. Top-down initiated popular votes on substantive issues, called plebiscites, are most often designed not to empower the citizens, but the authority already in power. For this reason it is very important to have a clear understanding of the functions and functioning of the various direct-democratic procedures as outlined in the following special feature.

Special Feature 3
General typology of modern direct democracy

Looking at the table below, we can discern at least five possible concepts of direct democracy, all of which can be found in the literature. The most stringent concept includes only procedures which are designed to empower citizens and to make decisions on issues. In this understanding modern direct democracy contains two types of popular vote procedure: INITIATIVE and REFERENDUM. Wider concepts also include plebiscites or recall elections or both. The widest concept, which makes little sense, includes even the direct election of representatives.

	Popular votes on substantive issues	Popular votes on persons
Power sharing	Initiative & referendum	Recall
Power concentration	Plebiscite	Elections

It is obvious that the nucleus of any definition of modern direct democracy consists of two TYPES of procedure: INITIATIVE and REFERENDUM. In addition, it makes sense to restrict modern direct democracy to decisions about issues, excluding elections and recall elections which make decisions about persons and therefore belong to indirect democracy. Whether plebiscites (authority-controlled popular votes) should be included is the subject of wide debate.

If authority-controlled popular votes (plebiscites) are included, the concept of direct democracy becomes more heterogeneous, since it then includes procedures designed to enhance the power of certain representatives and also procedures designed to give more power to the citizens. Such an extended concept of direct democracy embraces both instruments for people to implement democracy and instruments for power-holders to use people as a means to an end other than the achievement of democracy.

If plebiscites are not included, however, the concept of direct democracy becomes more consistent and distinctive. It then means simply direct legislation by the people through initiative and referendum. In this view the right to decide which issues are referred to popular vote belongs to the citizens, not the politicians. This concept includes only instruments designed for empowering citizens and implementing democracy. This does not prevent us from analysing plebiscites, but they are now considered as a part of indirect rather than direct democracy.

Whichever solution is chosen, it remains crucial that the concept of direct democracy is clearly stated and that the distinctions between the different types of procedure – INITIATIVE, REFERENDUM, PLEBISCITE – and the different forms they can take are kept clear, as outlined below.

It is also important to bear in mind that a popular vote procedure is a process and should not be reduced to the moment of decision-making at the ballot box; other aspects like creativity, public debate, and implementation are equally important. For example, the process of a citizens' initiative begins with an idea, and this idea must be organised in many ways and

made public. Public debate is at the very heart of an initiative process from beginning to end. Moreover, the initiative does not end at the ballot box; the decision also has to be implemented. To sum up, the entire process is much more important than the result of the vote alone.

The General Typology of Modern Direct Democracy, developed by the Initiative and Referendum Institute Europe under the coordination of Rolf Büchi, covers all popular vote procedures on substantive issues. It is based on a division of popular vote procedures into three different types: INITIATIVE, REFERENDUM and PLEBISCITE. The INITIATIVE comprises procedures where the author of the ballot proposal is THE SAME as the initiator of the procedure; the REFERENDUM procedures where the author of the ballot proposal is NOT the same as the initiator of the procedure. The PLEBISCITE comprises procedures where the majority of a representative authority (or a single powerful individual as a president) is both the author of the ballot proposal and the initiator of the procedure.

However, there exist procedures and practices which complicate this classification and there are grey areas between the different types. Accordingly, eleven different forms are included in this General Typology of Modern Direct Democracy (GTMDD), which distinguishes popular vote procedures according to:

1) the author of the ballot proposal (a group of citizens, a minority of a representative authority, a representative authority);
2) the initiator of the procedure (a group of citizens, the law, a minority of a representative authority, a representative authority);
3) the decision-maker (the whole electorate, a representative authority).

In *Table 1* the forms of procedure are listed in column 1. The following columns indicate who is the author of the ballot proposal (column 2); who has the right to initiate the procedure (column 3); and who has the right to decide about the outcome of the procedure (column 4). The last column tells us about the TYPE of procedure in question. Citizen- and law-initiated procedures are shown in colour (dark blue for the initiative, light blue for the referendum) and procedures triggered by an authority are kept in black.

Genuine direct-democratic procedures are designed to offer the electorate instruments of agenda-setting and decision-making on substantive issues. However, in political reality many procedures, and especially practices of popular vote processes, are partly or totally controlled by elected authorities. These mixed forms, which combine indirect and direct democracy, are marked in grey in our classification. While forms initiated by a minority of an elected authority (e.g. 1/3 of the parliament in Denmark or Sweden) are labelled under the INITIATIVE and the REFERENDUM type, procedures initiated by a majority of an elected authority are labelled under the PLEBISCITE type of popular vote procedures.

Abbreviations:

The abbreviation for the form of procedure consists of 3 characters:

◼ the first character designates the initiator of the procedure (P = popular/citizens; A = authority; L = law);
◼ the last character indicates the TYPE of procedure (I = INITIATIVE, R = REFERENDUM, P = PLEBISCITE);
◼ the middle character specifies the form of procedure (A = agenda, C = citizen, M = minority, O = obligatory, P= proposal, T = top-down, V = veto). The ¨+¨ -sign indicates that the initiative or referendum procedure is combined with a counter-proposal.

Table 1 – Forms of procedure

Form		Author of the proposal	Initiator	Decision-maker	TYPE
citizens' or popular initiative	PCI	a group of citizens	the same group	the whole electorate	INITIATIVE
+ authorities' counter-proposal	PCI+	a group of citizens	the same group	the whole electorate	INITIATIVE
agenda initiative	PAI	a group of citizens	the same group	a representative authority	INITIATIVE
authorities' minority initiative	AMI	minority of a representative authority	the same minority	the whole electorate	INITIATIVE
citizen-initiated or popular referendum	PCR	a representative authority	a group of citizens	the whole electorate	REFERENDUM
+ counter-proposal	PCR+	a representative authority	a group of citizens	the whole electorate	REFERENDUM
referendum proposal	PPR	a representative authority	a group of citizens	a representative authority	REFERENDUM
obligatory referendum	LOR	a representative authority	law	the whole electorate	REFERENDUM
authorities' minority referendum	AMR	a representative authority	minority of a representative authority	the whole electorate	REFERENDUM
authorities' controlled popular vote/ plebiscite	ATP	a representative authority	the same representative authority	the whole electorate	PLEBISCITE
authorities' controlled popular vote/ veto plebiscite	AVP	a representative authority	another representative authority	the whole electorate	PLEBISCITE

Agenda-initiatives and referendum proposals are addressed to and decided by a representative authority; they may lead to a popular vote, but often they do not. Despite this, these two forms of procedure are included in our typology.

There are three TYPES and eleven forms of popular vote procedures:

Type 1. INITIATIVE

An Initiative designates a certain type of popular vote procedure (the IRI typology distinguishes three types: INITIATIVE, REFERENDUM, and PLEBISCITE). Initiative procedures are characterised by the right of a minority, normally a specified number of citizens, to propose to the public the introduction of a new or renewed law. The decision on the proposal is made through a popular vote.

Note: the agenda initiative fits into this type of procedure only with respect to its initial phase. What happens next is decided by a representative authority.

Form 1.1. Popular or citizens' initiative [PCI]
A direct democracy procedure and a political right that allows a given number of citizens to put their own proposal on the political agenda. The proposal may be, for example, to amend the constitution, adopt a new law, or repeal or amend an already existing law. The procedure is initiated by a prescribed number of eligible voters. The sponsors of a popular initiative can force a popular vote on their proposal (assuming that their initiative is formally adopted). The initiative procedure may include a withdrawal clause which gives the sponsors the possibility to withdraw their initiative, for example in the event that the legislature has taken action to

fulfill the demands of the initiative in whole or in part.

This procedure may operate as a means of innovation and reform: it allows people to step on the gas pedal. In principle, initiatives enable people to get what they want. In practice, it is a means of harmonising the citizens' view with the politicians' view.

Form 1.2. Popular or citizens' initiative + authorities' counter-proposal [PCI+]

Within the framework of a popular initiative process a representative authority (normally parliament) has the right to formulate a counter-proposal to the initiative proposal. Both proposals are then decided on at the same time by a popular vote. If both proposals are accepted, the decision on whether the initiative proposal or the authority's counter-proposal should be implemented can be made by means of a special deciding question.

Form 1.3. Agenda (setting) initiative [PAI]

An agenda initiative is the right of a specified number of eligible voters to propose to a competent authority the adoption of a law or measure; the addressee of this proposal and request is not the whole electorate but a representative authority. In contrast to the popular initiative, it is this authority which decides what is going to happen to the proposal.

An agenda initiative can be institutionalised in a variety of ways: for example, as an agenda initiative without a popular vote, as an agenda initiative followed by a consultative or binding plebiscite, or as a popular motion ("Volksmotion"). The popular motion can be the equivalent of a parliamentary motion; if adopted, it can also be treated like a popular initiative (this is the case in the Swiss canton of Obwalden).

Form 1.4. Authorities' minority initiative [AMI]

A direct democracy procedure and a political right that allows a specified minority of an authority (e.g. one-third of the parliament) to put its own proposal on the political agenda and let the people decide on it by a popular vote.

Type 2. REFERENDUM

Designates a certain type of popular vote procedure (the IRI typology distinguishes three types: INITIATIVE, REFERENDUM, and PLEBISCITE).

The referendum is a direct democracy procedure which includes a popular vote on a substantive issue (ballot proposal) such as, for example, a constitutional amendment or a bill; the voters have the right to either accept or reject the ballot proposal.

The procedure is triggered either by law (-→ obligatory referendum), by a specified number of citizens (-→ popular referendum), or by a minority in an authority (-→ authorities' minority referendum). Note: a popular vote procedure which is triggered and controlled exclusively by the authorities is not a referendum, but a plebiscite.

Form 2.1. Popular or citizen-initiated referendum [PCR]

A direct democracy procedure and a political right that allows a specified number of citizens to initiate a referendum and let the whole electorate decide whether, for example, a particular law should be enacted or repealed.

This procedure acts as a corrective to parliamentary decision-making in representative democracies and as a check on parliament and the government. The "people" or demos (i.e. all those with the right to vote) has the right to decide in retrospect on decisions made by the legislature. Whereas the popular initiative works like a gas pedal, the popular referendum gives people the possibility to step on the brakes. In practice, popular referendums (like popular initiatives) are a means of harmonising the citizens' view with the politicians' view.

Form 2.2. Popular referendum + counter-proposal [PCR+]

This direct democracy procedure combines a popular referendum against a decision by an authority with a referendum on a counter-proposal. If both proposals are accepted, the decision between the two can be made by means of a deciding question.

Form 2.3. Referendum proposal [PPR]

This procedure is characterised by the right of a prescribed number of eligible voters to propose to a competent authority the calling of a popular vote on a specified issue; note that the demand is addressed to a representative authority (usually parliament – local or national) which decides about further action.

Form 2.4. Obligatory referendum [LOR]

This direct democracy procedure is triggered automatically by law (usually the constitution) which requires that certain issues must be put before the voters for approval or rejection. A conditional obligatory referendum means that a specified issue must be put to the ballot only under certain conditions (for example, in Denmark the delegation of powers to international authorities is decided by popular vote if more than half, but less than four-fifths, of the parliament accept such a proposal). Unconditional referendums are without loopholes (for example, in Switzerland changes to the constitution must always be decided by a popular vote).

Form 2.5. Authorities' minority referendum [AMR]

A direct democracy procedure characterised by the right of a minority of a representative authority to put a decision made by the majority in the same authority before the voters for approval or rejection. This procedure enables a minority of a representative authority to step on the brakes and give the final say to the voters.

Type 3. PLEBISCITE

Designates a certain type of popular vote procedure (the IRI typology distinguishes three types: INITIATIVE, REFERENDUM, and PLEBISCITE). A plebiscite is a public consultation controlled "from above". It is the powers that be (the president, prime minister, parliament) which decide when and on what subject the people will be asked to vote or give their opinion. Rather than being an active subject in control of the procedure, the people/popular votes become a means to an end which is determined by a representative authority.

Plebiscites give ruling politicians additional power over citizens. They are used to evade responsibility for controversial issues which have become an impediment; to provide legitimacy for decisions those in power have already taken; to mobilise people behind rulers and parties; and they are used by an authority to bypass another representative authority. The aim of a plebiscite is not to implement democracy, but to reinforce or salvage those in power with the help of "the people".

The IRI typology distinguishes between two forms of plebiscite: plebiscite and veto-plebiscite.

Form 3.1. Plebiscite (authorities' controlled popular vote) [ATP]

A popular vote procedure, the use of which lies exclusively within the control of an authority. In this form the author of the ballot proposal and the initiator of the procedure are the same (for example parliament or president).

Form 3.1. Veto-plebiscite (authorities' controlled popular vote) [AVP]

A popular vote procedure, the use of which lies exclusively within the control of the authorities. In this form the author of the ballot proposal and the initiator of the procedure are NOT the same. For example, a government or a president may oppose (veto) a decision of parliament and refer it to a popular vote; hence the name veto plebiscite.

Sources: IRI Guidebook to Direct Democracy 2010. Special thanks to: Rolf Büchi, Initiative and Referendum Institute Europe; more info at: *www.iri-europe.org*

The world of direct democracy is facing enormous challenges. Whereas the globalisation of capitalism has continued its advance and clearly shown its weaknesses, democratisation has in recent years typically suffered setbacks. For many people this means that they have been able to take part in global affairs as consumers, customers, and maybe even as investors – but not as politically active citizens. Hence, in order to balance the economic globalisation, democracy must go transnational. Otherwise, all our achievements of modern representative democracy will be called into question altogether. The erosion of democracy within established democracies is happening because the democratic systems are organised and legitimised within individual states – and it is precisely the latter which are tending to lose control of their own affairs in the wake of globalisation. The democracies are like ships whose rudders are no longer reaching the water on more and more occasions. This is the case with many environmental problems, for example, where a state acting alone is likely to be ineffective, because environmental problems do not generally stop conveniently at national borders. On top of this crisis of ineffectiveness, many established democracies are also experiencing a crisis of credibility: their political parties are

losing members, fewer and fewer people bother to vote, and elected officials are suspected of abusing their power primarily for self-interest.

The world's democracies need to become both more direct and more transnational. This twin-track approach has already begun – not least in Europe, where the process of European integration over the last thirty years has been gradually changing what began as an international economic project into a transnational political one. The citizens of Europe have now expressed their opinion more than fifty times in popular votes on substantive European issues, starting with decisions by the French, Danes, Swiss and Norwegians in 1973 and continuing through to the Irish adoption of the Lisbon Treaty in October 2009.

In at least one critical aspect, the new European "constitution" is a democratic milestone: it proposed for the very first time anywhere that the principle of participatory democracy be acknowledged at the transnational level and simultaneously established a direct-democratic tool: the "European Citizens' Initiative". From now on at least one million EU citizens from several Member States have the same right already enjoyed by the European Parliament and the European Council – the right to propose action on new legislation to the European Commission.

As with the introduction of direct democracy at the local or national level, the debate at the European level was not so much about the principle of direct citizen involvement itself, but rather about the design of the new instrument. For this purpose the EU not only organised, in 2010, a wide-ranging public consultation process but agreed comprehensive rules of implementation. The proposed regulation addressed all the basic questions relating to the practical process but did not fully appreciate the need of a supportive infrastructure. Such an infrastructure will be critical in preparing, enabling and advising citizens on how to make full use of the new instrument – from legal aspects to translation needs and powers of implementation. Beginning in 2011, the initial practical use of the first transnational direct-democratic tool will give a hint about the options and limits of this new instrument.

Mapping, meeting, mainstreaming

One of the important side-effects of the increased introduction and use of direct-democratic tools worldwide is the interest shown by international organisations in this modern form of democracy. In addition to such global organisations as the UN, the World Bank and the Forum of Federations, the Council of Europe (to which 47 countries belong) has drafted guidelines for "free and fair initiatives and referendums", in which it warns against excessively high signature requirements, unhelpfully short deadlines and unnecessary turnout quorums. In many parts of the world, academic institutions and NGOs have begun to take more notice of the procedures and practice of direct democracy than was the case previously.

The developments of the last 25 years have made a major contribution in this respect, as initiative and referendum rights have also been introduced – and actually put into practice, mainly at the local level – in many Asian countries and throughout virtually the whole of South America. Local democracy is benefitting from the fact that many countries have been decentralising their organisation and administration, leading to the greater empowerment of new groups of citizens. In India, for example, the introduction of a village level of political organisation (the "panchayat") was combined with a rule that women must comprise at least one third of all committees.

In Taiwan, South Korea and Japan, instruments of direct democracy have been introduced at the local level, leading millions of people to take their first-ever steps in political involvement. The road to democracy is not always smooth, however: both in Asia and South America, the new democratic praxis repeatedly comes up against age-old authoritarianism – and democracy is not always the winner.

The task now is to support the expanding and increasingly complex world of direct democracy with a clear aim in mind, but also patiently – and without losing sight of either the old or new threats to democracy. This will require the promotion and exchange of knowledge, the development and nurture of common instruments, and the intensive use of initiative and referendum rights at all political levels. What is true for other institutions of social and political life is also true for direct democracy: there is no ready-made, 'one size fits all', model. Each political community and each new generation must undertake the democratic fine-tuning which is necessary to adjust the various procedures to match current realities and demands and to leave a sound basis for the future.

The learning process is manifold: it requires that one work at one's own praxis, but also be constantly observing what is happening elsewhere.

For the direct democracy activist in New Zealand, the primary objective today is to secure binding status for referendums which come about as a result of a citizens' initiative, whereas democrats in Germany are mainly focused on trying to achieve a lowering of the signature and referendum turnout quorums, which in most cases are too high. In both instances, the available procedures are still very seldom used, because they do not – as yet – produce what they promise: the free and fair involvement of citizens in the decisions on the matters which affect them. However, even the often relatively weak provisions for direct democracy which, despite all difficulties, do already exist in many countries, can be used to bring the process forward.

That is why it is instructive to cast a glance at those parts of the world where direct-democratic procedures are now a solid component of the political system – in Switzerland, the USA and Uruguay, for example. It is not unusual in these countries for direct-democratic processes to be launched with the specific aim of changing the rules of the (direct-)democratic game. This is a way in which modern direct democracy can be the key to itself in the 21st century.

Before we highlight a few examples and stories of modern direct democracy across Europe and the world, let's summarise the first three key findings of this chapter:

One: modern direct democracy – in contrast to ancient and medieval forms – is an integrated part of representative government. Even more: direct-democratic provisions and practices have become an increasingly necessary element of representative government. By supplementing indirect (parliamentary) avenues of agenda-setting and decision-making, direct democracy can help to make representative democracy truly representative.

Two: the two most experienced countries/regions of the world where initiatives and referendums have been part of the representative political system for many years – Switzerland and the United States of America – can teach us that democracy is, and must remain, an unfinished journey. Both countries offer an enormous wealth of practi-

cal experiences, successes and failures, which must be taken into account when discussing and designing procedures for any other participative multilevel political entity like the European Union.

Three: there is an urgent need of a better, internally consistent, and commonly agreed understanding of the definitions and terms used for the expanding world of direct democracy. The newly established General Typology of Modern Direct Democracy creates a basis for such an understanding, enabling us to better map, compare and mainstream improved and best practice across national borders and languages.

This Handbook by the Green European Foundation and the Initiative and Referendum Institute Europe examines the context, background, options and limits of the new European Citizens' Initiative (established by the EU Lisbon Treaty). The initial findings enable us to identify the ECI as:

- an element of modern representative democracy;
- a direct-democratic procedure; and finally,
- an initiative by type, and an agenda (-setting) initiative [PAI] by form.

With these coordinates to hand we can clearly differentiate the European Citizens' Initiative from, on the one hand, a (mass)petition, for example (which by the way also exists at the EU level), and on the other, from other forms of citizens' initiatives like popular initiatives (with or without a counter-proposal [PCI, PCI+]), which trigger popular votes on substantive issues. These initial findings also allow us to differentiate the direct-democratic (bottom-up) ECI procedure from other forms of (top-down) participation, as provided for in Art. 11.1-3 of the Lisbon Treaty, for example. In addition, last but not least, these findings confirm the democratic principle enshrined in the Lisbon Treaty, which formally placed indirect (parliamentary) and direct (participative) democracy on the same footing.

In real life not everything (sometimes even very little) is about principles, norms and values. Instead output, delivery, and material benefits get all the attention. It is clear, therefore, that our initial assessment of modern direct democracy as part of representative government cannot have a purely normative and theoretical perspective. We need also to look into the actual practice of modern direct democracy across Europe and the world.

Here, the biggest changes have been seen in the last quarter of the last century, during which there were efforts to build a more democratic world on the ruins of all the hot and cold wars. Of course, many new threats and counter-developments have occurred, like the globalisation of the struggle for natural resources and actions taken by governments as a consequence of events like 9/11. In addition, we have seen democratisation going into reverse in several countries around the world which we had begun to count as free or at least partly free neighbours.

Having said this, it is most interesting to see that most countries around the world (or at least their people) have also tried to turn to practical use the often constitutionally enshrined principles of modern representative democracy: in Europe, the Americas, Asia, Oceania and Africa, across the world in fact, the idea of civic participation in public affairs made major inroads during the first years of the new millennium.

Casino Referendum in Taiwan (October 2009)

While the worldwide use of direct-democratic instruments was shaped by a series of power-challenging popular votes in Asia, Europe and Latin America, many of those votes were introduced from above and offered examples of plebiscitarian failure, while others could not be validated because of major limitations and hurdles in the process. In many countries, including Venezuela, Taiwan, Hungary, Ireland and Bolivia, governing presidents and governments were defeated in their endeavour to get a majority for their political proposals. While the Venezuelan president Hugo Chavez first lost and then won a plebiscite to increase his powers, a similar attempt in Honduras produced a military coup in mid-2009. In Taiwan, two popular initiatives in favour of a closer affiliation with the UN failed to pass the participation quorum and thus the positive outcomes of the votes were invalidated.

In Hungary, two citizens' initiatives against the government's plan to introduce new health and university fees were successful, provoking a break-up of the social-liberal coalition of Prime Minister Ferenc Gyurcsany – and later, in mid 2010, a powerful return to power by the national-conservative forces of Victor Orban.

Recent developments brought another wave of important local and subnational experiences with initiatives and referendums, as for example in Germany, where the people of Berlin were able to vote for the very first time on a substantive issue. In fact, despite being one of the last countries in the world where, in modern times, the people have not had a say on a substantive issue at the national level, Germans have secured initiative and referendum rights at all other political levels since their reunification twenty years ago. And with Europe's most populous country turning to a more mature democratic mentality, this has been part of the story of how the first direct-democratic procedure was introduced in the EU Treaties (you can read more about this in the next section of this Handbook). Let us first briefly feature the most recent developments in Germany, which saw two important regional popular votes in summer 2010, when Bavaria supported a citizens' initiative for a smoking ban and the people of Hamburg vetoed a new school law in an impressive referendum decision.

Special Feature 4
Modern direct democracy in Germany

The states of Hesse and Bavaria are unique in having the mandatory constitutional referendum (on the Swiss and US model): any amendment to the state constitution must be ratified by the people directly. In Bremen, the rule until 1994 was that constitutional amendments had to be decided by the people in a vote if the parliament was not unanimously in favour. Six states have an agenda initiative which does not lead to a popular vote. The current German government has agreed to introduce a similar (somewhat weaker) form of agenda initiative at the federal level. All German states have citizens' initiatives and popular votes on substantive issues ("Volksbegehren" and "Volksentscheide"). Constitutional issues may be the subject of initiatives in all the states except Hesse and Saarland. In addition, however, a number of issues are "off-limits": initiatives which relate to a significant extent to the state

budget, or to taxes, excise duty, other duties, and officials' salaries, are inadmissible (the so-called "finance taboo"). This exclusion of issues is often the subject of court cases.

The citizens of Hamburg and Brandenburg make the most frequent use of the initiative right; in Brandenburg, however, not one popular vote has taken place, because none of the initiatives met the qualification requirements – one reason for this being a ban on the free collection of signatures. Other states with no popular votes as yet are Baden-Wuerttemberg, Saarland and Mecklenburg-Western Pomerania; this comes as no surprise, given these states' very high, prohibitive procedural hurdles.

Most of the 18 citizen-initiated popular votes until now have taken place in Hamburg and Bavaria – most recently on a smoking-ban initiative (in Bavaria) and on a school reform referendum (in Hamburg). But it should be noted that the German procedures of direct democracy do not differentiate between propositional initiatives and rejective referendums: the initiative tool can be used for both purposes.

The direct-democratic reform wave in Germany can be divided into two phases: between 1990 and 1998 direct-democratic procedures were introduced, and in some cases also reformed, in all states. In the second phase – still ongoing – one can observe a trend towards minor parliamentary reform debates and reforms of existing provisions, mostly selective changes to quorums or time periods (though larger-scale reforms have been introduced in recent years in North Rhine-Westphalia, Thuringia, and Rhineland-Palatinate).

At the same time, however, there have also been negative developments: results of popular votes have sometimes been ignored by parliaments (Hamburg, Schleswig-Holstein), and during the 1990s there were some court rulings which blocked the further growth of direct democracy. However, the most recent popular decisions in Bavaria and Hamburg have encouraged all those forces which want to have a citizens' say also at the federal level – something which has so far been blocked by the Christian Democrats (CDU/CSU).

Since these instruments can only be introduced by an amendment to the federal constitution, a two-thirds majority in parliament is required, for which the support of this party is necessary. The first attempt – and failure – was undertaken at the beginning of the '90s (in the course of the revision of the constitution following German re-unification); the second was in 2002, put forward by the government coalition of Social Democrats and Greens. The proposal was approved by a majority in parliament – but by less than the required two-thirds. While all opinion polls indicate a clear and stable majority of more than 75 percent for a more representative democracy in Germany, a minority of the representatives are still blocking such a reform of power sharing.

Sources: IRI Guidebook to Direct Democracy 2008. Special thanks to: Theo Schiller, Initiative and Referendum Institute Europe; more info at: *www.mehr-demokratie.de*

Germany is far from being the only country in Europe where the role and prospects of modern direct democracy as an integral part of a representative system are the subject of intense discussion these days. Moreover, there is much more than mere discussion; there are many concrete and practical reforms in the offing – such as in Sweden, where the new constitution (due to enter into force in early 2011) will introduce a proper local and regional citizens' initiative right; or Bulgaria, where the parliament agreed to introduce a whole set of initiative and referendum rights at all political levels in 2010. The big question always linked to the issue of modern direct democracy goes beyond the fundamental one of WHETHER there should be a citizens' initiative right or not. The big question, or better questions, are about: HOW these (new) tools should be designed so as to become efficient and citizen-friendly instruments of participation; HOW they are to be used to promote and/or block certain substantive issues and political agendas; and HOW the procedures and practices of modern direct democracy can be cleverly supported by a well-designed and resource-rich infrastructure. These 3 HOWS are of course also at centre-stage of the work to make the new European Citizens' Initiative a success and will be extensively covered in the next sections of this Handbook.

Before focusing on the European Citizens' Initiative let us first have a look at the growing

world of modern direct democracy and assess briefly the options and limits of citizen participation across the globe. At the beginning of the second decade of the millennium more and more citizens around the world are speaking out, adding their own questions to the political agenda and becoming increasingly involved in the decision-making process on substantive issues. Over the past 25 years participatory democracy has experienced an enormous boom. More than half of all the referendums and plebiscites ever held in history fall into this period. Only very few countries now remain in which there are no forms of direct-democratic participation at national or regional level.

Nine out of ten countries or territories in the world now have one or more instruments of modern participatory democracy. These include in some places the genuine direct-democratic right of initiative and referendum, but – in many countries – also the possibility of removing elected representatives before the end of their mandate (recall), or of holding a plebiscite (a referendum organised entirely by the government or president), which is more an instrument of the rulers and not the citizens.

2.4 The global perspective: unhelpful contexts and unfriendly design still a big problem

The trend is clear: direct-democratic instruments are essential parts of today's representative democracy. In many cases, however, as a consequence of unhelpful and unfair background conditions – such as limited freedom of information and lack of free expression of opinion, or impractical direct-democratic procedures – initiatives and referendums are not necessarily seen as a positive complement to representative democracy, but rather as a competitor or even a threat.

For example, if a 50 percent turnout quorum (i.e. at least half of the registered voters must have 'turned out' to vote) is required before a referendum result can be declared valid, what frequently happens is that the usual "Yes" and "No" campaigns are joined by calls for a boycott. If the

boycott action is successful, the "non-voters" will effectively be counted with the "no-voters", the turnout quorum will not be reached, and the democratic outcome will be perverted (the result of the vote is invalid, even if a clear majority of the actual voters have voted "Yes").

It can also happen that decidedly undemocratic regimes make use of the plebiscite and attempt to manipulate the opinion-forming and decision-making process by organising a "top-down" popular vote (perhaps bypassing an elected parliament). Problems can also occur when financially very powerful interest groups exploit initiative and referendum laws in the absence of compensating provisions which can help to ensure a free and fair referendum process.

Dozens of countrywide popular votes took place worldwide in 2010, bringing the total number of countrywide popular votes up to 1516 (since 1793, when six million French citizens got the first ever opportunity to vote on their new national constitution). Those popular votes included such different issues as Iceland's debt repayment scheme (March 6), a Swiss popular initiative to introduce special animal rights prosecutors (March 7), Slovenia's citizens' approval for the EU to assist with border negotiations (June 5), and Kenya's (August 4) and Turkey's (September 12) new constitutions. In sum, initiatives and referendums have become a regular feature in the world of popular votes on substantive issues or for selecting candidates/ parties in elections.

While the numbers on *Table 2* do have their clear limitations – as they reflect only popular votes on substantive issues at the countrywide level – they offer a clear indication that the use of direct-democratic instruments has indeed been growing. This is especially true because the figures below are something like the tip of an iceberg: they do not, for instance, cover I&R practice in countries like Germany and the US at the subnational levels. Let's have a closer look now at how and where initiatives and referendums play a role beyond Europe.

Table 2 – Worldwide Practice: Countrywide popular votes on substantive issues: practice across time and space (1793-2010)

Time	Europe	Asia	Americas	Oceania	Africa	Total	Average
1793-1900	58	0	3	0	0	61	0.6
1901-1910	14	0	0	4	0	18	1.8
1911-1920	21	0	3	5	0	29	2.9
1921-1930	36	1	2	6	0	45	4.5
1931-1940	40	0	7	6	0	53	5.3
1941-1950	36	2	3	11	0	52	5.2
1951-1960	38	13	3	5	9	68	6.8
1961-1970	44	22	4	7	19	96	9.6
1971-1980	116	50	8	14	34	222	22.2
1981-1990	129	30	12	7	22	200	20.0
1991-2000	235	24	76	15	35	385	38.5
2001-2010	157	28	39	20	32	276	30.0
Total	924	170	160	100	151	1516	7.0
Share as %	60.9	11.8	10.5	6.6	10.2	100	

Asia-Pacific

Asia is struggling with the need to strengthen democratic forces after a period of autocratic backlash, examples of which have been seen in Thailand, Malaysia and Bangladesh. There is a lot of potential for a democratisation of Asian democracy but also very strong forces and interests hampering such a development. Countries and regions worth keeping a close eye on include Korea, Taiwan, Hong Kong, the Philippines, Japan, Indonesia and India, where recent electoral processes have been accompanied by proposals and requests to strengthen popular vote opportunities on substantive issues as well.

In Korea a series of domestic and international challenges and ideas, such as the Free Trade Agreement with the US and plans to build a cross-country canal system, was followed by urgent requests for more participatory democracy. The same happened in Taiwan, where a Free Trade Agreement with China led to signature gathering campaigns trying to trigger a popular vote. In the Philippines and Thailand existing procedures of modern direct democracy – such as the citizens' initiative and the mandatory constitutional referendum – were ingredients of a democratic reform debate, while in India several states and many urban areas have introduced new forms of participatory – but not yet direct – democracy in recent years.

The new experiences made at the subnational level may encourage the possibility of a reform process at the federal level as well. Further southeast, several countries in Oceania have a wide range of direct-democratic provisions, including popular initiatives in New Zealand and mandatory constitutional referendums in Australia. However, the most practical experiences have been reported from small island-states such as Palau, Tokelau and New Caledonia, where the status of post-colonial autonomy and independence are issues to be decided by the electorate.

Former Governor Schwarzenegger campaigning for a popular initiative

Americas

On the other side of the Pacific Ocean, in many American states – as mentioned above – the well-established systems of modern direct democracy have seen a great amount of use, but not without a

great deal of controversy. With the economy doing rather badly in many places around the US, some commentators tried to scapegoat citzen participation as the main source of the problem. However, in Eastern states like Connecticut and New York growing movements for the strengthening and establishment of initiative and referendum tools could also be observed.

Further north, the citizens of the Canadian province of British Columbia voted a second time in four years on a proposed change to their electoral system from the (UK-style) first-past-the-post to a single transferable vote system. Once again, the reform vote failed. In Ontario, a similar process for a change to a mixed-member proportional system led to a vote in 2007. In this historic vote (the first popular vote on a substantive issue in the state since 1921) Ontarians opted for the status quo. The existing first-past-the-post system got 63.3% of the votes, on a turnout of 53%.

In Latin America, the 1980s were characterised by the return to civilian government after prolonged periods of authoritarian military rule. However, the hopes of many people that representative democracy would better serve their interests were disappointed and discontent with the political parties and representative government grew. This disappointment of broad parts of the population contributed to the emergence of direct democracy in Latin America, as had previously happened in Switzerland in the second half of the 19th century and in the USA around the turn to the 20th century. However, strong popular demands for direct democracy are not widespread, except in a few countries like Bolivia, Venezuela or Ecuador, though in these countries such reforms can be undermined by authoritarian presidents more interested in a plebiscitary (top-down) style of citizen participation. In sum, most of the new constitutions adopted since the late 1980s included direct-democratic rights and have been adopted by popular vote as well.

Africa

Across Africa two high-level popular votes made many headlines: the Kenyan vote on the new constitution on August 4, 2010 and the long-planned citizens' decision on Southern Sudanese independence in January 2011. Many African countries have inherited some basic principles and forms of direct democracy from their former colonial powers. This is especially true for most former

French colonies in Western Africa, where popular votes "from above" (French-style plebiscites) are both part of the constitutional arrangements and – more seldom – also of political practice. However, there is also another growing practice of instituting referendums, as for example in South Africa, the Democratic Republic of the Congo, Zambia and Madagascar, which has made a significant contribution to greater democratic stability. In the north of the African continent, strong Islamic leaders have misused the referendum instrument in many ways. In 2007, Egyptian president Hosni Mubarak offered the people just 7 days to discuss and agree on a list of 34 constitutional amendments. Less than 30% of the registered voters took part in the plebiscite. Despite such experiences, which lie outside a free and fair framework, many Africans forecast a much more frequent use of direct-democratic instruments in the near future: the East African Community – a regional intergovernmental organisation with five member states – plans a transnational referendum, to be held some time after 2010, on the establishment of a political union in East Africa. An even more extensive direct-democratic event is envisaged by the Pan-African Council and the All-African People's Organisation: they have called for a pan-African popular vote on a union government for 53 states with more than 800 million people.

A game with many important players

The global trend towards the growing introduction of direct-democratic procedures, as well as the practical use of them, challenges both the governmental and non-governmental actors concerned, as they have to adapt to these developments within the framework of representative democracy. These actors include:

■ Governments and Administrations, who are involved in the management and administration of direct-democratic procedures, as well as in the ongoing debates on the potential and the limitations of direct democracy;

■ Parliaments and Political Parties are important players in the preparation and passing of legislation and regulations on the initiative and referendum process;

■ the Courts and members of the Legal Professions have a central role in many countries in assessing the use of direct-democratic instruments;

■ Think-tanks and Service Providers act as independent or contractually engaged professional organisations with the task of ensuring that other professional groups are better informed in their dealings with direct-democratic procedures;

■ Academic Researchers and Media Professionals are key actors when it comes to observing, analysing, investigating and commenting on direct-democratic events.

As the countries with citizen-triggered popular votes illustrate, civil society groups are often the most highly motivated specialists for taking the development of democratic instruments forward and using them frequently and enthusiastically. The existence of an efficient interface between civil society and the authorities and the quality of the dialogue between them are of the highest importance. Worldwide there is a growing emergence of civil society groups with a special focus

Special Feature 5
Direct democracy think-tanks

Together with the growing use of direct democracy tools across Europe and the world, new supportive structures have been built up in order to document, educate and advise on the process. In addition to such think-tanks, specialised activist networks, academic institutions and administrative bodies have also been established. Together, these organisations offer a wealth of resources and knowledge.

As the first European direct democracy think-tank, the Initiative and Referendum Institute Europe (IRI Europe, www.iri-europe.org) was founded in 2001 in Amsterdam/The Netherlands. The Institute's main mission is to develop insights into the theory and practice of direct democracy among politicians, the media, NGOs, academics and the public throughout Europe.

IRI Europe is an independent, non-partisan and non profit-making think-tank. The headquarters were moved to Marburg/Germany in 2005. Since the early days of this millennium IRI has assisted and advised the EU constitution drafters – first in the Convention, subsequently in the EU institutions and Member States, and finally within the electorates across Europe – in seizing the opportunity of developing democratic tools which are both issue-based and pan-European. As a key result of this work, the first transnational direct-democratic tool – the European Citizens' Initiative (ECI) – is now about to be established.

IRI Europe's informational and educational materials include Handbooks and Guidebooks, Toolkits for Free and Fair Popular Votes, as well as dedicated materials for schools. In all its projects IRI Europe cooperates closely with partners from civil society, governmental institutions and international players. Beyond its

European focus the Institute has developed a fully-fledged network of cooperations across the globe. IRI experts have been involved in developing a worldwide database [www.iri-navigator.org] on direct-democratic mechanisms and a Handbook on Direct Democracy for practitioners in governments, parliaments, political parties, media, academia and civil society, prepared and published by the International Institute for Democracy and Electoral Assistance.

The closest partners of IRI Europe are the Initiative and Referendum Institute (US) based at the University of Southern California in Los Angeles [www.iandrinstitute.org] and the Initiative and Referendum Institute Asia [www.iri-asia.net]. In addition to this, many democracy support and assistance organisations have launched their own competence centres and working groups on participative democracy, for example the Korea Democracy Foundation [www.kdemocracy.or.kr] and the Taiwan Foundation for Democracy [www.tfd.org.tw] in Asia, the Citizens in Charge Foundation [www.citizensinchargefoundation.org] and the New America Foundation [www.newamerica.net] in the US, as well as international governmental organisations like the Council of Europe [www.coe.int] and the Institute for Democracy and Electoral Assistance [www.idea.int].

Across Europe many organisations have been established to promote and/or research direct democracy. These include the German NGO "More Democracy" [www.mehr-demokratie.de], the Swiss Centre for Research on Direct Democracy [www.c2d.ch] and the transnational activist network Democracy International [www.democracy-international.org].

Note: For an overview of direct democracy think-tanks and other related organisations please consult the Resource section of this Handbook.

on supporting and fostering the spread of direct-democratic tools, including some which already have considerable practical experience with them, like the Initiative and Referendum Institute Europe and its partners across Europe and the world.

The core idea in Modern Representative Democracy is the maximum possible realisation of popular sovereignty in highly complex and multi-layered political systems. In other words: the tools for agenda-setting and decision-making should ensure, both *de jure* and *de facto*, that the people who have to obey certain common rules and laws have been able to influence the making of those same rules – and have the right to change and improve them all the time. In such a framework, representative democracy means representing as far as possible all the different preferences and interests, which – as we know today – cannot be done in an efficient way by having a purely indirect (or for that matter purely direct) democracy alone. As we have seen in this section, the growing number of direct-democratic procedures, as well as the increasing use of those procedures in practice, are therefore basically intended to make representative democracy truly representative!

While this assessment is true for the local, regional and national levels, we are just entering a time when the first direct-democratic right at the transnational European level is about to be implemented and used: the European Citizens' Initiative. Europe-wide and global experiences teach us to take a comprehensive look at such an important reform. It is not enough to analyse and assess just one aspect like the provision as such, or the practice as such; we need to examine both alike and – in addition – explore the contextual framework as well, in order to identify the options and limits of a supportive infrastructure.

In this section we have had a look at the growing use of initiatives and referendums and we have established a better understanding of what a modern direct democracy means and which types and forms there are. Interestingly, one of the most important and urgent issues on which people across Europe and the world have been fighting and making use of direct democracy is the environment and genuine "green" priorities.

2.5 Common problems, new solutions: Green priorities and the importance of bringing in the people

In Switzerland and the United States, where initiatives and referendums are extensively used in law- and constitution-making, but also in relation to financial matters, environmental issues have dominated the direct-democratic agendas for decades. Beyond well-established partisan interests – often closely linked to big business and financial interests – direct-democratic tools have been the means for mobilising new generations of active citizens.

Key issues for citizens' initiatives on environmental issues include e.g. the development of nuclear energy (with dozens of popular votes both in Switzerland and the US since the late 1970s); the promotion of rail transportation, especially for freight, including the introduction of heavy-vehicle fees; and the protection of water rights. The latter issue has become a global affair, with related popular initiatives e.g. in Uruguay, and at the local level in Sweden. The "green" use of direct democracy is demonstrating another important aspect of the initiative dynamic: most often such citizens' proposals are addressing a problem and an issue which a majority of the people would indeed identify as a problem/issue. So when it then comes to popular votes which are designed to reach a final decision on a decision previously made by an elected authority (like a parliament), most often the environmental interest prevails – even though the "other" side may have much more money and resources to put into the campaign. In many countries, for instance, private interests have tried to promote the privatisation of natural resources – by lobbying within and outside legislative bodies. In most cases however, the people have said "no" to such reforms.

On the other hand, it may be hard for pro-environment initiatives to win majorities in popular votes, even with majority public support. This has to do with the well-known dynamics of opinion-building. A citizens' initiative may typically identify a problem – such as heavy goods traffic on the roads – seen as a problem by most people. However, when the initiative then proposes a certain solution to this problem the majority may disappear like an iceberg in a tropical sea. Why? It is always easier to agree on and mobilise people against something that already exists than it is to

Lake Baikal – a focal point of modern direct democracy in Russia

get agreement on introducing something new. In addition, many direct-democratic procedures are not really designed to allow a smaller group of people to convince the larger group by launching and discussing their ideas. So a constructive direct democracy should not allow easy avoidance of or quick-fix solutions to problems, but promote proper collective learning processes.

The natural question about the usefulness of direct-democratic tools for environmental issues may raise wrong expectations: what a modern direct democracy may deliver is a much more finely-tuned mirror to reality, hence a much more representative representative democracy. Special interests are better protected in purely indirect systems, as it is easier to "buy" a few hundred legislators and officials than it is to convince millions of citizens. For the genuine green case modern direct democracy has therefore been a necessary tool for getting the issues onto the political agenda and for them to become the subject of widely discussed and carefully prepared popular votes.

When it comes to questions like the energies of the future, the handling of natural resources and sustainable modes of transportation – to name just a few – it is not only that purely indirect democracies have become generally dysfunctional, but that the restriction of issues to national borders is now mostly inappropriate. So it is no surprise, then, that Europe and the European Union have become a major arena for environmental issues, something that has been understood and endorsed even by traditional critics of the European integration process. For this reason, the combination of transnational and direct democracy – embodied in the new European Citizens' Initiative – is an innovation that is extremely timely. In the next sections of this Handbook we will take a closer look at the making of this new tool and at the best possible ways ahead – for active citizens and professionals across Europe.

3. Review: Bringing in the Europeans

3.1 It happened one sunny Thursday in June 2003 in Brussels

Thursday, June 12, 2003 was a beautiful sunny day. After a cold and rainy spring, many inhabitants of Brussels were enjoying sitting outside at one or other of the city's many cafés. On the Place Luxembourg, just outside the European Parliament building, many members of the "Convention on the Future of Europe", a body established to draft the first constitution for the European Union, had gathered for a farewell apéritif, as their 16-month long work was coming to an end.

Nevertheless, inside the Parliament, the presidium of the Convention, led by former French president Valéry Giscard d'Estaing, was meeting for its very last formal gathering. The next day, June 13, the final proposal was to be delivered to the EU Council, which was about to have its summit in Thessaloniki only one week later. While the meetings of the European Convention were open to the public, the powerful presidium, which finally had to agree all the proposals, met behind closed doors. At 16.12 that Thursday afternoon, to the great surprise of many observers, the French News Agency AFP sent out a news flash with the headline: "Last-minute changes to the draft constitution. (...) A European Citizens' Initiative will be introduced". Three hours later, Valéry Giscard d'Estaing was

able to confirm this historic last-minute breakthrough at a press conference in the Parliament, where the Convention had been working since February 2002. At 19.57, the German News Agency DPA reported: "Convention presidium includes Citizens' Initiative in the draft constitution. (...) Legislative proposals will have to come from one million citizens from several Member States".

This was a defining moment indeed. Had the Convention presidium not agreed this very last amendment, we would today not have the opportunity to be part of the final preparations for a new chapter in the history of modern democracy, the introduction of the very first transnational direct-democratic tool: the European Citizens' Initiative. But wait! Why did this happen on June 12, 2003? And how could an idea and a proposal, which before that nice sunny day in Brussels was seen as a very "utopian" one, become so much of a reality that today we have a whole continent about to empower itself by allowing every eligible voter of the Union to become an agenda-setter at the transnational level?

Very often in history, defining moments have produced nice new democratic principles. The great American Revolution of 1787 delivered a political system which was a global novelty at that time – but also a federal constitution which

continues to restrict the direct participation of citizens in agenda-setting and decision-making to this day: in the United States you still meet serious-minded people who argue that a republican form of government is incompatible with people power. Or take the French Revolution a few years later: again, historic new principles and ideas made it into an innovative constitution – only to be directly undermined by a counter-revolution and the return of a top-down political system which basically limits the direct say of citizens to popular votes at the sole discretion of the president. Much closer to our own time, revolutions in countries like The Philippines (1987) and Germany (1989) were based on "people power" which translated into major democratic reforms: but today, a minority in the German Parliament is still blocking both the replacement of the (West-German) basic law with a proper (all-German) constitution and the introduction of the right of popular votes on substantive issues at the federal level. In the Philippines the great principle of "people power", which had succeeded in overcoming decades of authoritarian rule, translated into the introduction of direct-democratic tools such as citizens' initiatives and popular referendums, but in such a badly designed way that they cannot be used at all.

The EU Convention leadership back in 2002

So when the unlikely "founding father" of the "European Constitution", Valéry Giscard d'Estaing, approved the tidal change towards modern democratic principles at the transnational level, many observers were not just surprised but also highly sceptical about the prospects for really getting Europeans involved in practice. While the surprise of many about the new instrument was actually unsurprising – insofar as they knew nothing about the history of the ideas leading up to the June 12 birthday – the scepticism was directed at the future, at the years to come. Until today, that is, when we are about to take the next step in the development

of the first transnational direct-democratic instrument: the move from principle to practice.

This section of the Handbook offers you both: first we briefly look back at the thoughts and efforts leading up to the 2003 breakthrough and we assess the fascinating years since then, when millions of people started to take the new instrument so seriously that they launched their own pilot Citizens' Initiatives at the EU level, gaining valuable experience and learning lessons which are now so fruitful for the fine-tuning of the important procedural rules of the European Citizens' Initiative.

From idea to principle

Before looking closely into the making of the European Citizens' Initiative a few words about the relationship of modern democracy and European integration are necessary. From the very beginning, when Europe was struggling to rise again from the catastrophic first half of the 20th century, which featured two world wars as well as Nazism and Stalinism, it was not clear that this transnational reconciliation and democratisation should be solely driven by elites and the Member States. In fact, the first pan-European organisation founded after WWII – the Council of Europe – was intended to become the foundation of a genuinely transnational polity in Europe, based on the popular sovereignty of its citizens. However, a mixture of elite reluctance to accept a more direct form of democracy, the Nordic-British scepticism towards mainland Europe, and finally the rapid emergence of an East-West divide, later symbolised by the Berlin Wall, made such a direct path towards a democratic European Union impossible. It took a four-decade-long detour via economic agreements, top-down structured treaties and, finally, the establishment of a Common Market in Western Europe, before the fundamental principle of a democratic European Union came within reach again after the fall of the Berlin Wall in November 1989.

While the time needed for ideas to become principles and finally practices is not always given, important ideas – like the direct involvement of citizens in agenda-setting and decision-making – do not disappear once they have been born, but often go 'underground' for a time. As early as 1949, when discussions began on the establishment of the Coal and Steel Union, French President Charles de Gaulle had declared that

in his opinion: "..the organisation of Europe has to proceed from Europe itself. I consider that the start shall be given by a popular vote of all free Europeans".[6]

A popular vote on Europe as the definitive founding act of a political Europe! This is what the Italian European federalist Altiero Spinelli imagined when, in 1964, he proposed the creation of an EU constitution which would have to be ratified by the people directly.[7] However, the supporters of de Gaulle's and Spinelli's ideas had to wait patiently until the time was ripe for more transnational direct democracy. When it became clear that the old European divide, which put democracy in the refrigerator in the West and in the freezer in the East, was about to change, the initial proposals for the introduction of direct-democratic elements at the European level were made. Starting in 1988, the European Parliament and other EU institutions agreed on resolutions which were meant to enable "ways of consulting European citizens about the EU" (JO C 187/231). These often vaguely formulated resolutions referred to such ideas as: "a parallel strategy to allow the popular will to express itself (...) by popular initiative referendum"[8], and the introduction of EU-wide popular consultations/opinion polls. In December 1993, the Public Liberty and Domestic Affairs Commission of the European Parliament expressed its support for the introduction of a "European legislative referendum"[9], as well as the possibility of citizens' ballots on "Community decisions".[10]

These impulses from the European Parliament helped to ensure that in the run-up to and during the Amsterdam governmental conference in the mid-1990s the possibility of introducing a formal right of submission for EU citizens was discussed for the very first time. Another very concrete input came from civil society: one of the many initiatives which emerged during the big democratic and geopolitical changes around 1990 was the network "eurotopia – the network for transnational direct democracy in Europe".

This group of people from many different European countries came together every six months at a different venue in Europe to discuss proposals and prospects for a European constitution with direct-democratic elements. By June 1994, when the network met in the Northern Italian town of Trento, the idea of a European Citizens' Initiative had gathered considerable momentum within various European social movements and was therefore launched as a public idea. At the Trento meeting, however, representatives from the Italian and Austrian governments were also present as observers and reported back about the idea of the European Citizens' Initiative. This resulted in a first big "surprise" at the 1996-97 Amsterdam Intergovernmental Conference: Austrian foreign minister of the time Wolfgang Schüssel and his Italian colleague Lamberto Dini presented the first draft of a "European Citizens' Initiative".

3.2 Amsterdam by night: the first governmental input for the European Citizens' Initiative

According to the Schüssel-Dini proposal, 10 percent of the citizens in Europe (with signatures from at least three countries) should have the right to present an agenda-initiative to the European Parliament, which would then have been obliged to consider it. This was a weak and – under the EU decision-making system – somewhat wrongly directed initiative, with extremely high thresholds. Nonetheless, the very idea of a citizens' initiative had now also come to the attention of the "Masters of the Treaties" – the governments of the Member States – gathered in the European Council.

The experience with Inter-Governmental Conferences in preparing and deciding on EU Treaty changes also offered the lesson that major reforms could not be achieved using this track alone: so from the mid-1990s on, the "eurotopia" network had also developed a plan for an EU Convention to propose new fundamental rights and ultimately draft a transnational constitution.

6   De Gaulle, Charles (1970). *Discours et messages. Dans l'attente. Février 1946-Avril 1958.* Paris: Plon, Vol. II. P.309.
7   Spinelli, Altiero. *Una strategia per gli stati uniti d'Europa.* Bologna: Societa editrice il Mulino.
8   EP (1988). Resolution on ways of consulting European citizens about the EU. Brussels: JO C 187/231.
9   EP institutional commission. DOC A2-0332/88.
10 EP Commission. DOC A3-0031/94.

Special Feature 6

eurotopia – when citizens outline the future

After the dramatic changes of 1989 in Europe, NGOs and academic circles began to show more interest in the subject of transnational direct democracy. At more than 20 European meetings over 10 years, the European network organisation "eurotopia", founded in May 1991, developed methods for involving citizens in a European constitutional process, as well as the first elements of direct democracy in such a constitution. The appointment of a European Convention was proposed as early as the mid-90s. A "double qualified majority" was proposed for the founding referendum on a European constitution: "The Constitution must be accepted not only by a majority of all EU citizens, but also by majorities of citizens in 4/5 of all EU Member States".[11] From 1994 onwards, in the run-up to the Amsterdam governmental conference, numerous European NGOs formed a European network under the name of "Inter Citizens Conferences" (ICC): in the so-called "Loccum Declaration" they formulated a set of democratic requirements for a European Charter of Citizens' Rights. This included for the first time the right of submission to the European Parliament.[12]

In Germany, towards the end of the '90s, the activist group "Mehr Demokratie" started its own approach to European strategy, avoiding the pro-constitution proposals developed by "eurotopia". A new network was established, the Network of Direct Democracy Initiatives in Europe, which in 2002 changed its name to "Democracy International". It was this group which, together with the newly established Initiative and Referendum Institute, most actively promoted the eurotopia ideas of transnational direct democracy *vis-à-vis* the EU Convention. The concrete lobby work was inspired by the "Rostock Appeal", which was agreed on at the 20th European Assembly of eurotopia in Rostock on June 17th, 2001. Just a few days after a European Summit followed by violent and devastating riots in Göteborg/Sweden and a surprise defeat of the Nice Treaty at a popular vote in Ireland (on June 6th), citizens from all over Europe once again outlined their common democratic future, requesting a Convention on a Constitutional Treaty for Europe and proposing a European Citizens' Initiative process. It would not take long before both "eurotopian" ideas became the official policy of the European Union. In spring 2011 (direct) democrats from across Europe are meeting again in Rostock to celebrate the 20th anniversary of a unique democratization process and to assess the prospects ahead.

Sources: The Rostock Process – on the way to more direct democracy in Europe. Special thanks to: Peter Köppen, Stadtgespräche; more info at: *www.stadtgespraeche-rostock.de*

Together with the Dini/Schüssel initiative proposal of 1996, the various NGO contributions paved the way for a debate inside and around the Convention on direct-democratic elements in the future EU constitution.[13] Shortly after the opening of the Convention in spring 2002, the Initiative and Referendum Institute Europe established the "IRI Europe Convention Network", bringing together interested members of the Convention with external experts in order to "bring the citizens onto the political center stage".[14] This first meeting inspired and brought together many key members of the first constitutional assembly in the history of the EU – such as Alain Lamassoure

(EPP-ED, France), Johannes Voggenhuber (Greens/EFA-Austria), Josep Borell Fontelles (PES – Spain), Sylvia-Yvonne Kaufmann (GUE – Germany), Casper Einem (PES – Austria) and Jürgen Meyer (PES – Germany). Each of them started to develop ideas and concepts as to how direct-democratic elements could be included in forthcoming EU Treaties. On January 20, 2003 the network group reconvened to present and discuss various proposals to establish both a pan-European popular vote process [LOR] and a European Citizens' Initiative [PAI]. In early March 2003, Alain Lamassoure presented a draft called "Art. 43bis: droit de pétition et référendum

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11 The Rostock Process, 1991-2004: "On the way to more direct democracy in Europe" (2001), p.44.
12 Erne, Gross, Kaufmann, Kleger: "Transnationale Demokratie – Impulse für ein demokratisch verfasstes Europa" ('Transnational democracy – Suggestions for a democratically constituted Europe'), Realotopia, Zurich (1995). p. 431ff.
13 Upon invitation by the editors of this publication in cooperation with (former) MEPs Heidi Hautala and Diana Wallis, plus Michael Efler, spokesperson for European Affairs in the German activist NGO "More Democracy", an 'informal' Convention working group was founded including Eduarda Azevedo, Péter Balázs, Michel Barnier, Jens-Peter Bonde, John Bruton, Panayiotis Demetriou, Karel De Gucht, Gijs De Vries, Lone Dybkjaer, Alexander Earl of Stockton, Casper Einem, Douglas Stewart, Joschka, Fischer, Michael Frendo, Carlos Gonzalez Carnero, John Gormley, Sylvia-Yvonne Kaufmann, Alain Lamassoure, Jo Leinen, Linda Mc Avan, Iñigo Mendez de Vigo, Jürgen Meyer, Louis Michel, Alojz Peterle, and Jacob Södermann.
14 Kaufmann, Lamassoure, Meyer (Eds.): "Transnational Democracy in the Making" (2003), p.223.

européen". This proposal featured two forms of European Citizens' Initiative and the institutional possibility of a pan-European popular vote on a substantive issue.

After dramatic weeks and intense lobbywork by NGOs, which activist Michael Efler from the German NGO "More Democracy" has called a "rollercoaster ride towards transnational democracy"[15], a proposal by Jürgen Meyer finally made it. The proposal (I-46, part I, title VI, CONV 724/03) skipped the popular vote dimension entirely and focused on the Citizens' Initiative dimension. Meyer's second recipe for success was the approach of equalising the role of the citizens when it comes to influencing the European Commission with the initiative rights of the Parliament and the European Council. Finally signed by not less than 77 members[16] of the Convention, the proposal managed to break down the last resistance in the Convention presidium and contributed to the late and welcome breakthrough: on the eve of the last Convention session, a citizens' initiative right was included in the draft constitution, giving citizens for the very first time in history a direct-democratic tool at the transnational level.

With this adoption of a key demand by European democracy NGOs, the Convention opened a window to transnational agenda-setting from below. This last draft amendment built the foundation for the final text in the constitution, presented by the Convention Chairman Giscard d'Estaing on June 13:

"Citizens' initiative – Art. I-46, p. 4

A significant number of citizens, not less than one million, coming from a significant number of Member States, may invite the Commission to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing this Constitution. A European law shall

determine the provisions regarding the specific procedures and conditions required for such a citizens' request."

As with other promising elements in the Convention's draft constitution (working methods, incorporation of the Charter of Fundamental Rights, increased transparency in the functioning of the Council), the European Citizens' Initiative right symbolised a departure from the old-style European Union with closed debates, horse-trading and narrow political considerations.

While the European Convention could not agree on proposing a pan-European popular vote (referendum) in its own draft constitution, the inclusion of the European Citizens' Initiative started to play an important role in a series of nationwide popular votes on the new "Basic Law" of the Union. After the adoption of the "Treaty establishing a Constitution for Europe" by the Heads of Government and States in Rome on October 29, 2004, a series of popular votes on the Treaty was announced in several Member States – representing a majority of the EU citizens – including Spain, France, the Netherlands, Luxembourg, Denmark, Poland, Ireland, the United Kingdom, Portugal and the Czech Republic.

What was and is *de jure* impossible even today – namely an EU-wide popular vote on a substantive issue – seemed to come within reach in early 2005. And it was the proposed European Citizens' Initiative right which became one of the key arguments in favour of the new Treaty during the debate leading up to the Spanish popular vote on February 20, 2005. According to the Flash Eurobarometer study, published by the European Commission after the Spanish vote, 45% of the voters were aware of the new European Citizens' Initiative and 65% thought that the Treaty would strengthen democracy at the transnational level.[17] In the end, 76.7% of the participating Spanish citizens did approve the Treaty.

15 ibid, p.47.
16 Members: Akcam, Zekeriya; Amato, Guiliano; Andriukaitis, Vytenis; Athanasiu, Alexandru; Avgerinos, Paraskevas; Belohorska, Irena; Borrell Fontelles, Josep;Costa, Alberto Bernardes; Dam Kristensen, Henrik; De Rossa, Proinsias; Demetriou, Panayiotis; Dini, Lamberto; Duhamel, Oliver; Einem, Caspar; Fayot, Ben; Giannakou-Koutsikou, Marietta; Gricius, Algirdas; Haenel, Hubert; Helminger, Poul; Kaufmann, Sylvia-Yvonne; Kiljunen, Kimmo; Laborda, Gabriel Cisneros; Lequiller, Pierre; Marinho, Luis; Mavrou, Eleni; Oleksy, Jozef; Serracino-Inglott, Peter; Skaarup, Peter; Timermans, Frans; Vastagh, Pal; Voggenhuber, Johannes. Alternates: Abitbol, William; Alonso, Alejandro Munoz; Arabadjiev, Alexandar; Basile, Filadelfio Guido; Berger, Maria; Budak, Necdet; Carey, Pat; Carnero Gonzalez, Carlos; D'Oliveira Martins, Guilherme; Eckstein-Kovacs, Peter; Ene, Constantin; Floch, Jacques; Fogler, Marta; Garrido, Diego Lopez; Giberyen, Gaston; Gormley, John; Grabowska, Genowefa; Katiforis, Giorgos; Krasts, Guntars; Kroupa,Frantisek; Lichtenberger, Evelin; Mac Gormick, Neil; Maclennan of Rogart, Lord; Matsakis, Marios; Nagy, Marie; Nazare Pereira, Antonio; Severin, Adrian; Sivickas, Gintauta Speroni, Francesco; Spini, Valdo; Styllanides, Evripides; The Earl of Stockton, Alexander; Vassilou, Androula; Vella, George. Observers: Du Granrut, Claude; Sigmund, Anne-Marie; Sepi, Mario.
17 The European Constitution: post-referendum survey; Eurobarometer (2005), p. 25, 28.

Every vote counts

The direct-democratic dynamics launched by the EU Convention and the subsequent 'Yes'-vote in Spain inspired the President of the EU Commission, José Manuel Barroso, to make a strong argument in favour of more transnational democracy. Just a few days after the Spanish popular vote, Barroso gave a speech in The Hague, arguing that: "The constitution provides new ways for citizens to actively participate in the decision-making process by being able to propose initiatives if backed up by one million signatures". Europe's chief administrator concluded: "To put it simply: we will have more democracy".

This new official benchmark of a strong and direct-democratic system within the EU did not, however, lead to easy gains and a fast-tracked ratification of the new European Treaty, for in the next two popular votes in France (May 29) and the Netherlands (June1) majorities of voters did not approve the Treaty. This meant nothing less than non-ratification, due to the fact that European treaties must be ratified by all Member States in order to become Union law. It would take another round of negotiations and popular votes (in Ireland, 2008 and 2009) before a slightly amended Treaty of Lisbon was finally ratified, entering into force on December 1, 2009.

The new principle of having the citizens of Europe directly involved in European politics (Art. 10 and 11 of the Lisbon Treaty) is the result of a several-decade-long development. As outlined in the first section of this Handbook, this is connected with the general development towards modern representative democracy, equally based on indirect and direct democracy, but also with the fact that a growing number of EU issues have to be ultimately decided by the citizens themselves. Since 1973 more than 50 popular votes on Europe in Europe have taken place.

Special Feature 7
51 popular votes on Europe in Europe

No other issue has been as important a subject-matter for national popular votes as the European integration process. Hundreds of millions of Europeans in 26 different countries have participated in what could be called the biggest direct-democratic experience in history before the introduction of the European Citizens' Initiative. However, while the series of votes has offered unique possibilities for researchers to compare the role of citizens in the European integration process and assess the effect of participation, the 51 popular votes have also provided an insight into the problems linked to having nation-based popular votes on EU-wide political issues. Furthermore, some of the votes were triggered as plebiscites by governing presidents, governments and parliaments, and the vote sometimes became as much a vote of (no-) confidence in elected officials as a vote on the actual subject-matter of the proposed Treaty.

Just three out of 51 popular votes on Europe in Europe had their origin in a citizens' initiative. Another three votes were triggered by citizens as a (veto) referendum. Of the remaining 45 votes, 20 were obligatory votes determined by the constitutional requirements in the various countries. Ultimately, the 51 popular votes on Europe in Europe so far had the function of a final check by the citizens on the European integration work of their governments. In most cases (2/3) the voters agreed with and supported the pro-European stance, while the few 'No'-votes contributed to an interesting learning process among the political elites. The consequence of bringing Europeans into the political decision-making process was the realisation that the opportunities for participation had to be further extended. In other words: one important result of the more than 50 popular votes on Europe in Europe is the European Citizens' Initiative.

	Country	Voting Date	Issue	Yes in %	Turnout in %
Table 3 – Overview					
1	France	23.4.1972	Enlargement	68.3%	60.3%
2	Ireland	10.5.1972	Accession (EC)	83.1%	70.9%
3	Norway	26.9.1972	Accession (EC)	46.5%	79.2%
4	Denmark	2.10.1972	Accession (EC)	63.9%	90.4%
5	Switzerland	3.12.1972	Accession (EFTA)	72.5%	52%
6	Britain	5.6.1975	Remaining in EC	67.23%	64.03%
7	Greenland	23.2.1982	Remaining in EC	45.96%	74.91%
8	Denmark	27.2.1986	Common Market	56.24%	75.39%
9	Ireland	26.5.1987	Common Market	69.92%	44.09%
10	Italy	18.6.1989	Citizens' Initiative for EU Constitution	88.06%	85.4%
11	Denmark	2.6.1992	Maastricht Treaty	47.93%	83.1%
12	Ireland	18.6.1992	Maastricht Treaty	68.7%	57.31%
13	France	20.9.1992	Maastricht Treaty	51.05%	69.69%
14	Switzerland	6.12.1992	Accession (EEA)	49.7%	78%
15	Liechtenstein	12.12.1992	Accession (EEA)	55.81%	**87%**
16	Denmark	18.5.1993	Maastricht Treaty	56.77%	85.5%
17	Austria	12.6.1994	Accession (EU)	66.58%	82.35%
18	Finland	16.10.1994	Accession (EU)	56.88%	70.4%
19	Sweden	13.11.1994	Accession (EU)	52.74%	83.32%
20	Åland Islands	20.11.1994	Accession (EU)	73.64%	49.1%
21	Norway	28.11.1994	Accession (EU)	47.8%	89%
22	Liechtenstein	9.4.1995	Accession (EEA)	55.88%	82.05%
23	Switzerland	8.6.1997	Citizens' Initiative on accession procedures	25.9%	35%
24	Ireland	22.5.1998	Treaty of Amsterdam	61.74%	56.26%
25	Denmark	28.5.1998	Treaty of Amsterdam	55.1%	76.24%
26	Switzerland	21.5.2000	Bilateral Treaties	67.2%	48%
27	Denmark	28.9.2000	Accession (Eurozone)	46.87%	87.2%
28	Switzerland	4.3.2001	Citizens' Initiative on accession procedures	23.2%	55%
29	Ireland	7.6.2001	Nice Treaty	46.13%	34.79%
30	Ireland	19.10.2002	Nice Treaty	62.89%	48.45%
31	Malta	8.3.2003	Accession (EU)	53.6%	91.0%
32	Slovenia	23.3.2003	Accession (EU)	89.6%	60.3%
33	Hungary	12.4.2003	Accession (EU)	83.8%	45.6%
34	Lithuania	11.5.2003	Accession (EU)	91.1%	63.4%
35	Slovakia	17.5.2003	Accession (EU)	92.5%	52.2%

	Country	Voting Date	Issue	Yes in %	Turnout in %
36	Poland	6.6.2003	Accession (EU)	77.3%	58.9%
37	Czech Republic	14.6.2003	Accession (EU)	77.3%	55.2%
38	Estonia	14.9.2003	Accession (EU)	66.8%	64%
39	Sweden	14.9.2003	Accession (Eurozone)	42%	82.6%
40	Latvia	20.9.200	Accession (EU)	67%	72.5%
41	Romania	19.10.2003	Accession Prep. (EU)	89.6%	55.2%
42	Spain	20.02.2005	Constitutional Treaty	76.3%	42.3%
43	France	29.05.2005	Constitutional Treaty	45.3%	69.4%
44	Netherlands	1.6.2005	Constitutional Treaty	38.4%	62%
45	Switzerland	5.06.2005	Popular referendum on accession (Schengen Area)	54.6%	56.7%
46	Luxembourg	10.07.2005	Constitutional Treaty	56.6%	90.5%
47	Switzerland	25.09.2005	Popular referendum on Free Movement for Citizens (EU15)	56%	54.5%
48	Switzerland	26.11.2006	Financial Aid to EU	53.4%	45%
49	Ireland	12.06.2008	Lisbon Treaty	46.6%	45%
50	Switzerland	8.02.2009	Popular referendum on Free Movement for Citizens (EU27)	59.6%	51.5%
51	Ireland	2.10.2009	Lisbon Treaty	67.1%	58%

While the initial Constitutional Treaty was *de jure* dead after the failure of ratification in more than one Member State, promoters of a more participative democratic culture in Europe used the subsequent years to deliberate on and research sub-European (national and regional) experiences with agenda initiative rights [PAI], learning lessons and identifying key players for a future implementation of the European Citizens' Initiative.

Between 2005 and 2008, the Initiative and Referendum Institute Europe (IRI Europe), as an anchor of quality for the first transnational and direct-democratic tool in the making, organised several pan-European rounds of consultation with both governmental and non-governmental stakeholders. Within the framework of the "Initiative for Europe" projects, NGOs were inspired to assist in test-driving the European Citizens' Initiative tool even before the new instrument was legally implemented. At annual "European Citizens' Initiative Summits", the results of those assessments were published and discussed. In addition, NGOs offered insights into their own experiences in trying out the new instrument. The findings of these deliberations and assessments were published in annual "Initiative for Europe" Handbooks, published by IRI Europe in cooperation with other democracy NGOs and the main groups in the European Parliament.

The 2007 Initiative for Europe Handbook

So what were the key findings of this work which took place between the failure of the Constitutional Treaty in 2005 and the ratification of the Lisbon Treaty four years later? Well, three things became very clear:

1) that the experiences with agenda-setting initiative rights across Europe were not really encouraging;

2) that citizens around Europe were really eager to become transnational agenda-setters as soon as possible; and finally,

3) that it will take a lot of expertise and care to design a truly user-friendly and efficient format for the European Citizens' Initiative.

Let us first address the existence and practice of agenda-setting initiative tools [PAI] across Europe and have a look at how these instruments are working.

As a reminder and as introduced in the first section of this Handbook, we are talking here about an instrument of direct democracy called the "Agenda (setting) initiative". In the framework of the newly established General Typology of Modern Direct Democracy Terms this instrument is abbreviated as [PAI]. The following definition is applicable:

an Agenda Initiative is the right of a specified number of eligible voters to propose to a competent authority the adoption of a law or measure; the addressee of this proposal and request is not the whole electorate but a representative authority. In contrast to the popular initiative, it is this authority which decides what is going to happen to the proposal.

The introduction of both a General Typology and a clear definition of the instrument as such does not, of course, prevent citizens, academics, officials and journalists around Europe and the world from using very different labels when it comes to naming the Agenda Initiative [PAI]. Here are a few institutionally adopted terms just to give you an idea of how differently the same instrument can be labelled.

Table 4 – Agenda (setting) Initiative – a welcome child with many names

Country	Original Name	English
Austria	Volksbegehren	Popular Demand
Argentina	iniciativa popular indirecta	Indirect popular initiative
Benin	Pétition citoyenne	Citizens' petition
Switzerland	Volksmotion	Popular motion
Italy	Initiativa delle Leggi	Law Initiative
Netherlands	Volksinitiatief	Popular Initiative
Norway	Innbyggerini-tiativ	Inhabitant Initiative
European Union	Citizens' Initiative*	Citizens' Initiative

Official translations available in 23 languages

As the Agenda (setting) Initiative procedure does not normally include any decision-making role for the whole electorate, this instrument is – from a citizens' perspective – clearly less powerful than other direct-democratic instruments such as the popular initiative [PCI], the popular referendum [PCR] or the obligatory referendum [LOR]. However, Agenda (setting) Initiatives are more powerful than mere petitions (in the European sense, not the American, which uses "petition" and "initiative" as synonyms), as the latter do not oblige the main legislative authority to do anything more than receive and acknowledge the submission by one or several citizens.

So, by definition, an Agenda Initiative is more than a petition, and less than an initiative proposal, which triggers a popular vote on a substantive issue. If we now look at the spread of this tool in a European perspective, the map is quite impressive:

© IRI Europe

Blue: countries with agenda initiative tools at the national level.
Grey: countries with agenda initiative tools at the subnational level.

In theory and according to procedure, most people in most of Europe have some form of agenda-setting instrument at the national and/or subnational level. No less than 16 countries (12 of them are EU Member States) have the process at the national level. In an additional 8 countries (5 EU members) there are agenda initiative rights available at the local and/or regional level.

3.3 Agenda Initiatives: a challenging route to more democracy

What does this mean in practice? Are European citizens today really in charge when it comes to setting the agenda at different political levels? The answer is "No", as the following tour of a few European countries shows. Let's start in Austria, the original "Agenda (setting) Initiative" country.

Austria: high profile, low impact

Inspired by neighbouring Switzerland, several Austrian "Bundesländer" (states) had introduced forms of participative and direct democracy into their constitutions before the Austrian Republic

was established in 1920. So the new federal constitution of Austria included the "Agenda (setting) initiative" (Volksbegehren) from the start. To begin with, no less than 200,000 signatures (or half of the eligible voters in at least three federal states) were required; these signatures for a legislative proposal could be gathered freely and without any time restriction. Later, the number of signatures required was lowered to 100,000. At the same time however, the possibility to gather signatures freely was abolished: now citizens have to visit a public signing station within a specified period of 14 days to sign an agenda initiative. Additional restrictions include a pre-initiative phase, when at least 8000 signatures must be presented and a registration fee of around 2500 € paid to the authorities. Despite all these restrictions, more than 30 initiative groups have been able to collect the 100,000 signatures since 1964, making the Austrian PAI a truly agenda-setting instrument – but without any decision-making impact. Ultimately, the instrument has become mainly an instrument used by the opposition in parliament for raising their profile and mobilising their core voter groups.

Table 5 – The Top ten Austrian signature gatherers

Numbers of signatures	Percentage of electorate	Subject Matter	Year
1,361,562	25.74%	UN conference centre	1982
1,225,790	21.23%	Genetic engineering	1997
895,665	17.93%	Protection of human life	1975
889,659	17.74%	40-hour working week	1969
832,353	17.27%	Austrian broadcasting law	1964
914,973	15.53%	Veto on Czech nuclear power plant	2002
717,102	12.20%	Welfare state	2002
644,665	11.17%	Equal opportunities for women	1997
624,807	10.65%	Against military jets	2002
627,559	10.53%	Fair pensions	2004
421,282	8.04%	Pro nuclear plants in Austria	1980

Source: Giese (2010): The Austrian Citizens' Initiative: Legal Principles and Practice

There is no other European country in which the "Agenda Initiative" instrument has had such a high profile as in Austria. However, as in Austria, the introduction of the process has in many countries played a part in and made a contribution to the process of democratisation – for example in Spain.

Spain: democratisation by fear

With the introduction to Spain of democracy in the late 1970s, the notion of popular sovereignty made it into the constitution as well. To implement this, the 1978 constitution created a representative democracy based on both indirect and direct democracy. While the former was equipped with strong instruments and protection, the latter was given a small and weak creature – the Citizens' Initiative in the form of an agenda (setting) initiative [PAI]. The relevant law requires at least 500,000 signatures to be collected within 9 months. While these signatures – in contrast to Austria – can be gathered freely, the scope of the initiative is very limited. The most interesting issues – such as taxes, international treaties and constitutional amendments – are explicitly excluded from these bottom-up initiatives. Admissibility is checked by a parliamentary committee even before registration. However, if a Citizens' Initiative manages to gather as many as half a million signatures and is deemed admissible even by the Constitutional Court – then it qualifies for a financial reimbursement to a maximum of € 300,000. In practice this has not

at all become an expensive enterprise for the Spanish state, as less than two such initiatives make it each year to the Cortes, the Parliament. The situation is somewhat different in the autonomous Spanish regions, which have begun to democratise the initiative process through lower thresholds, fewer restrictions and longer time periods. Here, the number of citizens' initiatives which make it all the way to the legislature is almost six per year. Not only in terms of mere numbers, but also in terms of content, a comparison in the use of agenda initiatives between the national and the regional levels is interesting. When it comes to the 'success' of citizens' initiatives in Spain and its autonomous regions, the results are very sobering. Less than one in four of the initiatives at the national level, and one in three in the regions, which reached the required number of signatures, make their way onto the agenda of the legislature. There, again, most initiatives are rejected politically by the majority in parliament. Just one in forty national Citizens' Initiatives have been approved (15 out of 114 at the regional level). The Spanish constitutional Lawyer Victor Cuesta summarises: "The only popular initiative approved up to now by the national Parliament was related to a technical proposal promoted by the Federation of Professional Land Agents. In relation to the autonomous regions we should point out that nine of the fifteen popular initiatives approved have been processed in the parliaments of the Canary Islands and Catalunya. Another significant

Table 6 – Top subject matters and numbers of Citizens' Initiatives in Spain and its autonomous regions

Subject Matter	Spain (national level)	Regions (subnational level)
Labour	23 Initiatives (51% share)	17 Initiatives (13.5% share)
Environment	1 (2%)	34 (27%)
Affirmative action	4 (9%)	13 (10%)
Democracy	0	21 (17%)
Education	3 (7%)	14 (11%)
Economy	8 (18%)	7 (5%)
Others (health, immigration etc.)	6	21

Source: Cuesta (2010); The Spanish popular initiative: an overview of its legal regime and practice

fact is that almost half of the initiatives adopted (seven out of fifteen) are related to environmental protection".[18]

When it comes to collecting or submitting signatures, Spanish regulations, unlike Austrian regulations, do not require supporters to come to public offices within a very short period of time. Signatures can instead be gathered and submitted 'freely'. This freedom however has limits, making the process a hard sell. Spanish citizens who support a certain initiative not only need to declare their National ID Card number, their signature also needs to be given "before a person who can attest to their identity". According to Art. 9 of the relevant law, the so-called "legal regime of the popular legislative initiative", the task of authentication of the identity of signatories is entrusted to "the individuals of whom public record is usually assumed" – such as a notary public, a court clerk, or the secretary of the municipality. The signature authentication role can additionally be given to voluntary citizens appointed by the Initiative Committee who acquire the status of special public notaries.[19]

In sum, the Spanish agenda (setting) initiative procedure offers a blueprint for how such a direct-democratic instrument should not be designed, as it is unable to provide the envisaged added value as a real opportunity for dialogue between citizens themselves, as well as between citizens and the representative authorities. Key challenges in the nationwide Spanish process

include the fact that many issues on which the national legislature can act are excluded from the Citizens' Initiative; the excessive hurdles when it comes to gathering and providing signatures; and finally a lack of goodwill by the ruling parliamentary majority to consider citizens' inputs via the initiative right. On the positive side, we can see that several autonomous regions (like e.g. the Canary Islands, Catalunya and the Balearic Islands) have improved the citizens' initiative process at the regional level, allowing environmental subject matters in particular to be put on the political agenda.

Poland: Post-communist people power

Before moving on to the procedural and practical aspects of the new European Citizens' Initiative, let's assess a third EU Member State's experiences with the Agenda (setting) Initiative [PAI] tool: Poland.

As an example of a post-communist country, Poland's democratisation process since the early 1980's showcases the (many) options and (obvious) limits of a modern representative democracy in Europe. Deciding to include both indirect and direct democratic procedures in the 1997 constitution, Poland adopted both the citizens' initiative and popular referendum tools. The new constitution mirrored the need to balance the sovereign rights of both parliament and people. However, as is the case in most other European countries, in practice there is as yet no equality of power

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18 Victor Cuesta (2010); The Spanish Popular Initiative: an overview of its legal regime and practice. p. 16. Paper presented at an academic seminar in Turku/Finland on July 8, 2010. The article will be part of a forthcoming publication: "Citizens' initiative in Europe". (2011, Palgrave, Editors: Majia Setälä and Theo Schiller).
19 Ibid., p. 10.

between the elected representatives on the one hand and the electorate on the other. This can be illustrated through the Polish Agenda (setting) Initiative [PAI], which gives 100,000 citizens the right to initiate new legislation. While the procedure for collecting those 100,000 signatures is relatively free (e.g. no authentication person is required as in Austria or Spain), the formal requirements for presenting a "formulated law" proposal cause a lot of headache. Since 1997, almost 100 citizens' initiatives have been registered with the appropriate authority (the Marshall of the National Parliament). However, less than ten of these initiatives fullfilled the legal requirements and were directly registered. While 15 initiatives already ended at this stage of the process, 67 managed to start the signature gathering phase, for which 3 months are allowed by Polish law. Ultimately, around a quarter of all officially launched citizens' initiatives were placed on the agenda of the legislature, seven of which resulted in new legislation covering issues like environmental protection law, a law to protect citizens from unemployment, and a law for comprehensive pre-school education, provided by the state.

The Polish experiences shows that the Agenda (setting) initiative can provide important modernisation inputs, but does not (yet) really function as a thermometer of society due to high hurdles and legislative requirements. In other words: even the Polish citizens' initiative does not offer truly "good value" for the initiators as it requires "a great effort and there is no guarantee of a satisfactory outcome, since they lose control over the content of the proposed legislation from the moment it is introduced to Parliament. There are no restrictions on the legislator's power to interfere with the citizens' proposal, so that it can be changed – even completely – by the members of parliament, or rejected right at the beginning of the legislative procedure in the first reading of the draft. (...) citizens are more likely to consider other possibilities for influencing legislation, such as lobbying, for example".[20]

The Agenda Initiative: a tool for democratic communication

Assessing the Agenda (setting) Initiative experience so far, at least three lessons can be learned for the European level:

■ agenda (setting) Initiative procedures are entry points into the development of more comprehensive (including decision-making) features of modern direct democracy and exist in a growing part of the European Union;

■ the nationwide and sub-national experiences offer a blueprint for Europe, in relation to what aspects have to be considered when designing the process (time frames, legal requirements, thresholds, financial reimbursements), but also what should be avoided in order to make the tool work properly;

■ in order to become a genuine democratic success story, priority must be given to the communication aspects of the forthcoming European Agenda (setting) Initiative tool, by ensuring adequate support funding and creating a comprehensive infrastructure.

Again, it must be stressed that the Agenda (setting) Initiative tool has only a very indirect role to play when it comes to decision-making. The real "good value" for all involved parties alike – whether as initiators (organisers), signatories (supporters), recipients (EU Commission), or consultants (other EU institutions) – must therefore be a "democratised political agenda". This implies a "bottom-up" dialogue between citizens and between citizens and institutions. In other words: in contrast to other forms of official citizen participation already established in the European Union (and enshrined in Articles 10 and 11 of the Lisbon Treaty), the European Citizens' Initiative opens up the very first direct-democratic channel at the transnational level.

This is a truly welcome and attractive perspective – not only in principle, but also in practice. For this reason, over the last seven years at least 25 pan-European pilot-initiatives have been launched, contributing many useful lessons for the forthcoming use of the European Citizens' Initiative. So, let us now have a look at this very practical chapter in the story of the making of this new tool.

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20 Anna Rytel-Warzocha (2010), "The Popular Initiative in Poland", p. 13, presented at the seminar in Turku (cf. xviii).

3.4 Yes, we can! The story of 25 pilot European Citizens' Initiatives.

Once more we'll use the time machine to go back a few years, to the middle of the decade: the odds in favour of a genuine democratic breakthrough weren't the best. Despite the 2003 proposal for a European Constitution, the mood in Europe and across the globe was not the most pro-democratic. On the contrary, after the 9/11 events and the unjustified invasion of Afghanistan in 2001, America and Britain (together with several European allies) had launched a further military attack on Iraq in contravention of UN rules and international law, domestic freedoms had been severely curtailed in many countries and a booming world economy, mainly based on financial bubbles, was about to crash. In this situation, the EU Draft Constitution was vetoed by both the French and Dutch voters in summer 2005. How could the initiated first steps towards a transnational, direct-democratic process progress under such circumstances? Within the European institutions, above all in the EU Commission, any proposal to establish a European Citizens' Initiative process without a new Treaty was blocked by the Commission Presidency, while in the European Parliament similar moves by the Petitions Committee were strongly opposed by the Constitutional Committee. In other words: the situation for the European Citizens' Initiative was profoundly blocked and the outlook rather grim!

Once again, many citizens, non-governmental organisations and key figures within the European institutions were not ready to give up. On the contrary: years before a US senator from the State of Illinois used the same slogan, people across Europe said to themselves "yes, we can" – and they did. The very idea of having the right to set the agenda of the European institutions inspired dozens of groups to launch their own pilot-initiatives. Ironically, the first such European Citizens' Initiative to make big headlines in the media came from within the European Parliament: Cecilia Malmström, a liberal MEP from Gothenburg in Sweden (where already in the mid-1990s she had taken part in a eurotopia assembly which discussed the new instrument), launched the so-called "oneseat.eu" initiative on Europe Day 2006. The initiative text, which was soon available in 25 European languages, read as follows:

"It costs European taxpayers approximately 200 million euros a year to move the Parliament between Brussels, Belgium and Strasbourg, France. As a citizen of the European Union, I want the European Parliament to be located only in Brussels".

What an initiative! It targeted a very specific and real problem and offered a clear solution. The organisers rapidly formed a broad network of people (MEPs from all groups in the Parliament) and organisations (like the Campaign for Parliamentary Reform). By proposing more efficiency, accountability and transparency, the oneseat-initiative was able to get the issue onto the political agenda, even without having a legally agreed regulation yet on hand and without the intended addressee, the EU Commission, being confronted with the initiative at this early stage. A few months after the launch, on September 18, 2006, a young Finn, Olli Tikkanen, became the one-millionth signatory of the oneseat-initiative, providing solid proof that it would certainly be possible to gather so many statements of support for a European Citizens' Initiative.

While the website (www.oneseat.eu – still open) clearly referred back to the ECI provision in the (abandoned) Constitutional Treaty, the oneseat-initiative experience also delivered a series of lessons for the future:

■ the oneseat-initiative was an online-only initiative and therefore lacked the necessary and complementary groundwork on the streets of Europe. For this reason, only a few countries were able to produce a large level of support – such as the Netherlands with more than 430,000 signatures, and Sweden with 140,000;

■ the oneseat-initiative invited anyone and everyone to sign the proposal (which was sometimes confusingly called a petition) but it had no internal or technical system for verifying the identity of the signatories;

■ the one-seat-initiative addressed an issue which was not within the competence of the EU Commission, as the Parliament's seat is an issue which is decided solely by the EU Member States.

Together, these three major deficits contributed to a lack of sustainability of this first ECI pilot. When the Commission refused to accept the initiative on grounds of non-admissibility, the signatures were handed over to the Parliament's petitions committee; and, once again, the official response was: "not admissible" – this time because of the lack of verifiability of the signatures. In the end, the lack of organisational groundwork and partners across Europe led the key sponsors to decide against a long-term strategy. In late September 2006 Cecilia Malmström left Brussels to become the EU Minister in a new conservative government in Sweden. Three years later she returned to Brussels and the Berlaymont – as the Swedish member of the Commission. It will certainly be interesting to assess her behaviour in the future, when "real" European Citizens' Initiatives will arrive on her Home Affairs Desk.

However, the oneseat-initiative was far from being the only the attempt at an early use of a transnational, direct-democratic instrument-in-the-making – as our special feature shows.

Special Feature 8
No quick fix: how the European Disability Forum approached the new opportunity

Since 1997, the European Disability Forum has been defending and promoting the rights of disabled people at European Union level. Despite the fact that disability issues have achieved greater prominence and visibility in the European agenda, disabled people have continued to face discrimination and violation of their most fundamental rights in many areas of life. For the European Disability Forum it had become urgent to raise awareness of this situation, as well as to mobilise both European decision-makers and public opinion on disability issues. In 2007 the Forum therefore decided to start a pilot ECI on the issue, in order to mobilise European citizens on disability issues, while also rallying disabled people on European affairs. This means convincing disabled people that they have something to say and a role to play at the European Union level. It also means raising awareness of the impact that the European Union has on the lives of all European citizens, including those who have a disability.

The aim of the "European Citizens Initiative for Disabled people in the European Union" is to promote more robust European legislation on disability. At present, the EU's initiatives and legislation affecting disabled people are mainly being developed within an issue-specific and thus fragmented approach. In order to tackle discrimination against disabled people once and for all in the Member States, the initiative is calling on the European Union to develop comprehensive legislation which simultaneously covers all the different areas of life. At the international level, the European Union has recently signed a UN Convention on the Rights of Persons with Disabilities, following this same approach.

A pilot ECI in the making

The first step before the campaign launch on 23 January 2007 was to obtain a wide consensus within the European disability movement on its aims and shape. This took more than one year. This preparatory work provided a general framework for the development of tools and campaign messages, the main quality of these tools and campaign messages being openness. The initiative text summarises the main campaign messages and demands in a user-friendly way, to ensure that these are well understood by potential signatories.

Disability organisations from all over Europe were invited to endorse the ECI, but most importantly, to feel ownership of it and to use it to promote their own agenda at national, regional or local levels. The Forum tried to ensure that the initiative was not understood as 'a top-down European campaign', but as a 'bottom-up citizens' initiative'.

For the signature gathering phase, the internet played a critical role. However, statements of support could also be collected manually. An initiative website was created for the gathering of electronic signatures and contained the most important information, documents and updates on the initiative campaign. The website's work-

ing languages are English and French, except for the 'SIGN' page, which is available in all EU languages. The site is still accessible at: *www.1million4disability.eu*

The challenge of a multilateral exchange of information

The main difficulty linked to the campaign was certainly the initial lack of feedback from national/local disability organisations. Despite the efforts by member organisations, they generally did not think about updating their achievements and sharing their experiences with others. Consequently, the flow of information is interrupted both vertically and horizontally.

Of course, language presented its own obstacle to be overcome, particularly in relation to the production of communication tools and the translation of key messages. The limited budget has also influenced the mainly electronic form of the campaign tools. Nevertheless, the EDF has tried to compensate as much as possible for the lack of resources with a maximum of creativity, encouraging the development of partnerships and the use of existing information pathways.

Other difficulties included the different cultures and approaches in each member state; the dissimilar levels of disability legislation and awareness across the EU; the limited access to electronic tools and the isolation of disabled people; the various concerns regarding data protection and the validity of the signatures; and finally, it was not easy to gather proportionate numbers of signatures according to the size and population of the different Member States.

Nine month after the launch of the initiative, more than 1.2 million signatures were submitted to the then Vice-President of the EU Commission, Margot Wallström. In a first reaction, she stated: "You are such an important pressure on us that continues to remind us of the work that we still have to do and you are an important collaborator for the European Commission in preparing draft legislation. I know that work is going on for a legislative proposal, hopefully for next year. We promised to deliver and we will also deliver on these promises".

Today, three years after the submission of the initiative, the Commission has still not delivered, and on the initiative website you can read exactly how many days have gone by since then. In other words: a European Citizens' Initiative is no quick-fix or shortcut to a solution, but a very important tool for getting an issue onto the agenda.

Source: Initiative for Europe Handbook 2008. Special thanks to: Helena González-Sancho Bodero. More info at: *www.1million4disability.eu*

With the more than two dozen pilot European Citizens' Initiatives, the new tool has been 'road-tested' extensively in real time and on a wide scale. What this early practice also showed is the non-surprising fact that the instrument is of use to all manner of actors and interests, including political parties and big organisations like trade unions and Greenpeace, as well as committed individuals and *ad-hoc* groups. The latter especially tried to use the process with the aim of democratising European democracy: several ECIs were started to promote a pan-European popular vote on the new European Treaty. Another key initiative was simply called the "ECI initiative" or the Initiative for the Initiative". A group of young Europeans (supported by the NGO Democracy International and the European Students Forum) launched the "ECI Initiative" in late 2006 after it became clear (after the failure of the Constitutional Treaty) that it would take time for a new EU Treaty to be agreed on and ratified (which finally happened in late 2009). It was possible to get the endorse-ment of many other organisations – such as the European Citizens Action Service and the King Baudoin Foundation – as well as many members of the European Parliament. However, the context for this European Citizens' Initiative was very difficult, as not only did the formal regulation for an ECI not yet exist, but also the primary goal of promoting a formal introduction of the European Citizens' Initiative right without a new EU Treaty was an idea that was not really supported by the key EU institutions. While the initiative was very successful in keeping the preparatory work on the implementation of the European Citizens' Initiative at an active level within the supporting organisations and the EU institutions, it failed to gather a large number of formal signatures across Europe. In late 2008, Carsten Berg, one of the coordinators of the initiative, delivered "several thousand signatures" to the EU Parliament – as a petition.

In the IRI 2008 Initiative for Europe Handbook, Berg summarised the findings of the "ECI Campaign" for a successful European Citizens' Initiative practice as follows:

"We developed four decisive launching criteria, which concern the aspect of alliance building at regional and local level, the support of NGOs, the commitment to gather signatures and the financial resources to be fundraised. Only if we had satisfied the following criteria would we actually launch a one-million campaign:

1. At least 100 NGOs should have officially decided to join the alliance.
2. There should be well-established national/local alliances for an ECI in at least 8 EU Member States; two of these should be 'big' states (France, UK, Germany, Italy, Poland, Spain) and two should be new Member States.

3. At least 100,000 signatures should be 'expected' from NGOs as an advance commitment.
4. At least 100,000 Euro should have been raised in funding.

While criteria one and two were met, three and four were not. We therefore decided not to call for a million signatures, but instead to call for as many signatures as possible".[21]

While the assessment of the launching criteria will play a key role in each forthcoming European Citizens' Initiative project, the specific criteria may look different, depending on the individual goals the organisers have. In the next section of this Handbook we will discuss each of the key stages in the practical making of a European Citizens' Initiative.

First, here is the list of pilot initiatives which were launched in the years 2004-2009.

Table 7 – 25 European Citizens' Initiative pilots (2004-2010)

	Subject Matter	Policy Goal	Organisers	Signature gathering process	Remarks
1	Oneseat Initiative	To establish Brussels as the only seat for the European Parliament	Members of the European Parliament	e-gathering only, without verification email, 20 languages, more than 1.2 million signatures	Submitted to the European Commission (2006), not admissible, sent to EP petition committee
2	Equality for all!	To extend EU citizenship to all EU residents	European Association for the Protection of Human Rights	e-gathering only, with verification email, 22 languages	
3	Against Nuclear Energy	To end the Euratom Treaty and to prevent the construction of new nuclear facilities	Friends of the Earth, Global 2000	e-gathering and signature list, without verification email, 13 available languages, more than 630,000 signatures	Submitted to the European Commission (2007)
4	European Health Initiative	To allow natural remedies Europe-wide and to allow referendums in the European Union	Dr. Rath Health Foundation	Signature list with verification email, 6 languages	

21 Initiative for Europe Handbook (2008), Carsten Berg: "The Initiative for the Initiative", p.45; the Campaign website is www.citizens-initiative.eu

	Subject Matter	Policy Goal	Organisers	Signature gathering process	Remarks
5	Partnership instead of membership for Turkey	To ensure that Turkey fulfills the so-called Copenhagen Criteria before entering the EU	Conservative non-governmental organisations in Central Europe	e-gathering and signature lists, without verification email, 17 languages	Launched 2005
6	For a political Europe of Freedom, Security and Justice	To enforce cooperation on justice within the EU	French politicians	e-gathering only, with verification email, EU 25 nationals only, 3 available languages	Launched 2005
7	Efficient 112 all over Europe	To establish a common emergency service number	European emergency number association	e-gathering only, without verification email, 25 languages	Launched 2005
8	Help Africa	To provide an extra 5 billion EURO a year for people living with AIDS in Africa	Members of the European Parliament	e-gathering only, without verification email	Launched 2004
9	Initiative pour un Service Civil Européen	To establish a pan-European civil service	European Movement in France	e-gathering only, without verification email	
10	Save Our Social Europe	Campaign for a social Europe	Austrian NGO "Volkshilfe" Österreich	e-gathering only, without verification email, 4 languages	Launched 2006
11	1million 4disability	To ensure disabled people's rights through effective legislation	European Disability Forum	e-gathering with verification email, and paper gathering, 28 languages, 1.65 million signatures	Submitted to European Commission in 2008
12	GMO-Initiative I	Calling for the labelling of animal products where the animals have been fed with GE (genetically engineered) feed	Greenpeace International	On paper gathering only, more than 1 million signatures gathered	Submitted to European Commission 2007
13	Initiatives of applied anthroposophy	To promote human dignity and individual development as European core values	Network of anthroposophical organisations	On paper and e-gathering, with verification email, 11 languages (info), 21 languages (signature gathering forms), more than 1 million signatures	

	Subject Matter	Policy Goal	Organisers	Signature gathering process	Remarks
14	High Quality of Public Services	To make accessible to all a high quality of public services	European Trade Union Confederation (ETUC)	On paper and e-gathering, with verification email, in 22 languages	
15	For a European Referendum on the EU Constitution	To trigger a consultative popular vote on new EU Treaties	Union of European Federalists (UEF)	E-gathering only, with control and verification mechanism, 13 languages	Launched in 2007
16	Initiative for the Initiative	To implement a citizen-friendly European Citizens' Initiative procedure	Democracy NGOs and student groups	On paper and e-gathering, with verification email, in 23 languages	Submitted to EP petition committee in January 2008
17	Emergency Initiative for Darfur	Demand to dispatch an international protection force to Darfur	Human Rights Organisations	On paper and e-gathering, with verification email, two languages	
18	Referendum on the next EU Treaty	To trigger a referendum in Europe on Europe	Members of the European Parliament	Only e-gathering, with verification email, 27 languages	Launched in 2007
19	Cancer United	Call for the European institutions and the national governments to act urgently in the interests of cancer patients across Europe	Stakeholders in Cancer Care	Only e-gathering, confirmation but no verification email	2006-2007
20	European Citizenship Initiative	To create a forum on European citizenship for study and hearings with citizens and civil society	European Citizen Action Service		
21	European Referendum Iniative	Campaign for a mandatory referendum right on important changes to the EU Treaties	Dr. Rath Health Foundation	Signature list with verification email, 6 languages	
22	GMO-Initiative II	Moratorium on GM foods	Avaaz.org – the world in action platform	Online with full name, address, birth date, nationality; verification email, 7 languages, more than one million supporters	Preparing the ground to be one of the first formally registered European Citizens' Initiatives *http://www.avaaz.org/en/eu_gmo*

	Subject Matter	Policy Goal	Organisers	Signature gathering process	Remarks
23	Free Sunday Initiative	European legislation for work-free Sundays	German Catholic organisations	Online, two languages	Preparing the ground to be one of the first formally registered European Citizens' Initiatives *www.free-sunday.eu*
24	European Obesity Day Charter Initiative	Recognising the voice of obese & overweight patients	Pharma industry including GlaxoSmith Kline	Online, 15 languages	Claiming to be the first ECI in the making *www.obesityday.eu*
25	Eat Greener Initiative	Reimburse 30 per cent of the cost of buying organic foods, produced on regional farms, at the point of purchase.	Consumer organisations	Online, 12 languages, with voting-tool (allowing yes and no)	Eatgreener.eu (to go online when the regulation is agreed)

Our assessment of the first 25 pilot initiatives can also be seen as a preview – based on real experience – of the way that the European Citizens' Initiative will be used by many different groups, with very different political backgrounds and for many different purposes. The common features are, however, the intense use of digital technology, the multilingual requirement, and a growing understanding that a European Citizens' Initiative is both a long process in itself and that it can only be a complementary feature of a longer-term activity. Based on this experience, we can expect that forthcoming European Citizens' Initiatives will be predominantly used in a proactive way and less in a reactive one. Why? Precisely because the nature of the instrument is not well suited to highly emotional reactions, but is potentially very useful for long-term agenda-setting and implementation activities. In the last section of this Handbook we will take a close-up look at the future ECI-making process.

3.5 The final countdown to the European Citizens' Initiatives: positive attitude, hard struggle

Before looking into 2011 – when the first European Citizens' Initiatives will be registered – let's conclude this section by reviewing the final and official steps in the making of the new regulation on the European Citizens' Initiative. This process started in May 2009 with decisions by the European Parliament, the only other directly citizen-influenced body of the European Union (and will end in December 2010 by another decision of the Parliament and Council). In between, many different governmental and non-governmental bodies offered their views, proposals and opinions on the new regulation, as our survey shows:

Table 8 – The Drafting of the European Citizens' Initiative Law

When?	Who?	What?
May 7, 2009	European Parliament	Resolution on the Implementation of the Citizens' Initiative[22]
May 9, 2009	European Citizens' Initiative Summit[23]	2009 Salzburg Manifesto for the European Citizen Initiative[24]
November 11, 2009	European Commission	Green Paper on a European Citizens' Initiative[25]
November 11- January 31, 2010	Public Consultation	323 contributions: 159 citizens, 133 non-governmental organisations, 31 governmental organisations[26]
March 17, 2010	European Economic and Social Committee	Opinion on the implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative[27]
March 21, 2010	European Greens	Position on the Implementation of the European Citizens' Initiative[28]
March 31, 2010	European Commission	Draft proposal for a regulation on the citizens' initiative[29]
May 9, 2010	European Citizens' Initiative Summit	2010 Salzburg Manifesto for a European Direct Democracy[30]
June, 2010	Committee of the Regions	Opinion on the European Citizens' Initiative Draft Regulation
June 14, 2010	European Council	General Approach by the General Affairs Council[31]
July 14, 2010	European Economic and Social Committee	Proposal for a Regulation of the European Parliament and of the Council on the Citizens' Initiative[32]
September 30, 2010	Interparliamentary Meeting	
November 30, 2010	European Parliament (Committees)	Vote on Report in Constitutional Committee (AFCO) and PETI (Petition Committee)
December 2010	European Parliament and European Council	Final decisions on the European Citizens' Initiative Law
Spring 2011	European Citizens	First "formal" European Citizens' Initiatives to be launched

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22 http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-Ð2009-0389+0+DOC+XML+V0//EN
23 Since 2007 European NGOs coordinated by the Initiative and Referendum Institute Europe have been organising annual gatherings to monitor and promote the development of the European Citizens' Initiative. Since 2009 this meeting is held around Europe Day in Salzburg/Austria. www.legalpolicy.eu
24 The European Citizens' Initiatives (2010), p.119 ff.
25 http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/docs/com_2009_622_en.pdf
26 http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/contributions_en.htm
27 http://eescopinions.eesc.europa.eu/EESCopinionDocument.aspx?identifier=ces\sous-comite\sc032%20la%20mise%20en%20oeuvre%20du%20traite%20de%20lisbonne\ces465-2010_ac.doc&language=EN
28 cf. Resources section of this Handbook.
29 http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/docs/com_2010_119_en.pdf
30 cf. Resources section of this Handbook.
31 2010/0074 (COD).
32 http://www.eesc.europa.eu/?i=portal.en.institutional-reform-opinions-resolutions-opinions.10571

After many years of discussion about the principles of modern representative democracy at the transnational level in the 21st century – based equally on indirect and direct democracy – and after years of practical preparations by European citizens, the final work on the implementation of the new tool offered a fascinating preview of the educational potential of this new instrument of people power. Fascinating, because for the very first time in history the whole set of governmental and non-governmental organisations had the task of dealing with the issue of HOW a direct-democratic instrument can be established. This process included all the main European institutions like the European Council, the Parliament and, of course, the Commission, but also others like the European Economic and Social Committee (EESC), the Committee of the Regions and the European Ombudsman. Most interestingly, while everyone welcomed the direct-democratic upgrading at the transnational level, all the institutions also see a specific role to play for themselves – such as, for example, the Parliament's wish to "monitor the ECI process", or the EESC's offer to become a helpdesk for interested European citizens and initiative groups.

Briefly returning to the issue of the century-long struggle over which type of representative democracy (indirect vs direct) we should go for, this new attitude and appreciation of a modern representative democracy, combining indirect (parliamentary) and direct (participatory) procedures of agenda-setting and decision-making, is a true global breakthrough. It opens up doors and energies for the practical implementation of direct democracy across Europe (and beyond) and encouraged the responsible Vice-President of the European Commission, Maroš Šefčovič, to indicate the bottom-line when it now comes to fine-tuning the legal rules governing the European Citizens' Initiative:

"...citizens want this tool to be user-friendly. They want it to be simple, straightforward, understandable and most of all accessible! I could not agree more. This instrument needs to be used. We need to make it as easy as possible to use in order to foster a European public space, widen the sphere of public debate across Europe and bring the EU closer to the concerns of the citizens".[33]

A rather impressive and pretty all-inclusive statement and exhortation by a high representative of the institution which will be the main addressee of the forthcoming European Citizens' Initiatives. It is somewhat like a checklist of everything which the European Commission ought to consider and do when it comes to the European Citizens' Initiative.

In the run-up to the presentation of the Commission's draft regulation on March 31, 2010 (cf. endnote 24) basically all the participating stakeholders shared the positive attitude towards both the introduction of the European Citizens' Initiative and the establishment of a citizen-friendly, accessible and simple procedure which could make this first direct-democratic tool at the transnational level a success. It was very interesting that even governments of Member States such as Sweden, the Czech Republic, Germany and Greece, where there is no similar process available at the national level, also welcomed the introduction of the European Citizens' Initiative. Furthermore, many regional governments and national parliaments took part in the consultation process, mirroring recent developments in countries such as Italy, Spain and Germany aimed at strengthening direct-democratic opportunities at these levels.

What can be deduced from this is that there exists a general (positive) interest in making representative democracy more representative and that a broad network of governmental and non-governmental stakeholders will be ready to assist, support and monitor the new process when it starts in 2011.

In relation to the procedural approach to the regulation, the pre-legislative/consultative phase of the drafting of the regulation (up to the presentation of the proposal by the Commission on March 31) showed that most stakeholders – in addition to their already registered general positive attitude – base their comments on national or subnational experiences, in relation to the way signatures can be gathered or reimbursements provided for organisers at some point of the process. It can also be said that the spectrum of attitudes also showed that some stakeholders see the European Citizens' Initiative as being closer to a traditional petition process, while others

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33 Speech by Maroš ŠEFČOVIČ, Vice-President of the European Commission, Responsible for "Interinstutional Relations and Administration", at the Stakeholder Hearing on the European Citizens' Initiative in Brussels on February 22, 2010. http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/stakeholder_hearing_en.htm

rather compare the new tool to a classic full citizens' initiative with decision-making effects.

As showed earlier in this Handbook, the agenda (setting) initiative form of initiative right has, in fact, elements of both of these other forms: the petition right and the (full) citizens' initiative. For this reason, the regulation for the European Citizens' Initiative needs to find a procedural balance of its own. This was and is understood by most participants in the making of the new law – including the European Commission.

The Commission's own proposal, which launched the official legal process of legislation, combines a number of both permissive and restrictive elements.

On the **permissive** side, the proposal:

◾ opts for a free form of signature gathering including – as a novelty – the online collection of statements of support (Art. 5 and 6);
◾ welcomes a registration format which does not as yet include any check on admissibility or political assessment (Art. 4);
◾ allows Member States to verify signatures on a random sampling basis (Art. 9).

However, the proposal also has some clearly **restrictive** features, including:

◾ the high threshold of nine Member States necessary to meet the minimum requirements regarding the number of signatures. This requirement places the Commission 'out on a limb' in terms of its position, as during the consultation and legislative processes most stakeholders suggested a lower threshold i.e. a smaller number of states from which signatures must come;
◾ the very high number of signatures to be gathered by the organisers before an admissibility check can be undertaken (300,000 signatures); and finally,
◾ the requirements linked to the so-called "statement of support" form (Annex III), which requires not only the signatory's name, address, nationality and birth date, but also a series of I.D. numbers – data which not only differs from country to country, but which is also explicitly not available in several Member States.

At another level, the Commission proposal makes a series of very **constructive** and **useful contributions**, while other aspects are ignored or totally underestimated.

The **constructive** features include:

◾ the inclusion of a series of forms which will make the process much more reliable, verifiable and transparent – including the "statement of support" form (Annex III) as such, the "submission of statements of support" form (Annex VI), and the Certificate of "valid statements of support" form (Annex VII), which will make the delivery of piles of signature forms to Brussels unnecessary;
◾ the proposal for a fixed minimum number of valid signatures for each member state (Annex I) introduced a sliding scale (linked to the number of seats in the European Parliament) and makes it easier for the more populous Member States to become a qualifying country (see also our map in the next section on page 75);
◾ justifiably cautious and careful arrangements for the envisaged e-collection system, which will have to be implemented step-by-step in collaboration with national authorities (Art. 19) during the first years of practice and which also leads to the inclusion of a Review Clause (Art. 21) which will bring the whole process back to the legislature and the European public five years after the entry into force.

While the permissive and restrictive elements of the draft regulation have been and continue to be discussed intensively by all involved stakeholders, the constructive features were welcomed by most of those who gave feedback. Nonetheless, the Commission ignored and/or underestimated several other aspects, such as:

◾ the administrative and political back-up function for the initial steps (advisory services especially around registration). In fact, the draft proposal does provide for one (1) officer and one (1) assistant to deal with all the related functions – which truly could be called a seriously understaffed back-office (the understatement of the day!);
◾ the role of financial support to organisers who do not represent strong organisations and well-funded interests. At the same time, the draft regulation proposes a requirement for financial transparency for all organisers, who will be expected to indicate all their sources of funding and support at the time of registration (Annex II-7); and
◾ last but not least, the obvious unwillingness to include any concrete obligation for action on the part of the Commission in response to a European Citizens' Initiative which has met all

the requirements set out earlier (Art. 11-1-ab). This contrasts strongly with the promises given by Commissioner Šefčovič at the February 22 stakeholder meeting.[34]

In sum, the Commission's draft regulation, which launched the formal legislative process (see illustration below), was based on:

1) a reasonable and appropriate bottom-line expressed by Commissioner Šefčovič: user-friendly, simple, straightforward, understandable, accessible;
2) a mixture of permissive and restrictive regulatory proposals complemented with several constructive features and tools, while others were almost totally bypassed.

One is left with the impression that the proposed regulation was the result of a somewhat over-hasty drafting provoked by Spain, which wanted to have the final decision on the European Citizens' Initiative before the end of the Spanish EU Presidency in mid-2010.

Regulating the new right

For updates on the legislative process:
http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=199169

In the context of the formal legislative process launched by the Commission's presentation of the draft regulation on March 31, 2010, there was an obvious focus on possible improvements, clarifications and amendments to the ECI Law, which – at the time of the print deadline of this edition of this Handbook in early September 2010 – included:

the European Council's statement of June 14 (cf. endnote 25), which basically confirms the Commission's draft regulation – especially the "out-on-a-limb" one-third of Member States requirement – and proposes to lower the threshold for the admissibility check from 300,000 to 100,000 signatures. In addition, the Council is more specific on several issues related to online signature gathering, data security and the I.D. requirement for statements of support, offering the insight that the latter requirement in particular should be excluded altogether in the final law, due to the enormous heterogeneity of eligible forms of I.D.;

the Committee of the Regions (CoR) proposed lowering the share of "qualified" Member States to one-fourth of the total, arguing by comparison with related Treaty provisions on agenda-setting, such as Art. 76 TFEU (Treaty for the European Union). In other respects, however, many of the CoR's proposals rather tend to complicate the procedure than facilitate it – such as, for example, additional options for exclusion in respect of eligibility for registration, the merger of the registration and admissibility checks (remark 33 in the Opinion, cf. endnote 22) and an additional requirement for organisers to publish a list of planned expenditure. Perhaps most instrumental of all – but obviously emerging from the idea of the new tool – the CoR even indicated that regions should be eligible to organise European Citizens' Initiatives;

the Opinion of the European Economic and Social Committee, which established its own opinion in a wide-ranging two-stage process, outlining first the comprehensive options and limits of the European Citizens' Initiatives (adopted by the EESC Assembly in March) and then elaborating a core list of improvement measures, including an admissibility check at 50,000 (linked to an offer of translation) and a fully-fledged idea about a supportive infrastructure for the European Citizens' Initiative which will be addressed in the next section of this Guide.

So, when the ball was back in the Parliament's court in autumn 2010, the top six controversial issues were:

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34 At the meeting Commissioner Maroš Šefčovič stated that a "successful" citizens' initiative will "oblige the Commission, as a college, to give serious consideration to the demands made by one million citizens".

1) **Registration** as a first formal checkpoint. What criteria should be used for someone to become an eligible organiser of an initiative? What criteria should there be for someone to be excluded from registration? And who should be in charge of making this first check?

2) **Admissibility** as the second formal check. Should it be made at the same time as registration or directly following on registration? Or should there be a requirement for a certain number of signatures to have been collected before an admissibility check is triggered?

3) The **number of required Member States** to qualify with a certain number of signatures? Should this minimum requirement for a "significant number" be one-fifth, one-fourth or one-third of the total number of Member States?

4) The **time-frame available for gathering statements of support?** When the clock starts to tick, when should the deadline be – after 12, 18 or 24 months?

5) The requirements linked to **verifiable and certifiable statements of support**. Should the related forms include the need for specified I.D. numbers and document references or not?

6) The role and structure of the third formal checkpoint: the **political response by the EU Commission** (and other EU institutions) to European Citizens' Initiatives. What should the "obligation" explicitly announced by Commissioner Maroš Šefčovič look like? In what way will the organiser of a successful initiative be listened to and involved?

It will in the end also be dependent on the solutions and agreements around these six issues as to whether the Šefčovič February 22 bottom line (user-friendly, simple, straightforward, understandable, accessible) will be met or not. In the European Parliament, two Committees dealt with the European Citizens' Initiative, including rapporteurs from the four biggest political groups and four different political cultures and countries:

■ Constitutional Committee (AFCO): Alain Lamassoure (EPP – France), Zita Gurmai (S&D – Hungary);

■ Petition Committee (PETI): Diana Wallis (ALDE – Britain), Gerald Häfner (Greens/EFA – Germany).

This teaming offered a promising perspective for a constructive and cooperative working process in the lead-up to the final decisions in Parliament and talks with the Council and the Commission. While Alain Lamassoure, a former French Minister for European Affairs, was (together with Jürgen Meyer) one of the founding-fathers of the European Citizens' Initiative in the EU Convention, Diana Wallis was co-facilitating the work in the 2004-2009 parliament. Since the last election, Gerald Häfner has become a member of the EU Parliament, after having worked on related legislative processes in Germany (and other countries) for more than three decades. Lamassoure, Wallis and Häfner bring together a lot of expertise, contacts and political influence.[35] In the 2010 autumn run-up to the final ECI Law they were supplemented by the Hungarian Socialist Zita Gurmai, the Vice-President of the Constitutional Committee.

While – as we go to press with this edition of the European Citizens' Initiative Handbook in September 2010 – we do not yet know what will be finally agreed in the legislative process, what was encouraging was not only the composition of the EP rapporteur team but also the backstage work done by the political parties and groups in Europe and the European Parliament. Let us therefore briefly review how the Green political family, as a party developing out of strong social movements in the late 20th century and as one of the strongest voices today in favour of modern and transnational direct democracy, prepared their position on the European Citizens' Initiative.

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35 For the purposes of transparency the following information may strengthen the positive assessment of their capabilities: Alain Lamassoure was a member of the informal working group in the European Convention described in this guide and co-editor of "Transnational Democracy in the Making" (2003) together with Jürgen Meyer and the editor of this Guide, Bruno Kaufmann; Diana Wallis has been a leading member of the Initiative and Referendum Institute Europe since 2004; Gerald Häfner is a co-founder of the German Greens and the NGO More Democracy and joined the Initiative and Referendum Institute Europe in 2010 as a Councillor; he has been a member of the German Parliament for more than a decade.

Special Feature 9
Green democracy: transnational and direct

There is little doubt that from its very origins the Green political movement had strong feelings about both the development of global governance and the democratisation of democracy. This has to do with the fact that traditional nation-state based and mainly indirectly operating political systems had and have problems solving environmental problems which affect citizens in their daily lives and which do not stop at national borders. As a result, every Green party established around the world has had the establishment of stronger international governance on the one hand and the strengthening of direct and participative democracy on the other in its core programme. The impact of 'green' ideas and principles on politics has been marked: both the EU and other international governance bodies have environmental issues very high on their agenda. And when it comes to the use of initiatives and referendums across the world, environmental issues play a key role in all these agenda-setting and decision-making processes.

However, as every institutional tool can (and should) of course be used by all the participants in a political process, it is obvious that non-Green interests are also part of international governance and processes of direct democracy. In addition to that we can also see that Green politicians who have acquired executive functions tend to become more sceptical about citizen participation and demonstrate a sudden lack of interest in power-sharing structures when they are in power. We can also see that in many Green movements both leftist and rightist thinkers may also dislike a more participative and direct form of democracy on principle, as from an ideological perspective they see direct-democratic processes as a problem for majority decision-making.

This somewhat complex picture in the "Green political family" prevented the European Greens and the Greens/EFA group for some time from being the real engine of transnational, direct-democratic change. Luckily, today these internal divisions are less powerful. This means that both the post-'68 direct-democracy sceptics

GEF European Citizens' Initiative workshop at the European Green Party Council in Barcelona (March 2010)

in the original founding states of the European Communities (today EU) have become more pro-direct democracy, while the transnational sceptics primarily in the Nordic countries now share the need for a strong European integration process. On the basis on this growing internal Green convergence it was possible to both develop and promote clear positions on the European Citizens' Initiative law-in-the-making.

At the 2010 Barcelona Council Meeting, the European Green Party was able to adopt a common position on the forthcoming legislative process, preceded by deliberation in a series of national and regional Green parties and finally confirmed and followed up by a clear position adopted by the Greens/EFA-Group in the European Parliament.[36]

In the position adopted in mid-July, the Greens/EFA group in the EP tried to secure certain understandings already reached with the Commission, such as the sliding scale for the minimum numbers of signatures from each country and the possibility for e-collection of signatures. More importantly, the group also offered clear positions on the issue of the admissibility check (directly after registration and the start of the signature gathering period) and on 'forgotten areas' such as the "procedures to follow a successful European Citizens' Initiative" and the "additional supportive infrastructure". The group also proposed a longer time allowance for signature gatherers (24 instead of 12 months) and a lower number of qualifying Member States (one-fifth instead of one-third).

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36   For reference please see the related documents in the Resource section of this Handbook.

Finally, the Greens/EFA group also includes in its common position political goals such as the extension of the general eligibility to sign a European Citizens' Initiative to all "residents of the EU with a minimum age of 16". This double extension requirement is certainly supported by many human and civil rights groups across Europe. However, if the European Citizens' Initiative is to be seen not just as another form of petition, but as a first step towards a more fully-fledged set of direct-democratic tools, the argument in favour of going beyond the existing level of eligibility for EP elections – that the European Citizens' Initiative is merely "a non-binding instrument" – could be counterproductive, also when it comes to the question of how the Commission will deal with successful initiatives. Having said that, one of the first ideas for a real European Citizens' Initiative could be simply to propose such an extension of voting eligibility to groups beyond the so-called "EU nationals" explicitly named in the EU Treaty.

There are of course several other possible European Citizens' Initiatives in the pipeline, on which Green activists and organisations may become (co-)organisers in the very near future. How this will be possible and what potential organisers will have to reflect on before launching a European Citizens' Initiative is tackled in the concluding section of this Handbook.

Having introduced the principles, definitions and developments of a modern representative democracy in the first section, and having assessed the making of the European Citizens' Initiative in the second part of this Handbook, the moment in history has come to prepare for the first real practice of transnational direct democracy. There are many things we can learn from existing practices at the national and sub-national levels. Still, as the European Union is a political system which is unique of its kind ("sui generis"), the European Citizens' Initiative will also be a process which is one of its kind. Assuming that the remaining open questions about the regulation can be solved, and can be solved to the satisfaction of citizen activists, nongovernmental organisations, and ultimately also to the satisfaction of the key institutions of the European Union which have worked on the regulations for months, years and even decades – it is absolutely timely to refocus now from the legislative-procedural to the initiative-practical side of the European Citizens' Initiative coin. Whether this coin will ultimately be remembered as a gold standard of democratisation is up to each of us! So now join us for the third and final section – a practical manual to the European Citizens' Initiative.

4. Outlook: Finally – in pole position

4.1 When the New York Times starts to look at Europe

Soon it will time to register the very first "real" European Citizens' Initiatives. As shown in this Handbook, many have tried before and millions of Europeans have experienced what it is like to sign such a transnational proposal. Many useful lessons have been learnt. Yet, everything so far has just been a test run, without any legal basis and without any obligation at all for the EU Commission to react and perhaps even to act.

That will now change – as will the level of interest of the media, which have so far been more than reluctant to monitor the issue(s) raised by the European Citizens' Initiative. It was in fact an American newspaper, and the most influential one at that – the New York Times – which in mid-July 2010 ran a story with the heading: "Europe Turns Ear Toward Voice of the People".

Using the example of one of the European Citizens' Initiatives "under preparation" – the so-called Christian-conservative "Free Sunday" Initiative – the authors tried to explain to a surprised US American readership that a direct-democratic process, which in the US is only available at the subnational level, is now about to be introduced at a transnational level in Europe. The newspa-

Global Interest in the European Initiative

per from the Big Apple even offered a guess as to the subject matters soon to be registered as European Citizens' Initiatives; they included "banning bullfighting, burqas and genetically modified food; curbing offshore drilling; introducing new taxes; ending the exchange of financial data with the United States; and keeping Turkey out of the Union". However, the newspaper concludes, the European Citizens' Initiative could also become something of a "team building exercise" and contribute to the making of a European demos from below.

In reality, no one knows yet. No one can know. The future will reveal it to us. We are in fact part of that future – and it will be up to us all, citizens of the European Union, to show the world that it can make a difference when people get involved, by identifying a common problem, designing a transnational campaign and launching a continent-wide debate. Most people today feel that it will be very hard for "ordinary" citizens to really launch and organise a European Citizens' Initiative. That's no surprise, because for more than half a century the European Union and its policy-making has been outside the reach of direct citizen influence.

Most people have simply felt that they had not been invited in or welcomed as a participant in the complex EU machinery. So now, when we finally have a say about what goes onto the political agenda of the EU, many Europeans are more than ready to become organisers and/or supporters of a European Citizens' Initiative. Together with the general trend towards a greater importance of direct citizen participation within representative democracy – as described in the first section of the Handbook – and the currently rather positive attitude in relation to the new instrument by basically all relevant stakeholders (section 2), we are now challenged by the upcoming practice.

So how to prepare? What should be identified as the possible subject-matter of European Citizens' Initiatives? What resources will we need to reach our goals? In short: what will it take to be among the initial organisers of a European Citizens' Initiative?

This final section offers you a step-by-step manual on how to prepare and proceed when it comes to using the new tool. We feature key issues like the envisaged functionality of a European Citizens' Initiative, the possibility of producing multilingual materials without being a rich organisation, and the overall need to understand the European Citizens' Initiative primarily as a communicative instrument for setting the agenda. We will conclude this manual with a look forward to a possible and necessary supportive infrastructure to be established in the years to come.

An initial disclaimer

Based on the (forthcoming) new regulation on the European Citizens' Initiative we can now go through the ten most important steps towards a successful initiative project. Before approaching

this new transnational flagship of direct democracy, be aware that becoming a (co-)organiser of a European Citizens' Initiative may change your life and the lives of others forever – not only because your initiative may ultimately introduce new legislation at the EU level, but also because the ECI instrument as such is a political 'vessel' which it will take years to navigate into a safe harbour and which will require an enormous amount of effort and resources, regardless of whatever official and unofficial support you will be able to organise and use. So at some, or even several, stages of the process, pay a thought to alternative ways of approaching and influencing the EU – there might be a much more efficient way after all, including:

▪ the possibility to get free legal advice on all EU-related issues through the so- called "Citizens Signpost Service" (CSS), which provides an online form for requests and promises an answer in your own language within one week [http://ec.europa.eu/citizensrights/front_end/index_en.htm];

▪ launching a complaint about an EU-related action to the European Ombudsman, who also offers an online complaint form in the 23 official treaty languages [http://www.ombudsman.europa.eu/home.faces];

▪ approaching the so-called SOLVIT, which is an online problem-solving network. SOLVIT only handles problems with a cross-border element that are due to the bad application of EU law by public authorities within the EU Member States [http://ec.europa.eu/solvit/site/index_en.htm];

▪ using the European Consumer Service Network to address issues of faulty products or services in any of 29 countries (EU27 plus Norway and Iceland) [http://ec.europa.eu/consumers/ecc/index_en.htm], or the special service for people looking for employment or study in another EU country, EURES [http://ec.europa.eu/eures/];

▪ participating in EU-wide debates on the Commission website "Your Voice in Europe" [http://ec.europa.eu/yourvoice/], where different forms of participation are described and online forms are available;

▪ petitioning the European Parliament through an online form [https://www.secure.europarl.europa.eu/parliament/public/petition/secured/submit.do?language=EN] or by letter.

Under the Treaty of Maastricht, a new citizens' right – the Right of Petition – was introduced. It gives each EU citizen the right to submit a petition in the form of a complaint or a request on an issue which falls within the activity of the European Union. In addition, the subject-matter of a petition must be one which affects the organiser of the petition directly. Petitions must state the name, nationality and address of each petioner and must be written in one of the official languages of the EU. Petitions are sent to the Committee of Petitions at the European Parliament, which both checks the material admissibility and evaluates the proposal politi-cally. The Committee may hold hearings or send members on fact-finding missions. The outcome depends on the nature of the petition and includes individual treatment, a ruling by the Court of Justice and legislative action by the Parliament. In every case the petitioner receives a reply describing the result of the action taken. Each year the EP Petition Committee deals with about 1500 requests, of which about two-thirds are admissible. Petitions which have created political action and new legislation include a new strategy for fighting multiple sclerosis (in 2001), an environmental reassessment of the Lyon-Turin rail link, the questioning of an urban development plan in Valencia, and the lack of environmental impact studies around motor-way construction in Britain. The main issues addressed by EU petitions are (1) the environ-ment, (2) fundamental rights, and (3) social affairs. Other issues include urban develop-ment, health, education and infrastructure.

Source: www.europarl.europa.eu/parliament/ public. Special thanks to Claire Genta.

For general advice on how best to debate and influence the European Union you can also con-tact the EU help desk known as "europedirect", [http://ec.europa.eu/europedirect/write_to_us/ web_ assistance/index_en.htm] or interact with one of the many non-governmental organisations actively promoting information, deliberation and consultation on European affairs, such as the European Citizen Action Service [http://www. ecas-citizens.eu] in Brussels. Last but not least, you can of course also use the indirect way, by contacting your MEP or the political party of choice in your home country or the EU.

4.2 On the new track: a ten step manual to starting your European Citizens' Initiative

Having delivered such a disclaimer, it is of course not the aim of this brief brochure to discourage you from becoming the organiser and/or supporter of a European Citizens' Initiative – on the contrary. Europe needs you, your network, your organisa-tion and other active citizens to become part of the policy-making process – more than ever before.
So, here we go, this is the checklist which you should consider and pre-evaluate very carefully when you want to take the path of a European Citizens' Initiative.

Step 1: Idea. Your great idea for the solution of a big problem in Europe.
Step 2: Knowledge. Educate yourself about the options available and the process of the European Citizens' Initiative.
Step 3: Goals. Define the level of achievement and agenda-setting you plan to reach with your initiative.
Step 4: Design. The wording and explanation of your initial proposal must be comprehensi-ble in 25 different languages and many more political cultures across Europe.
Step 5: Registration. Prepare for registration by avoiding any formal and legal checkpoint traps and by being prepared for the eventuality of non-registration/non-admissibility.
Step 6: Signature Gathering. Your best time is now, when you have to convince more than one million Europeans in many different countries within a very brief timeframe.
Step 7: Dialogue. Without communication, you won't have supporters; dialogue with all possi-ble friends and sceptics will be critical for the lasting success of your initiative.
Step 8: Thresholds. Dozens of requirements and hurdles have to be dealt with before you can finally send your email with the necessary attachments (certifications etc.) to Brussels.
Step 9: Communication. Submitting the initia-tive to the EU Commission is just the beginning of another important chapter of your initiative, the communication and deliberation around an official EU subject-matter.
Step 10: Lesson learnt. The end of an exhaust-ing but hopefully empowering exercise. Do not forget to do the back-office work, the docu-mentation and evaluation – in order to learn the important lessons.

It is easy to understand that a European Citizens' Initiative will never become a quick-fix/kneejerk-reaction thing but will rather be a multi-year process, which will not only be dependent on how many Euros you will be able to raise, but also on how carefully and strategically you prepare your European Citizens' Initiative in order finally to make a lasting impact.

The whole process may take many years, but will always include a real pre-registration process, within which the avenues and milestones will have to be defined and the initial network and funding secured in order to be ready for step 4, the practical wording of an easily understandable initiative proposal. At this point you will also need something which resembles a professional organisation able to deal with all the procedural, practical and political hurdles on the way to the one million signatures. Obviously this will give an advantage to established organisers, but this could to some extent be compensated for by a comprehensive supportive infrastructure, securing open access even to under-privileged groups, young citizens and minorities such as the Roma people across Europe.

Protecting minorities by initiative?

It's time to look more closely at the ten steps of a European Citizens' Initiative, as they will accompany you for years to come.

Step 1: The Idea

You may have had your "big idea" for a very long time, or it may have been only yesterday that it came to you in a moment of inspiration. One thing is certain: there will be no successful European Citizens' Initiatives without a great idea for the solution of a big problem in Europe. To repeat, your idea must deal with a big problem, like the one we addressed at the very beginning of this Handbook when we looked into the future together with a young mother in Southern Tyrol, where the so-called Megaliners make life very hard. The problem your idea relates to should preferably be of a kind that most other people also see as a problem in Europe – and possibly also as a problem for Europe. Your reason for using the European Citizens' Initiative process should not be merely that you want to highlight and educate people about the problem, but because you

have an idea how to solve the problem – and you believe that your idea is the right one.

After all, you will need to draft a legislative proposal which addresses an issue (problem) at the EU level which the existing institutions have not yet addressed – or not efficiently enough. When it comes to citizen participation in the EU process, this has so far been limited to consultations by invitation or to lobby activities *vis-à-vis* the EU institutions and to popular (referendum) votes in Member States. What has been lacking is a legally accessible channel for citizens to become pro-active Europeans. This is exactly what is on offer. The European Citizens' Initiative is not so much about what we do not like in the EU, but about what we want the EU to legislate on in order to create a transnational, pan-European solution to a certain problem. So while your initial motivation for becoming active may be of an emotional character, try to translate this into a pro-active, solution-oriented initiative idea from the very beginning – and start to identify who else could become your initial partners and supporters.

Of course, many organisations and associations across the EU have already made at least half a first step – by their mere existence. Now they have a potential tool for taking the other half of this step by using the European Citizens' Initiative – best done in cooperation with many others.

Step 2: Knowledge

Once such a promising, solution-oriented Initiative idea is in place, the time has come to educate yourself: about the chosen subject-matter, of course, but also about the European Union's options and limits for addressing this particular issue – and of course about the new instrument on hand: the European Citizens' Initiative. It is very important that you are clear about what this new instrument can achieve – a legislative input to the EU Commission on an equal footing with the EU Parliament and the European Council – and what it can't: such as, for example, a pan-European popular referendum vote on the proposed initiative.

So, be careful. While even the official EU brochures announce the European Citizens' Initiative as a participative key to decision-making (see illustration), it is just an agenda-setting tool. That makes an important difference.
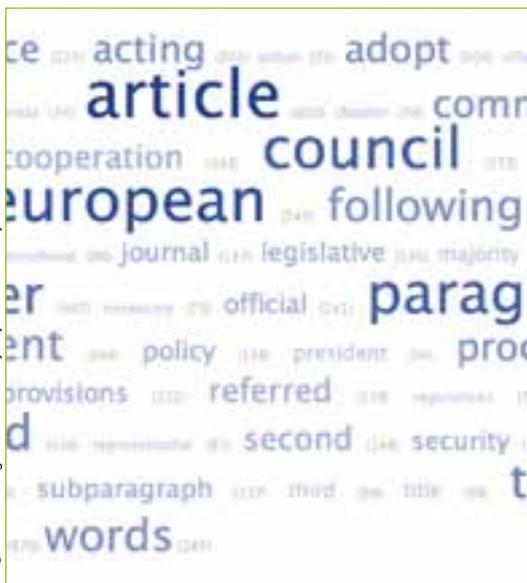
Lisbon Treaty innovations

Yet, as an organiser of a pan-European initiative it will not be enough to just forward the right questions. After all, you are expected to propose a legislative innovation, which no-one within the rather well-developed and well-equipped political institutions has come up with yet. As these institutions will ultimately have the sole right to make the decisions, the impression you make as a competent person/team/organisation/network will be critical.

This is the reason why you should allow enough time for this early phase in a European Citizens' Initiative process. Not just days and weeks, but months and possibly years. This is because, at some point in the future, you will press the famous "send" button on the new registration website of the European Union, things will happen very fast and you will have to go through three official checks:

a) the formal check at registration;
b) the legal check when admissibility will be examined;
c) the political check after the submission of at least 1 million valid statements of support from at least the required number of Member States.

For each of these checks you will have to anticipate the specific requirements. This is easiest in respect of the initial formal check, but already more complicated when it comes to admissibility. So think from the outset about consulting experts in the field – in order to avoid unwelcome surprises during the process. In addition, be as prepared as possible for the political debate: you

will have to convince a whole continent about your great solution!

Step 3: Goals

Dedicating several years of your life, lots of brainpower and possibly also financial resources to a transnational initiative project is quite something. You should be aware of the level of commitment at this still early stage, after having established the basic initiative idea and after having become a real expert on the issue and the process.

Are you just curious about how to go about registering an initiative? Or do you seriously believe in the possibility of convincing more than one million people about your proposal? Maybe you and your organisation see the launch of a European Citizens' Initiative just as a means of self-promotion, or as a way of mobilising support ahead of an upcoming election or, or, or...?

There may be many different motivations, goals and ambitions for your European Citizens' Initiative project. It can be absolutely legitimate to register an initiative without any realistic chance of really securing the required signatures – or even to address an issue which is very clearly not ultimately within the powers of the EU Commission to address. However, you need to be clear about your own goals before you can reach out to others in a credible and effective way. False promises or wrong assessments will otherwise backfire on you, your group and your initiative.

Whatever you want to achieve with your initiative, try to figure it out before you start the big adventure of launching a European Citizens' Initiative – together with as many other partners as possible. Also, as the regulation on the European Citizens' Initiative will require you to declare your funders/sponsors and possibly also indicate your envisaged expenditure, it is highly recommended to start drawing up factsheets on these elements already now. This will help you to become conscious of the seriousness and/or appropriate level of your European Citizens' Initiative project – and may also influence your decision on the goals of the whole enterprise.

Step 4: Design

Language is a key tool of communication. In politics, communication is critical. Especially now you are a project which will have to be communi-

cated in all the official languages of the European Union: in Estonian, in Portuguese, even in Greek. Obviously, you and your partners in this initiative are not total polyglots, nor do you have the resources to produce all those translations from the very beginning. But do not despair, what is important at this stage is to draft a proposal which a) fits into the format required by the new ECI regulation and b) is so well-written that basically anyone can understand it without expert assistance.

The proposal is an important message to all the legislators, administrators and legal experts who have so far been in charge of drafting EU legislation: Yes, we EU citizens are capable of drafting laws which are both readable and understandable! Why is this so important? Because you will, to begin with, have to reach out to all Europeans as potential supporters of your initiative – and you

will have to reach out to them in all the official languages. This will require the support of co-organisers, interested people across Europe, language specialists and the EU institutions themselves. However, if your initial draft law and supporting explanations lack clarity and plausibility, it will become even worse when the draft is translated into all the other languages. That means: keep it brief, keep it clear, and keep it convincing.

In addition to this basic rationale behind each potentially successful European Citizens' Initiative, the new regulation is introducing other requirements for the proposed text – including a proposal form with a maximum numbers of characters, and possibly also the legal references in the Treaty under which the European Union will be invited to act.

Special feature 11
The challenge of 23 official languages in an initiative process

The European Union means multilingualism. No other polity (political community) across the world invests so much in translation services and multilingual possibilities as the EU. This is an enormous challenge for all the services involved and it also creates a list of rights for all citizens of the EU. For example, every EU citizen has the right to address an EU official/office in their own mother tongue, if it is one of the Union's 23 official languages.

While the institutions of the Union in Brussels and Luxembourg already employ more than 2500 staff just for the day-to-day translation of debates and written materials, the upcoming European Citizens' Initiative process – as the first transnational direct-democratic tool – creates additional, new and exciting features when it comes to multilingualism. As everyone has the right to address the European Commission, for example, in their own language, it will be necessary at some stage of a European Citizens' Initiative process to have the key material and forms of a proposal translated into all the official languages.

For a small committee of organisers this will be a major, if not impossible, task to master. They

will need assistance. In the forthcoming regulation on the new instrument there is, however, no such provision. So what to do? There are several ways ahead. One is to help yourself by using the internet community of bloggers, for example. In spring 2010, bloggingportal.eu launched a pilot project on low-cost European Citizens' Initiatives, featuring the open access translation of initiative proposal texts. A first test input (a brief text of less than 200 characters) was translated into all the official languages within a few hours [http://www.bloggingportal.eu/blog/we-need-your-help-for-an-experiment/].[37]

So it is possible – but it will not be the rule, as some political proposals will not meet a favourable blogging-community and official materials will need to be carefully checked in legal terms. So what is needed is a Union resource to be involved in this task. Luckily, the European Economic and Social Committee, with several hundred translators of their own, has already indicated that this European institution is seriously prepared to play its part as a bridge between citizens and institutions when it comes to the European Citizens' Initiative process.

However, the translation of all the official material (initiative proposal, explanation etc.) will not be enough. A true European Citizens' Initiative will create language-crossing deliberations

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37 The Blogger Julien Frisch (and his colleagues) continuously report on developments and thoughts around the European Citizens' Initiative at http://julienfrisch.blogspot.com/search/label/European%20Citizens%27%20Initiative

all over the continent. So, in addition to involving polyglot supporters in such a drive, new technological developments for instantaneous translation will have to be used in order to secure comprehension and keep costs down.

Last but not least, transnational deliberation and understanding is not limited to the use of particular languages but has also to do with the terminology used. For this reason, this Handbook offers you in the Appendix the key "Terms of Reference – a Glossary to Modern Direct Democracy and the European Citizens' Initiative".

Step 5: Registration

With all these preparations complete you are now ready to register your very own European Citizens' Initiative on the official website. That may be a small and uncomplicated step for you as an organiser, but it could be big step for Europe – and your work ahead. From now on, there will not just be possible partners and friends around you, you will also have to face all those who do not like your initiative – and possibly even dislike you and your team.

What happens now is that you get your unique European Citizens' Initiative registration number, which will be the key to all further formal procedures. It can happen that the authorities – most probably a team of bureaucrats within the European Commission – are not ready or able to register your initiative proposal (this is part of the initial formal check provided for by the ECI regulation).

For such a case you need a plan B: maybe you've made some formal mistakes which can be easily corrected – or your initiative enters a grey area when it comes to such criteria as "unity of subject-matter" (so do not propose several different issues in one initiative) or "offensive language" (do not address a person in your initiative). It can become even more complicated. Your proposal may be judged to be "devoid of seriousness" or deemed to go "against the values of the Union". What to do? How to fix it? You see now how important it would have been to check all this out before registration. Maybe you want to check out the options and limits of a test-initiative. That can be useful. If you have really opted to make use of the new tool, you will now also have the opportunity to test out the further legal options after being rejected: by appealing to the European Ombudsman, for example, or even by getting the European Court involved. For most organisers such a detour will, however, have very little attraction, as it will take attention, time and resources away from the process as such – which is to take part in setting the agenda of the European Union by presenting it with an idea for a solution to a transnational problem in the form of a legislative proposal.

Having finally acquired your registration number, it's time for the big action across Europe. Be prepared for months and years of little sleep, many meetings and long nights at the computer!

Step 6: Signature Gathering

One million signatures from one-fifth, one-fourth or possibly even one-third of all Member States within a certain time limit: that is the goal you are going for now. Fortunately, you are basically free as to the method of bringing together all those "statements of support" – as the EU likes to call the signatures. This means that signatures can be gathered everywhere, both manually and electronically. While the former method is very resource-intensive – but rewarding, due to the face-to-face contact on the streets of Europe – the latter method will be the most efficient and cheap form. Will be ... because it is far from sure that a full e-signature process will be available when the European Citizens' Initiative comes on stream in 2011. Why? On most campaign websites and magazines you can already register your support online with tons of polls/proposals/petitions.

But hold on. The European Citizens' Initiative process is not just another form of (mass) petition; it is an agenda (setting) initiative procedure with legal impacts. For this reason an e-gathering procedure must be compatible with other electoral or voting procedures, ensuring that the person who gives his/her support to an initiative really is the person indicated. While a growing number of European countries have started to experiment with e-voting (since autumn 2010 Switzerland offers e-voting for citizens abroad across the world in popular votes on substantive issues), e-collection of signatures is just about to be launched in the United States around now.

Dreaming of an electronic signature?

One of the big debates during the pre-legislative and legislative processes around the regulation on the European Citizens' Initiative was the issue of the positive identification of supporters of a certain initiative. On the one hand, everyone agreed that such a new process at the transnational level must include a digital channel. However, at the same time, there are no Europe-wide registers of voters, where it would be possible to check the existence of supporters in a uniform way. What we have is an enormous variety of voter registration systems and cultures – and many, many ways in which citizens in different countries can, should, and are happy to prove their identity. This is a major challenge for the European Citizens' Initiative process as such, but also for the envisaged roll-out of a pan-European e-signature gathering policy. Across the Atlantic, the questions and challenges are not so different, and a big discussion about e-gathering in initiative processes is going on in parallel there.

In America, a few democracy activists and computer wizards have therefore tried to start e-collections on their own as a way of checking out both the formal/legal and the practical/technological options. The most well-developed approach to overcoming the identification hurdle is to allow electronic written signatures
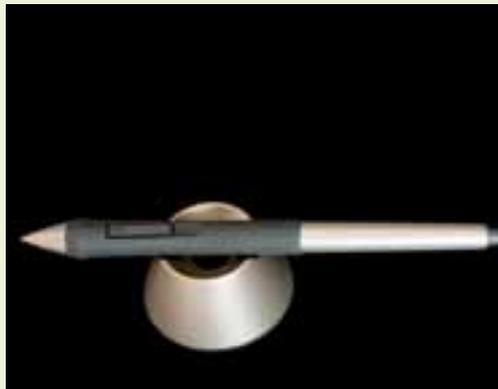
© istockphoto.com

The future of electronic signatures?

on touch-screen-enabled devices such as the iPhone and the iPad. The Silicon Valley start-up Verafirma has launched a democracy project [www.democracy.verafirma.com], which could have a huge impact also on the European Citizens' Initiative process in the future and enormously improve open access and transparency in the process. In Europe, the Council of Europe has developed guidelines and recommendations on how to use electronic tools and systems in the democratic process in general and specifically in voting. It is now up to the European Union and its Member States to be courageous innovators, not only when it comes to establishing a transnational participatory process, but also by using state-of-the-art technology for gathering signatures online.

The regulation on the European Citizens' Initiative provides for all the formal elements you will need to comply with, in order to proceed properly: this includes the verification and certification of statements of support by the Member States and the forms to be filled out in order to qualify for different phases of the process (see also step 8: thresholds).

Step 7: Dialogue

A European Citizens' Initiative is more than a marketing campaign. It is far from enough merely to have enough money to employ an expensive PR company to set up a campaign, an online-gathering platform and key events like press conferences across the European Union. If the initiative issue does not interest or affect people, or is not seen as a real problem (for which the EU institutions and/or the Member States have not been able to come up with a reasonable solution), then it will

be very, very hard to gather one million signatures from across the EU. One example from our list of pilot-initiatives may illustrate this: The European Emergency Number Initiative. This well-funded and EU-sponsored attempt to establish a truly citizen-friendly tool – a unified emergency phone number across the EU – was launched in 2005. Despite all kinds of support and a very well-designed web platform, this initiative has only been able to collect about 15,000 signatures in four years.

The challenge for you is to initiate a transnational dialogue on a transnational issue. Obviously this is easier if your issue is about a problem which is seen as a real problem by most people, and if the solution proposed is easily seen as a reasonable (and not too radical!) solution. This was the case with pilot initiatives like the one-seat initiative (which would not be admissible, however) or the GMO Ban (which is under preparation to be one of the first real European Citizens' Initiatives).

Of course, there is no one-size-fits-all way to create the necessary pan-European dialogue between citizens on a substantive issue – something which, by the way, is seen as one of the main added values of the whole European Citizens' Initiative process. What is for sure is that you will have to work hard to initiate and sustain the public debate of your initiative in order to create not only the energy to collect one million signatures, but also to have the issue taken seriously – and potentially placed on the political agenda – by the European political sphere as such. Obviously it will be critical to create local discussions around Europe to get the local media to cover your initiative. Why not invite schools to use your initiative as an early example of the new way that legislation can be influenced at the European level? For most younger people, the whole idea of having individual citizens directly involved in transnational policy-making using online tools is far less strange than it seems to older people who are

used to the old ways of making politics – or more accurately: of watching politics.

Step 8: Thresholds

Standing in the middle of a rather successful European Citizens' Initiative project it may feel as if it will be easy to jump over the remaining hurdles. But be aware of all the technical and political obstacles still facing you. This begins with the admissibility check i.e. the question of whether your issue :

a) concerns a matter where a legal act of the Union can be adopted for the purpose of implementing the Treaties; and
b) falls within the framework of the powers of the Commission to make a proposal.

Both requirements ("implementing the Treaties" and "within the framework of the Commission's

The European Citizens' Initiative – Signature requirements
Numbers based on the initial draft proposal by the EU Commission

powers") offer some room for manoeuvre and will clearly generate a lot of political and legal interpretation in the next few years and beyond. However, the early practice will hopefully teach all involved parties to anticipate the admissibility milestone as well as possible. Also, it is not yet clear when exactly the admissibility check will happen during the process and which authority will be the one to carry out that sensitive check. On the positive side, this requirement will create better transparency about how the EU works and how the competences are distributed within this highly complex political system.

Another key threshold to surmount is the minimum number of signatures required from each of the qualifying Member States. According to the proposal made so far, the new European Citizens' Initiative map will resemble the map on page 75.

So, when planning your signature gathering moves, you will have to decide where and what quantity to gather in order to secure the required number of signatures in the required number of Member States. However, going for a minimum result may be a problematic strategy, as statements of support can be invalidated and the rules on verification in the Member States could be changed during the collection period. So do not plan just to gather the 4500 statements of support in countries like Luxembourg, Estonia and Cyprus and then look for the next higher level – like the 6750 signatures from Latvia. Be generous and try to get as many signatures from as many Member States as possible. At the end of the day, it will make a difference in your talks with the EU institutions if you can come with an initiative which has gathered signatures from all the Member States and not just the 1/5, the 1/4 or even the 1/3 required by the regulation. Never forget: the European Citizens' Initiative is an agenda-setting tool only, not a decision-making one. So things cannot just be forced on the European institutions by fulfilling all the requirements and thresholds: they must also be communicated in a convincing way (see next step).

Step 9: Communication

"Better Communication" has been a favourite slogan with Eurocrats for decades. When the Euro was introduced ten years ago, the EU organised roadshows and expensive PR campaigns to familiarise the EU citizens with their newest tool, a common currency. Later, the European Union even got a Commissioner for Communication,

Sweden's Margot Wallström, who spared no effort in trying to bring the Union closer to its citizens.

As welcome and necessary as such benevolent top-down campaigns are, they are not very effective. Citizens do not want to be confused with consumers. As a citizen in a democracy, you are (supposedly) in charge – in principle and hopefully more and more also in practice. That's what the European Citizens' Initiative is about: establishing a real citizenship tool at the European level.

For your work this means that the citizen-to-citizen dialogue during Step 7 has now to be complemented with a "bottom-up" citizen-to-institution level of communication. This will create the need for a paradigm shift in the political culture across Europe, where too often modern representative democracy is still confused with a restrictive, purely indirect model of agenda-setting and decision-making.

However, the institutions can obviously be assisted with cleverly designed and carefully conducted European Citizens' Initiatives from the outset. So try to establish a good and continuous contact with all stakeholders (including the EU Commission) from the very beginning – so they also can become your supporters and partners in implementing your initiative proposal. While for the moment it remains open as to how the European Commission (and other institutions) will deal with European Citizens' Initiatives in practice, it is rather obvious that your work will not end with the delivery of the more than one million signatures to the Berlaymont building in Brussels – the EU Commission headquarters. What is therefore required is that you plan for a comprehensive multi-lingual communication strategy in space and time in order to maximize the agenda-setting potential of your European Citizens' Initiative.

Step 10: Lessons learnt

This may be your first and last initiative, but it might also be just the first test case in a series of European Citizens' Initiatives. Irrespective of that, however, it will be important to include a reflective, self-critical approach in all your activities. You and others can certainly learn from the practical experience, both when it comes to mistakes (like being too fast and superficial in setting up an initiative) or to real achievements (like the possibility of creating a pan-European network of supporters).

So from the very beginning archive all documents, minutes and media stories about your initiative. Archive all documents both in electronic and paper-based form: one or the other may disappear at some moment. Try to find a professor or a post-doc academic who is interested in cooperating with you on a scientific monitoring of your initiative. Try also to find internet professionals who are willing on a pro bono basis to set up a database and communication website. In addition to this, check out what others have already done or what assistance you may get from supportive institutions and organisations around the European Citizens' Initiative.

Your initiative is a unique enterprise; it will never be done again in exactly the same way, so contribute to making it possible for future generations to study and learn from experience (including yours). This approach also contributes to endowing an initiative with greater credibility and makes it easier for new supporters to join on the way to the one million signatures.

Marburg – One of Europe's key competence centres on modern direct democracy

What we have described above is not a blueprint for a successful European Citizens' Initiative. It is more of a guideline which is meant to help you plan, start and (hopefully) bring your initiative to a successful conclusion. As you can easily see, this new instrument is far from simple and easy to handle. On the contrary: the tasks and requirements involved demand not only a very strong commitment by the organisers for years, but also the existence of professional structures and/or help.

This publication has a positive and pro-active approach to the European Citizens' Initiative. This is an important achievement and a welcome development. However, as many sceptics, especially in the blogging world have pointed out, there are also many opportunities for failure, as this Blogger called Cingram stresses:

"Civil society doesn't mean you. Don't imagine it does. It means groups specially created or allowed to exist by our leaders, and paid by them with our money to lobby them, the purpose being to justify what they have already decided to do. You are merely a citizen. You don't count. The European Citizens' Initiative appears to introduce a mechanism for any of us to initiate legislation, but this is of course quite the opposite, being in fact an excuse to ignore us even more thoroughly than they do now. As the article gleefully makes clear, there will be so many problems with verification and uncertainty about the number of signatories from each country that any such initiative can easily be rejected by an apparatchik long before it is in danger of sullying the exalted hands of a commissioner. Even if you manage to find a million people in a dozen countries who will not only sign to say they agree with but will give you vast amounts of personal data to support verification; even if you can couch your intention in such a way that it appears to be required for the purpose of implementing the treaties; even if you get past the army of paperpushers looking for a flaw in the presented paperwork; even if you manage to reach the stage where the Commission can no longer avoid taking a look, you will have achieved precisely nothing. Six months later you will become the proud possessor of a letter with a laser-printed fascimile signature telling you that the Commission doesn't feel your legislative initiative is appropriate and that, due to the nuisance clause in the standing orders, they will not consider any proposal on a similar subject for at least 15 years.[38]

This is a harsh view – but a view which cannot simply be dismissed as the unrealistic view of a pessimist. It is possible that things will turn out as Cingram warns. If that happens, the whole big enterprise of getting the European Citizens' Initiative off the gound will be seen as a gigantic failure – including the publication of this Handbook!

But, hey, of course we could have just kept on complaining, looking on as mere spectators from the sidelines, avoiding any dialogue with those in power. However, if we were to do that we would never get the opportunity to make it better, to contribute to a more democratic European Union. So it is up to all of us now to use this rare direct-democratic-cum-transnational pole position, not only to get the ECI regulation into a reasonable shape and to prepare for the very first 2011

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38 http://englandexpects.blogspot.com/2010/04/we-want-democracy-but-only-sort-we-want.html

European Citizens' Initiatives, but also to work very hard in favour of the establishment of a pan-European supportive infrastructure for the new tool.

4.3 A tool only for the powerful? It doesn't need to be like that!

To organise a European Citizens' Initiative is a big undertaking. The whole complex process, with all the necessary steps to consider and take, means that it will be pretty difficult indeed for citizens around Europe merely to get started with an initiative. So it is of the highest priority to examine all the options for assistance in the shape of a supportive infrastructure.

The responsible EU institutions and representatives do not seem or want to share this understanding. The Commission itself has not come up with anything worthy of the word "infrastructure" in its proposal for a regulation. The only thing definitely proposed is an online platform for the registration of an ECI. Already less clear is the establishment of open source software for online signature collection; and when it comes to manpower, the Commission proposal estimates the need for one responsible officer and one assistant to deal with what is possibly the biggest democratic innovation in the EU since the introduction of direct elections to the European Parliament back in 1979.

The European Council is no better and has added nothing to facilitate the future use of the tool by citizens across Europe. In the European Parliament there has been very little discussion at all about such an infrastructure. The only concrete input comes from the Greens/EFA group, which is proposing an "independent body for help and advice with citizens' initiatives. This could lead to a very useful focal point for citizens' engagement and citizens' participation. It could be led by an authorised EU appointee for citizens' participation who will be funded by the European Union, elected by the EP and controlled by a board with representatives not only from the Council, the Commission and the Parliament but, by majority, from civil society."

When it comes to the formal agenda-setting and decision-making powers, the ability to use an infrastructure is part of power(-sharing) politics. So the failure to provide the European Citizens' Initiative tool with a supportive infrastructure of its own has to do with the systematic unwillingness of those in power to share even a little of the power they possess. The only European institution which so far has been able to transcend this mental barrier is the European Economic and Social Committee (EESC), which by an impressive majority of more than 95% has approved proposals to take a central role in assisting and supporting the European Citizens' Initiative process in the future.

Special Feature 13
The European Citizens' Initiative helpdesk

The European Economic and Social Committee (EESC) is a consultative body of the European Union. Set up by the Rome Treaties in 1957, the Committee has played a bridging role between the institutions and so-called "organised civil society" ever since. With the Lisbon Treaty, this important function – which is taken care of by an Assembly of up to 350 representatives of economic and social life in Europe – has been extended to also include a more direct bridging role between EU citizens and the European Union. In this context the new European Citizens' Initiative is seen as a key instrument for securing better connections and stronger influence from below. In March and July 2010 the Committee adopted two key Opinions, in which the institution clearly states its willingness to become part of a supportive infrastructure for the European Citizens' Initiative. The March 17 decision by the committee includes the following:

"The Committee (…) will play its role as a bridge by becoming an even more pivotal part of a **comprehensive democratic infrastructure** at European level. In the context of the European Citizens' Initiative it proposes:

🟩 to draft an opinion on citizens' initiatives formally accepted by the Commission within the assessment deadline;
🟩 where appropriate, to draft an opinion in support of an ongoing citizens' initiative;
🟩 to arrange **hearings** on successful initiatives (with organisers, the Commission, Parliament and the Council);
🟩 to set up an **information helpdesk** (as a contact point for the public on procedural questions and such like); and
🟩 to provide **back-up information** (publication of a handbook on participatory democracy, conferences on practical implementation, etc.)."

After having studied the draft proposal by the EU Commission for a regulation on the European

Citizens' Initiative, the EESC continued to work on its offer and agreed, on July 14, to concretise its role:

"Communication and information: The Committee stresses the need to conduct a thorough publicity campaign as soon as the regulation comes into force. The EU institutions should work together on this and coordinate their approach. The Committee is already at work on an information brochure designed to explain to the public and civil society organisations not only what the citizens' initiative has to offer*, but also the nature of consultation and civil dialogue. It is also planning a conference of relevant stakeholders as soon as the regulation is adopted. There could also be further initiatives – aimed at schools, for example, to raise the awareness of the younger generation.

Inter-institutional cooperation: It is important that the staff of the EU institutions and consultative bodies dealing with the citizens' initiative coordinate their work closely to make sure that people's need for information is efficiently met. The synergy effect this seeks to achieve – while respecting the different competences of all – is really needed if we want the citizens' initiative to become an effective tool in the service of a European model of modern democracy.

The Committee as facilitator: While an initiative is being planned or is in progress, the Committee is prepared to act – in its role as a platform for dialogue and information – as a facilitator enabling citizens' initiatives to network, perhaps meet, and so on, without this binding the Committee in advance to endorse the substance of the initiative.

The Committee as institutional mentor: In keeping with its core function – advising the Commission, Parliament and Council – the Committee can operate in this phase as an institutional mentor for a citizens' initiative. In this spirit it offers to support the Commission with an opinion while it is conducting its internal discussions and forming its views on a successful initiative. It is also prepared to offer its infrastructure for holding hearings on a successful initiative."

Source: www.eesc.europa.eu. Special thanks to Anne-Marie Sigmund, Christian Weger and Patrick Feve.
*The Information Brochure on the European Citizens' Initiative will be published after an agreement on the ECI law has been reached and will be published in all EU languages.

With its clear standpoint on the need for a supportive infrastructure and its offer to contribute to it practically, the European Economic and Social Committee has taken the lead on the EU side in assisting the forthcoming European Citizens' Initiative practice. Other institutions – including the Commission and the Parliament – are expected to concretise their contributions as soon as the new legislation has entered into force.

On the non-governmental side, several organisations which until now have been focused on facilitating the work of NGOs in the EU – such as the Forum of Civil Society" [http://en.forum-civil-society.org/spip.php?article222] and the "European Citizens Action Service" [www.ecas-citizens.eu] – have started to prepare possible support and assistance strategies in response to the forthcoming introduction of the European Citizens' Initiative. ECAS has started a project to establish a "House of Democracy" in Brussels, where citizens from all over Europe could meet and work when visiting the EU capital. In such a centre, interested citizens would also get help when it comes to considerations around the

European Citizens' Initiative. Additionally, there are other groups which take some responsibility for making the new direct-democratic instrument a success, including:

- the ECI Campaign, which is a watchdog and pro-active promoter of the whole process [www.citizens-initiative.eu];
- Echo, a joint project for ecological and socially sustainable change through proactive citizen participation. It addresses and brings together all members of society: citizens, experts, decision makers and representatives of organisations and businesses. In late summer 2010, this project created an international advisory board on the "European Citizens Initiative" [www.echologic.eu]; and
- Avaaz, an online advocacy community that brings people-powered politics to global decision-making. Avaaz – meaning "voice" in several European, Middle Eastern and Asian languages – was launched in January 2007 with a simple democratic mission: to organise citizens everywhere to help close the gap between the world we have and the world most people want. In three

years, Avaaz has acquired 5.5 million members from every country on earth, becoming the largest global web movement in history. The platform hosts several possible pre-ECIs including the second GMO Ban initiative. [www.avaaz.org]

Several organisations which are close to political parties, such as the Green European Foundation (which is co-sponsoring this Guide), have started their own international information and education programmes – and there are many

(research) organisations both in Europe and worldwide, which together with the Initiative and Referendum Institute Europe are closely watching and monitoring the European Citizens' Initiative [www.2010globalforum.com].

As a possible focal point for all independent assistance and support around the European Citizens' Initiative, a European Citizens' Initiative Office (ECIO) is about to be established at the same time as the law enters into force in early 2011.

Special Feature 14
Salzburg Initiative for a supportive ECI infrastructure

If there is any single country which can feel some ownership of the European Citizens' Initiative, then it is Austria. It was in this country that the Agenda (setting) initiative was born, in 1921, and much later it was the Austrian Foreign Minister Schüssel who put the ECI onto the political agenda for the first time in the history of the European Council.

Now the State of Salzburg, together with the Austrian Federal Government, has expressed its willingness to support the establishment of a supportive European Citizens' Initiative Office in Salzburg by the beginning of 2011. This office will be hosted by the Austrian Institute for European Policy and Law and have the following key tasks as:

◼ a Competence Centre: putting together a team of experts in different fields (law, politics, media, economics) with a common expertise in issues related to the European Citizens' Initiative;
◼ a Documentation Centre: gathering all available information linked to the initiative practice across Europe;
◼ a Venue for "stakeholders" in the middle of Europe to meet, discuss with and train each other;

© Google Map Screenshot

Salzburg - In the very heart of Europe

◼ an Information hub for citizens from all over Europe who are thinking of starting an initiative or signing an initiative;
◼ a Support Centre for initiative groups which are waiting in the wings, or, as the case may be, are in an implementation phase.

The ECIO plans to establish a network of supportive non-governmental organisations, which will cooperate on offering information and assistance to interested citizens in their part of the continent.

Source: "The European Citizens Initiatives" (2010). Special thanks to Johannes Pichler
More Info: *www.initiativeoffice.eu*

With such a strong and committed backup by both governmental and non-governmental organisations it should certainly be possible even for less well-established groups and organisations to

consider launching a European Citizens' Initiative – the very first step towards a comprehensive direct democratic toolkit at the transnational European level.

5. Resources

5.1 Terms of Reference: Glossary for Modern Direct Democracy and the European Citizens' Initiative

Introduction

With the Lisbon Treaty the European Union enters the era of 21st century modern democracy, based on both indirect and direct democracy. This Handbook offers an introduction, background and manual to the first direct- democratic tool at the EU level: the European Citizens' Initiative (ECI). With this a whole new terminology is launched, featuring both specific terms linked to the forthcoming European Citizens' Initiative regulation and references to the broader scope of modern direct democracy. The following list of terms is based on the Glossary developed by the Initiative and Referendum Institute Europe and has been customised and adapted for this European Citizens' Initiative Handbook. The abbreviations within the square brackets refer to the general typology on modern direct democracy introduced on pages 23 - 27 of this Handbook. (With special thanks to Nadja Braun, Rolf Büchi, Paul Carline and Joe Mathews)

Abrogative referendum [PCR]

A popular referendum by means of which voters may retain or repeal a law or decree that has been agreed and promulgated by the legislature and already implemented. Such a referendum is known as the people's veto in the U.S. state of Maine.

Administrative referendum [PCR]

A popular referendum on an administrative or governmental decision made by parliament. The Finance Referendum is one kind of administrative referendum widely used in Swiss cantons and municipalities.

Admissibility of the initiative

The legal right to conduct an initiative within the powers of the decision-maker to whom the initiative is addressed. In the context of international law and human rights the admissibility factor is dealt with very differently under different jurisdictions. Whereas in Germany and Hungary, for example, the check on admissibility is carried out before an initiative is registered, in Switzerland (by parliament) and the US (by courts) this is done after the submission of an initiative.

The admissibility check on a European Citizens' Initiative will be a critical milestone in the process of validating such initiatives. During the process of preparing the forthcoming regulation the timing of this judicial check, as well as the issue of who shall carry out the check, has been widely discussed. However, the admissibility check will become a key issue for each potential initiator (organiser) of a European Citizens' Initiative. It

will be necessary to carefully explore this issue even before registering an initiative and starting to gather signatures for the proposal. While it will be possible to appeal to the European Ombudsman and/or the European Court against a negative outcome of a European Citizens' Initiative admissibility check, this provision will surely contribute to creating a better understanding of what the EU can do and what lies outside its powers.

Agenda (-setting) initiative [PAI]

An agenda initiative is the right of a specified number of eligible voters to propose to a competent authority the adoption of a law or measure; the addressee of this proposal and request is not the whole electorate but a representative authority. In contrast to the popular initiative, it is this authority which decides what is going to happen to the proposal.

The European Citizens' Initiative is an Agenda (-setting) initiative as its powers are limited merely to agenda-setting and do not include decision-making. Within the EU a majority of Member States have an agenda initiative procedure at either the national and/or regional/local level. An agenda initiative can be institutionalised in a variety of ways: for example as an agenda initiative without a popular vote; or as an agenda initiative followed by a consultative or binding plebiscite.

Alternative proposal

See counter-proposal.

Approval quorum

A requirement for passing a popular vote which takes the form of a minimum number or percentage of the entire electorate whose support is necessary for a proposal to be passed.

Assembly democracy

Democratic system where eligible voters exercise their political rights in an assembly. Assembly democracy – the original form of democracy in ancient Greece – is widespread in Switzerland. There are citizens' assemblies in the majority of communes. In two cantons (Glarus and Appenzell Inner-Rhodes), popular assemblies are held at the cantonal level. In Appenzell Outer-Rhodes the citizens voted on an initiative to reinstall the popular assembly in June 2010.

Authorities' minority initiative [AMI]

A direct democracy procedure and a political right that allows a specified minority of an authority (e.g. one third of the parliament) to put its own proposal on the political agenda and let the people decide on it by a popular vote.

Authorities' minority referendum [AMR]

A direct democracy procedure characterised by the right of a minority of a representative authority to put a decision made by the majority in the same authority before the voters for approval or rejection. This procedure enables a minority of a representative authority to step on the brakes and give the final say to the voters.

Ballot initiative [PCI]

Term used in the U.S. to describe a citizens' initiative. See Popular Initiative.

Ballot measure

An issue brought forward to a popular vote by all three types of modern direct democracy, Initiatives, Referendums and Plebiscites.

Ballot paper

a) The official ballot paper, on which voters mark or indicate their choice, e.g. indicate with a Yes or No whether they accept or reject the referendum proposal.
b) For elections: The official form which eligible voters must use for elections. For the elections to the Swiss National Council, voters can fill out a special, non pre-printed form themselves, and may change the form or make additions to it.

Ballot text

Text which appears on the ballot paper, typically in the form of a question or a series of options. For a referendum it may be a specified question text, or a question seeking agreement or rejection of a text; for an initiative, a question asking for agreement or rejection of a proposal identified by the title of the popular initiative; for a recall, a question asking for agreement or rejection of the early termination of office of a specified office holder.

Binding

Description of a popular vote where, if a proposal passes, the government or appropriate authority is legally compelled to implement it.

Bond measure

The term given in the U.S. to a measure – either a popular initiative or a measure referred by the legislative body – that asks voters to authorise borrowing. Bond measures are common in the

country because of state and local restrictions on public borrowing without voter approval.

Citizen-friendly

In the context of initiatives and referendums, the degree to which the rules on thresholds, hurdles, quorums, voting methods etc. make the process as free, fair and accessible as possible for the eligible voter.

Citizen-initiated referendum [PCR]

See popular referendum.

Citizens' initiative [PCI]

See popular initiative.

Collection of statements of support

See signature gathering.

Compulsory voting

Duty of the eligible voters to participate in the election or referendum vote. The voter may cast a blank vote, i.e. not choose any of the given options. In some countries where voting is considered a duty, voting has been made compulsory and sanctions on non-voters are imposed as e.g. in Austria, Australia, Belgium, Chile, Cyprus and Thailand. In some countries with compulsory voting the non-voter has to provide a legitimate reason for his/her abstention to avoid further sanctions, if any exist (e.g. in Egypt, Liechtenstein, Luxembourg or Turkey).

Consensus democracy

A form of democracy which aims to involve as large a number of players (political parties, trade unions, minorities, social groups) in the political process as possible and to reach decisions by consensus. As it is relatively easy to overturn a parliamentary decision by means of a popular referendum, both parliament and – even before the matter is debated in parliament – also the government must look for compromise solutions which will satisfy all the important political groups capable of launching a referendum. It was the popular referendum which led historically to the formation of consensus democracy.

Constructive referendum [PCR+]

A popular referendum combined with a popular counter-proposal. The constructive referendum gives a certain number of eligible voters the right to present a counter-proposal to a decree which is subject to the optional referendum. The counter-proposal is presented together with the decree.

In Switzerland this possibility currently exists in the cantons of Bern, Nidwalden and Zurich. It is also known in the city of Lucerne.

Counter-proposal [PCI+, PCR+]

A proposal to be presented to a popular vote as an alternative to the proposal contained in a popular initiative or referendum. The counter-proposal may originate in the legislature or with a given number of citizens. In Switzerland the Federal Assembly and in some German States the Government may submit a counter-proposal to a popular initiative in the event that it wishes to address the concern raised in the popular initiative but wants to deal with the matter in a different way from that proposed by the authors of the initiative. In such a case, a vote is held in accordance with the rules on the "double yes" vote (not in Germany).

Deciding question

Where an original proposal and a counter-proposal are to be voted on in the same vote, there is the possibility of a Double Yes result, as voters may vote in favour of both proposals. In such cases, the deciding question is used to determine which version should be implemented, should both proposals be approved.

Direct democracy

Direct democracy gives citizens the right to exercise popular sovereignty directly. There exist two types of direct democracy, modern and pre-modern. Pre-modern direct democracy was born in ancient Athens and has been practiced in the form of classical assembly democracy. Modern (direct) democracy differs in many ways: it is individualistic, not associational; it is seen as a universal human right, not as a privilege.

Direct democracy procedure

Procedures which a) include the right of citizens to participate directly in the political decision-making process on issues and b) at the same time are designed and work as instruments of power-sharing which empower citizens. Two types of procedure can be distinguished: REFERENDUM and INITIATIVE. Each type of procedure exists in different forms, and each form can be institutionalised (legal design) in various ways. Forms of referendums are: citizen-initiated referendums (popular referendums), referendums initiated by a minority of a representative authority, obligatory (mandatory) referendums. Forms of initiatives are: citizens' initiative (popular initiative), which

may also be combined with a counter-proposal (usually by parliament), agenda (setting) initiative (see --→ Factsheet 30: Defining modern direct democracy).

Direct legislation
Traditional U.S. term for laws and constitutional amendments enacted directly by the people, either through ballot initiatives or legislative referendums.

Double "Yes" [PCI+]
If a counter-proposal in response to a popular initiative is submitted, the voters may approve both the counter-proposal and the initiative and at the same time indicate which of the two they would prefer if both are approved. The proposal (initiative or counter-proposal) that is ultimately accepted is that which receives the most "Yes" votes.

Double majority
Requirement for a proposal to pass which includes both a majority of the overall total of votes cast and a majority of the votes in at least a specified proportion of defined electoral areas. In Switzerland a double majority of People and States (cantons) is required for obligatory referendums. In other words, in order to be accepted, a majority of cantons must have voted in favour, in addition to an overall majority of all those citizens who voted. This means that all the votes cast are counted twice: once for the overall number, and then for each separate canton. At least 50%+1 of those who voted (the "People"), plus a majority of the cantons, must approve the proposal.

Eligible voter
Person who has the right to vote.

European citizens' initiative [PAI]
The European Citizens' Initiative is a direct-democratic procedure at the transnational level established under the EU Lisbon Treaty in late 2009. The Treaty specifies a minimum of one million signatures from a significant number of Member States, supporting a legislative proposal within the powers of the EU Commission. A separate regulation is about to be adopted during 2010. It defines the procedure in detail and its terms are crucial to making the new instrument more or less citizen-friendly.

E-voting
Form of voting where the voters are able to vote with the aid of a special electronic voting sys-tem by completing an "electronic ballot paper", which is then sent via a data network to the office responsible for the vote.

In the European Union it is planned to allow the electronic gathering of signatures (statements of support) in the context of the European Citizens' Initiative. For this purpose a committee will establish the specific rules. In the United States preparations have been launched to allow for e-gathering methods e.g. by signatures given on a touchscreen (like the iPhone or the iPad).

In Switzerland the cantons of Geneva, Zurich and Neuchâtel are currently conducting electronic voting pilot schemes under the auspices of the Federal Chancellery, whereby the primary concern is to ensure the security of the procedure (preservation of voting secrecy, prevention of voting fraud). From 2010 Swiss citizens in selected countries abroad are part of the e-voting procedure. Estonia is the first country in the world where legally binding e-elections have been made possible. For the new European Citizens' Initiative (--→) procedure online e-signature collection is foreseen.

Facultative referendum [PCR]
See popular referendum.

Finance referendum [PCR, LOR]
A popular referendum on parliamentary decisions on public expenditure, also referred to as the "referendum on public expenditure". Any parliamentary decision which involves the expenditure of public money can be the subject of a finance referendum.

Indirect counter-proposal
A proposal which is not presented as a formal alternative to an original initiative proposal. In Switzerland the indirect counter-proposal may come from parliament or the government and enters the decision-making process a a different level than the original initiative, i.e. the initiative aims at making a change at the constitutional level, whereas the indirect counter-proposal is a proposal to change a law.

INITIATIVE
Designates a certain type of popular vote procedure (the IRI typology distinguishes three types: INITIATIVE, REFERENDUM, and PLEBISCITE). Initiative procedures are characterised by the

right of a minority, normally a specified number of citizens, to propose to the public the introduction of a new or renewed law. The decision on the proposal is made through a popular vote.
Note: the agenda initiative fits into this type of procedure only with respect to its initial phase. What happens next is decided by a representative authority.

Initiative committee
The proponents of the initiative.

In the European Union it will be up to the organisers to prepare and register a European Citizens' Initiative with the European Commission. Their rights and duties will be defined in the forthcoming European Citizens' Initiative regulation.

In Switzerland an initiative must be submitted by a minimum of 7 and (since 1997) a maximum of 27 sponsors. The bigger number ensures that one representative from each canton can be part of the committee. An absolute majority of the sponsors has the right to withdraw the initiative.

Legality check
See admissibility of initiative.

Mandatory referendum (LOR)
See obligatory referendum.

Modern direct democracy
Modern direct democracy gives citizens the right to exercise popular sovereignty between elections by voting on substantive issues. Originally it meant direct legislation by the people through the right of initiative and referendum. Direct democracy decides on substantive issues, not on people (representatives). In this perspective recall popular votes do not belong to direct democracy. Direct democracy is meant to empower people, not governments. We therefore do not include plebiscites in our definition of direct democracy. If plebiscites are included, the concept of direct democracy becomes more heterogeneous, even Janus-faced, since it includes procedures designed to enhance the power of certain representatives and procedures designed to give more power to the citizens. Such a concept of direct democracy embraces both instruments for people to implement democracy and instruments for power holders using people as means for an end other than the achievement of democracy.

Obligatory referendum (LOR)
This direct democracy procedure is triggered automatically by law (usually the constitution) which requires that certain issues must be put before the voters for approval or rejection. A conditional obligatory referendum means that a specified issue must be put to the ballot only under certain conditions (for example, in Denmark the delegation of powers to international authorities is decided by popular vote if more than half but less than four-fifths of the parliament accept such a bill, and if the government maintains it). Unconditional referendums are without loopholes (for example, in Switzerland changes to the constitution must always be decided by a popular vote).

Optional referendum [PCR]
See popular referendum.

Organiser
See initiative committee.

Participation quorum
See turnout quorum.

Participatory democracy
See direct democracy.

People's initiative
See popular initiative.

Petition
At the European Union level "any natural or legal person residing or having its registered office in a Member State may petition the European Parliament". Petitions must state the name, occupation, nationality and address of each petitioner. A petition is only admissible if the matter comes within the EU's "field of activity". If admissible, then the EPs Commitee on Petitions considers how to deal with it and possibly take political action. The right of petition was formally introduced in 1992 (Maastricht Treaty).

Many European countries have the petition or mass petition right as a non-binding request by citizens. In the United States, however, the term petition is also used as a synonym for a citizens' initiative. A petition may contain a proposal, a criticism or a request, and the subject-matter may be any state activity.

Petition circulators.
See signature gatherers.

Plebiscite (Authorities' controlled popular vote) [ATP]

Designates a certain type of popular vote procedure (the IRI typology distinguishes three types: INITIATIVE, REFERENDUM, and PLEBISCITE). A plebiscite is a public consultation controlled 'from above'. It is the powers that be (the President, Prime Minister, Parliament) which decide when and on what subject the people will be asked to vote or give their opinion. Rather than being an active subject in control of the procedure, the people/popular votes become a means to an end which is determined by a representative authority.

Plebiscites give ruling politicians additional power over citizens. They are used to evade responsibility for controversial issues which have become an impediment; to provide legitimacy for decisions those in power have already taken; to mobilise people behind rulers and parties; and they are used by an authority to bypass another representative authority. The aim of a plebiscite is not to implement democracy, but to reinforce or salvage those in power with the help of "the people".

According to the General Typology on Modern Direct Democracy, there are two forms of plebiscite: plebiscite and veto-plebiscite.

Political rights
Political rights are the fundamental rights of the People under direct democracy. They enable citizens of voting age to participate in the shaping of law and politics in the state. Political rights include the right to vote and the right to participate in elections, as well as the right to submit a popular initiative or referendum request and the right to sign such a request.

Popular assembly
Assembly of eligible voters. One of the oldest (pre-modern) forms of democracy. The eligible voters of a jurisdiction gather in the open air on a certain day in order to elect the government and reach decisions about laws and public expenditure. Everyone has the right to speak on any issue. Voting is by show of hands, which does not respect the secrecy of the vote.

Popular initiative [PCI]
A direct democracy procedure and a political right that allows a given number of citizens to put their own proposal on the political agenda. The proposal may be, for example, to amend the constitution, adopt a new law, or repeal or amend an already existing law. The procedure is initiated by a prescribed number of eligible voters. The sponsors of a popular inititive can force a popular vote on their proposal (assuming that their initiative is formally adopted). The initiative procedure may include a withdrawal clause, which gives the sponsors the possibility to withdraw their initiative, for example in the event that the legislature has taken action to fulfil the demands of the initiative or some of them. This procedure may operate as a means of innovation and reform: it allows people to step on the gas pedal. In principle, initiatives enable people to get what they want. In practice, popular initiatives (like popular referendums) are a means of synchronising the citizens' view with the politicians' view.

Popular initiative + authorities' counter-proposal [PCI+]
Within the framework of a popular initiative process a representative authority (normally parliament) has the right to formulate a counter-proposal to the initiative proposal. Both proposals are then decided on at the same time by a popular vote. If both proposals are accepted, the decision on whether the initiative proposal or the authority's counter-proposal should be implemented can be made by means of a special deciding question.

Popular referendum [PCR]
A direct democracy procedure and a political right that allows a specified number of citizens to initiate a referendum and let the whole electorate decide whether, for example, a particular law should be enacted or repealed.

This procedure acts as a corrective to parliamentary decision-making in representative democracies and as a check on parliament and the government. The "people" or demos (i.e. all those with the right to vote) has the right to decide in retrospect on decisions made by the legislature. Whereas the popular initiative works like a gas pedal, the popular referendum gives people the possibility to step on the brakes. In practice, popular referendums (like popular initiatives) are a means of synchronising the citizens' view with the politicians' view.

Popular referendum + counter-proposal (PCR+)
This direct democracy procedure combines a popular referendum against a decision by an authority with a referendum on a counter proposal. If both proposals are accepted, the decision between the two can be made by means of a deciding question.

Popular submission
See also agenda initiative. The "Volksmotion" (popular submission) is used in several Swiss cantons. The submission, bearing the signatures of a prescribed minimum number of registered voters, requests the cantonal government to draft legislation or adopt a particular measure. In practice, the cantonal parliament treats the Volksmotion in the same way as it does a parliamentary motion (a motion signed by members of the cantonal parliament). In the cantons of Schaffhausen and Solothurn a Volksmotion needs a minimum of 100 signatures, in the canton of Freiburg at least 300. In Solothurn the popular submission is called a "Volksauftrag".

Postal voting
Method of voting in which voters send their ballot papers to the office responsible for the vote by post instead of going to a polling station to vote.

Proponents
See initiative committee.

Publication of the initiative
The act of making a proposal for an initiative public by the appropriate authority after it has been registered and checked for compliance with the substantive and formal requirements of registration.

Qualified majority
A majority requirement demanding that for a proposal to be passed, it must receive a proportion of the vote in excess of 50% plus 1 – for example 2/3 or 3/4.

Recall
A procedure that allows a specified number of citizens to demand a vote on whether an elected holder of public office should be removed from that office before the end of his/her term of office.

REFERENDUM
Designates a certain type of popular vote procedure (the IRI typology distinguishes three types: INITIATIVE, REFERENDUM, and PLEBISCITE). The referendum is a direct democratic tool which includes a popular vote on a substantive issue (ballot proposal) such as, for example, a constitutional amendment or a bill; the voters have the right to either accept or reject the ballot proposal.

The procedure is triggered either by law (-→ obligatory referendum), by a specified number of citizens (-→ popular referendum), or by a minority in an authority (-→ authorities' minority referendum).

Note: a popular vote procedure, which is triggered and controlled exclusively by the authorities, is not a referendum but a plebiscite.

Referendum booklet
A publication offering voters the basic information, arguments and background ahead of a popular vote. A pamphlet or booklet in which the proposal(s) being submitted to the voters is/are explained and which includes the arguments of the committee responsible for the initiative or referendum together with the opinion of the government/parliament. In the United States, this publication is called a "Voter Guide", in Switzerland the "Explanation from the Federal Council".

Referendum on public expenditure [PCR]
see Finance referendum

Referendum proposal [PPR]
This procedure is characterised by the right of a prescribed number of eligible voters to propose to a competent authority the calling of a popular vote on a specified issue; note that the demand is addressed to a representative authority (usually parliament – local or national) which decides about further action.

Registration of a popular initiative
The act of depositing an initiative for publication and collection of signatures, whereby the legal process of the initiative is officially started.

In the European Union a European Citizens' Initiative registration will be made on a dedicated website provided by the European Commission.

Rejective referendum [PCR]
A popular referendum which may either retain or repeal a law or decree that has been agreed by the legislature but has not yet come into force.

Representative Democracy

Traditionally and conceptually, representative democracy has been understood mainly as a purely indirect democracy, in which elected representatives make decisions on behalf of the citizens, monopolising the right to decide the political agenda and substantive political issues. In practice and increasingly also conceptually, democracy is based on both indirect (parliamentarian) and direct or participative forms of agenda-setting and decision-making. Hence a new understanding is emerging according to which a truly representative democracy is a democracy combining indirect and direct forms of citizen participation.

Right to vote

Right to participate in a (referendum) vote. At the Swiss national level, the right of citizens of voting age to participate in popular votes at the federal level. Exceptionally, foreigners holding residence permits are also permitted to vote at the cantonal or communal level. Anyone who has the right to vote also has the right to participate in elections.

Signatory

An eligible person, who signs or supports an initiative.

Signature gathering (or collection)

The process of gathering signatures. Often this process starts with the registration or filing of an initiative and ends after a certain amount of time or with the submission of signatures.

Signature gatherers/collectors.

People who gather signatures in public. In the US most signature gatherers are paid, while this concept is still relatively unknown in the rest of the world.

Statements of support

The terminology used in the framework of the European Citizens' Initiative as a synonym for signatures.

Title

The formal name given to the proposal in a popular initiative or citizen-initiated referendum. In US states, it is often given along with a summary of the measure that appears on petitions and the ballot. In the EU, a European Citizens' Initiative will have to fit within a form provided by the EU Commission.

Treaty on European Union

Basic agreement by the EU Member States and parliaments on the transnational "rules of the game". The latest such agreement (the "Lisbon Treaty") came into force on December 1, 2009.

Turnout

The number of those who actually vote, usually expressed as a percentage.

Turnout quorum

The minimum number of voters that have to take part for a ballot to be valid.

Unity of subject matter

When voting in referendums, Swiss voters have only two options (other than deciding not to vote at all): they can vote either "Yes" or "No". In order to ensure that voters' voting intentions are completely freely expressed and unequivocal, there is a requirement for the referendum issue/proposal to be reduced to a single political question. The principle of unity of subject matter applies to all referendums, regardless of whether they result from a popular initiative or are mandatory referendums.

Veto-plebiscite (Authorities' controlled popular vote) [AVP]

A popular vote procedure whose use lies exclusively within the control of the authorities. In this form, the author of the ballot proposal and the initiator of the procedure are NOT the same. For example, a government or a president may oppose (veto) a decision of parliament and refer it to a popular vote; hence the name veto plebiscite.

Voting slip

See ballot paper.

5.2 Construction Site: Links and more ...

For an overview and updates on all related activities please visit the European Citizens' Initiative Information Center of the Initiative and Referendum Institute at: *www.europeancitizensinitiative.eu*

A growing number of think-tanks, organisations and academic institutions have started to work on the European Citizens' Initiative issue. Many of them have shared their thoughts, findings and expertise during the Public Consultation on the European Citizens' Initiative organised by the EU Commission (November 2009-January 2010). For an overview, documents and contacts please consult the European Citizens' Initiative preparatory website of the European Commission at: *http://ec.europa.eu/dgs/secretariat_general/ citizens_initiative/consultation_en.htm*

The following organisations and experts do have a record of continous work around the European Citizens Initiative:

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Centre for Research on Direct Democracy, www.c2d.ch, Andreas Auer [andreas.auer@rwi.uzh.ch]

Echo – the Global Agora, www.ecohologic.org, Jan Linhart [jan.linhart@echologic.org]

European Citizens Action Service, www.ecas.org, Tony Venables [t.venables@ecas.org]

European Commission, ec.europa.eu/dgs/secretariat_general/citizens_initiative/index_en.htm, Mario Tenreiro [Mario.Tenreiro@ec.europa.eu]

European Economic and Social Committee, www.eesc.europa.eu, Christian Weger [Christian.Weger@eesc.europa.eu]

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Initiative for the European Citizens Initiative, www.citizens-initiative.eu, Carsten Berg [berg@democracy-international.org]

Institute for Direct Democracy, http://www.balkanassist.bg/en/news/view/53/Institute-for-Direct-Democracy, Atanas Slavov [atanas_slavov@yahoo.com]

More Democracy, www.mehr-demokratie.de, Michael Efler [michael.efler@mehr-demokratie.de]

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References

The following publications are mainly focusing on the European Citizens' Initiative:

Transnational Democracy in The Making (2003), IRI Handbook 2004, the New Challenge of European Initiative & Referendum after the Convention, Edited by Bruno Kaufmann, Alain Lamssoure and Jürgen Meyer, 276 pages.
Featuring: details on the European Citizens' Initiative development up to and during the 2002/2003 EU Convention, many original documents and references.

The European Constitution (2004), Bringing in the People. The options and limits of direct democracy in the European integration process, Edited by Bruno Kaufmann & Fabrice Filliez, 58 pages.
Featuring: the first follow-up steps after the Convention.

Initiative for Europe (2006), a roadmap to Transnational Democracy. Edited by Bruno Kaufmann, Diana Wallis, Jo Leinen, Carsten Berg and Paul Carline, 120 pages.
Featuring: provisions for citizens' initiatives across Europe and initials proposals and recommendations for the implementation of the European Citizens' Initiatives.

Initiative for Europe Handbook (2008), The guide to transnational democracy in Europe.
Edited by Carsten Berg, Paul Carline, Bruno Kaufmann, Jo Leinen and Diana Wallis. 120 pages.
Featuring: the first 20 pilot European Citizens' Initiatives and other practices of transnational deliberative and participative democracy.

We change Europe (2008), the European Initiative – Art. 11.4 (TEU), Edited by Johannes Pichler. Berliner Wissenschaftsverlag. 507 pages.
Featuring: direct democratic experiences in Europe and the options for e-direct democracy.

Direct Democracy in the European Union (2009). Edited by Johannes Pichler. Berliner Wissenschaftsverlag. 200 pages.
Featuring: proposals for the implementation of the European Citizens Initiative.

The European Citizens Initiatives (2010), Into new democratic territory. Edited by Bruno Kaufmann and Johannes Pichler. Berliner Wissenschaftsverlag. 150 pages.
Featuring: the preparations for the launch of the European Citizens' Initiative practice and the set-up of a supportive infrastructure.

The Treaty of Lisbon (2010), A Second Look at the Institutional Innovations.
Joint Study by the European Policy Centre, Egmont, Centre for European Policy Studies.
Featuring: an assessment on the opportunities and challenges of the European Citizens' Initiative.

Guidebook to Direct Democracy (2010), In Switzerland and Beyond. Edited by Bruno Kaufmann, Rolf Büchi and Nadja Braun. 272 pages.
Featuring: an embedded outlook of the European Citizens' Initiative into the whole of Europe and the world, factsheets and recommendations.

For further availability information please visit the European Citizens' Initiative Information Center at www.europeancitizensinitiative.eu

5.3 Documentation: Citizens and the Green positions on the European Citizens' Initiative legislation

European Citizens' Initiative Summit 2009: SALZBURG MANIFESTO FOR THE EUROPEAN CITIZENS' INITIATIVE

Today, May 9, 2009, on Europe Day, European citizens met in Salzburg, Austria, to assess the preparations towards the implementation of the European Citizens´ Initiative Right as proposed by the Lisbon Treaty (TEU, Art 11.4). Co-hosted by the Initiative & Referendum Institute Europe (Marburg) and the Austrian Institute for European Law and Policy (Salzburg), the Citizens´ Initiative Summit welcomed the decision by the European Parliament on the pending implementation of Art 11.4, the first transnational direct democratic procedure in history. This will put the citizens on an equal standing with the EU Council and the EU Parliament regarding the right to start legislative action on the EU level.

It is the understanding of the European Citizens´ Initiative Summit that this new, innovative citizen right is an inclusive, integrative and transnational procedure. As an agenda initiative, it is neither a petition (which already exists in respect to the EU parliament) nor a full citizen initiative leading to a popular vote. It establishes for the very first time a direct legislative channel for European citizens. The Salzburg Summit applauds the clear decision by the European Parliament on May 7, 2009 to agree on a Resolution for a citizen-friendly implementation process. This demonstrates the will of Parliament to put citizens on an equal footing with the Parliament and the Council, thereby establishing a modern representative democracy on the transnational level including direct democratic rights. The Summit however understands that several aspects outlined in the EP resolution need further improvement including the number of signatory countries, which at present seems too high. Furthermore, the Summit suggests that the time frames proposed in the EP resolution are too short and should be extended.

In light of the work on the regulative aspects of the implementation law which now requires additional fine-tuning and the basis of a citizen-friendly understanding of the new Right, the Summit clearly states that the new European Citizens´ Initiative Right will have to be complemented with a comprehensive supportive infrastructure, including the establishment of a European Citizen Initiative Office as well as financial and administrative advice and support across Europe.

The Salzburg Citizens´ Initiative Summit agreed in particular on the following:

■ if the European Citizens' Initiatives (ECI) are to become a useful right, they need a citizen-friendly design including regulatory actions and efficient proactive support from the EU;

■ due to the fact that the European Citizens´ Initiative Right is constructed as a mechanism for the input of political proposals from the citizens of Europe, the EU Commission should in principle affirm the initiatives as a support procedure for better and more formal identification of the concrete concerns of those citizens;

■ the EU is therefore invited to create a proactive guiding, supporting, consulting and accompanying entity – known as the European Citizens' Initiative Office;

■ since the envisioned pan-European initiative activities will inevitably include digital means of communication and signature gathering, the European Citizens' Initiative Office is to create appropriate E-systems or adopt and adapt existing E-systems and have these operating under the supervision and scrutiny of the EU;

■ the implementation regulations have to predict and plan pragmatic models for viable and effective solutions. Since the European Citizens´ Initiative Right is an agenda-setting initiative procedure (in contrast to a full citizens' initiative procedure leading to a binding popular vote on substantial issues), complex and costly high official structures using the 27 national authorities should be avoided;

■ since the European Citizens' Initiative Right clearly and wisely seeks to facilitate transnational European concerns, any supporting infrastructure should also be located at the transnational European level. National authorities should not need to be used by the EU authorities other than to verify signatures by random control;

■ restrictive measures – such as excluding the admissibility of so- called constitutional initiatives or attaching unnecessarily burdensome require-

ments – must be rejected. The widest range of submissions addressed to the EU Commission is to be welcomed;

■ because the underlying concept of Art 11.4 signifies that the European Citizens' Initiative is primarily directed at unrepresented or under-represented citizens, free initiatives which apply must necessarily receive basic financial support;

■ initiatives funded by public money are obliged to disclose all formal cooperations with other individuals or organisations in respect to financial support.

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European Citizens' Initiative Summit 2010: SALZBURG DECLARATION ON PARTICIPATORY DEMOCRACY IN EUROPE

Europe must become stronger – but it cannot do so without the strength of its citizens. That is why we are pleased and proud about the European Initiative as the new participatory citizens´ right. This is the right tool for overcoming nationalism in Europe. Citizens now have a direct route to "Brussels" and have become co-shapers of the European integration process and of European policy making. The new instrument of the European Citizens´ Initiative has an enormous potential.

As yet, however, the draft regulation proposed by the European Commission does not fully exploit this potential. Although the Commission has taken on board some worthy principles – seeking, for example, to secure a high level of public trust in the constitutional dignity of the initiative – it appears to accept that the instrument will not touch the everyday concerns of the citizens and that, for security reasons, participation by smaller and weaker initiative groups will be restricted.

If it does not improve its regulation, the Commission could thus risk wasting a huge opportunity for communicating with citizens – and of finding out more about the concerns and hopes of millions of ordinary people. Without significant improvement, the opportunity to generate an increased level of credibility for the Union could be missed. It is not yet too late, however. As the Commission itself has clearly stated, and as its invitation to be involved in the process also

shows, the time has come for those negotiations which should turn 'the better' into 'the best'.

Thus, on Europe Day, 2010, those of us professionals from civil society, politics, science and commerce who have come together for the European Citizens' Initiative Summit in Salzburg wish to make some suggestions and comments aimed at optimizing the regulation. In the opinion of those organisations coordinating the summit – the Austrian Institute for Legal Policy and the Initiative and Referendum Institute Europe – the regulation should endorse the following principles:

• *those who wish to have a living initiative right must support and promote it, must give it support structures, must creat advisory systems and set up public drop-in centres. The initiative right must not become a tool of privilege for wealthy persons and for others, such as members of large organisations, who are already able to involve themselves in the political process in other ways;*

• *those who see the initiative not merely as an instrument for making individual corrective changes, but as a means of bringing about political climate change and as a new, deliberative kind of interaction in Europe – not only between the European citizens and the official structures of the Union, but also from citizen to citizen – must be interested in protecting and promoting these new efforts at communication which can further peace;*

• *the concrete results and forward steps in a European citizens' democracy are to be found in and through shared social learning processes and in the integration of cultural and political diversity. For this to come about, the above-mentioned support measures must be put in place;*

• *the Union should open itself up so far as is necessary to enable the greatest amount of political communication via the initiative system – rather than having the communication channel narrowed by restrictive access criteria.*

This type of open and constructive approach to implementing the principles of participatory democracy inscribed in the Lisbon Treaty has practical consequences for the regulation which will later enter into force.

▪ The European Citizens´ Initiative needs more time.

The recommended deadline of twelve months disadvantages weaker groups who need more time to get their message across transnationally and secure support for their proposal. In addition, the four-month-long process of checking the admissibility of the initiative proposal threatens to hinder the signature-collection process even before it has begun. That is why *we suggest a deadline of 18 months for the collection of signatures.*

▪ The entrance hurdle for the admissibility check is too high.

The recommended hurdle of 300,000 signatures to activate an admissibility check creates a prohibitive hurdle for initiatives and for the member states responsible for the check. For practical reasons, therefore, an *entrance hurdle of 50,000 signatures* should be aimed at.

▪ The ID details required from signatories must not infringe personal integrity.

The ID requirements for initiative signatories proposed in Annex III of the draft regulation provide for the passport number, identity card or social security number to be stated. This kind of requirement not only undermines the "secrecy of the vote", but is only indirectly related the right to support an initiative. Thus, in addition to the signatory's *name, address, place of residence and birth date, only their nationality or, as the case may be, evidence of their national eligibility to vote* should be required.

▪ The transnational requirement of the European Citizens' Initiative procedure should not be overburdened

We support the principle, enshrined in the Lisbon Treaty, that support for a European Citizens' Initiative must come from a significant number of member states. We also support the model proposed by the Commission for fixed minimum numbers of signatures for each member state. However, in respect of the number of member states from which signatures must come we agree with the European Social and Economic Committee and the European Parliament's preparatory committe, both of which recommend one fourth of the total of member states i.e. *at*

least seven, rather than the nine proposed by the Commission.

▪ Successful European Citizens' Initiatives should be able to present their case to the Commission in a public hearing.

According to the draft regulation, upon completion of the signature collection and the signature check, the Commission allows itself a four-month period for the material assessment of the submitted legislative proposal. This period should not, however, be used only for internal handling but should also be used for dialogue with the initiators and the interested public. Therefore, *during this assessment period, a public hearing should take place during which the initiative committee is able to present its view of things and discuss it with the Commission.*

▪ The envisaged lack of an infrastructure for the first direct-democratic instrument at the transnational level is irresponsible.

Just imagine if the European Parliament and those political parties represented therein were to have access to a joint website only once and the concerns of these institutions and actors were attended to by just one or two Union officials. Moreover, imagine if the EP were to have no translation services. In the case of the European Citizens' Initiative, a process which permits far more people to take part in European politics, the draft regulation allows for only two officials and one web platform. This is irresponsible! *The Commission must therefore create a specific European Citizens' Initiative budget and a specification sheet for a supportive infrastructure so that the potential of the new instrument can be exploited.*

It is now the responsibility of the Council and Parliament to make sure that the seeds sown in the Lisbon Treaty will grow into a rich crop. The Union should be aware of what it itself stands to gain when, out of their own initiative, citizens place their hopes in the Union and in this way, for the first time, think beyond their own nation states. People who are listened to and feel understood, even when they do not fully succeed in having their issue adopted, will never tend towards political extremism and will begin to identify themselves with Europe. Conversely, those who listen and try to understand will remain flexible and in touch with reality and will

be less likely to become detached and rigid in their attitudes.

In the coming months we will concentrate hard on making a substantial contribution to providing a supportive infrastructure for the start of the practical application of the European Citizens' Initiative right. This infrastructure will be built up with the cooperation of public and private actors and professionals and will have the task of:

■ **documenting** all the activities and developments around the European Citizens' Initiative right;

■ **informing** potential users and participants about the use of the initiative tool;

■ **educating** actors in politics, media, science, administration and civil society to support and promote the initiative tool in a sensitive and careful way;

■ **advising** interested citizens and civil society organisations about the use of the instrument.

As the central point of access for these activities we are creating the web portal *www.initiativeoffice. eu* and we invite all interested Europeans to make their own contribution to the democratising of European democracy.

Salzburg/Austria, May 9, 2010

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Implementation of the European Citizens' Initiative: Green/EFA Group position paper

I. Introduction

The European Citizens' Initiative is one of the innovations introduced by the Lisbon Treaty. It provides that *"not less than **one million citizens who are nationals of a significant number of Member States** may take the initiative of inviting the Commission, **within the framework of its powers**, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties"*[1]

The European Citizens' Initiative is the very first step towards a more participatory model of democracy in Europe and will for the first time

give people the possibility to raise issues and to bring them on the agenda of their political institutions. Thus it will help to create European-wide initiatives, discourses and consciousness and will bring us closer towards real European democracy and citizenship.

Exact procedures and conditions required for such a Citizens' initiative are to be determined in a Regulation to be adopted by the European Parliament and the Council on a proposal from the European Commission. **The first step for us is now to elaborate our position on the general framework.** (Only once this framework is in place, we can reflect upon promoting or supporting initiatives on certain concrete issues!!!)

During our discussions we have to keep in mind 4 important elements:

■ the European citizens' initiative is **not** to be confused with a petition nor with a referendum. It is nothing more (and nothing less) than **a non-binding instrument for agenda-setting by the citizens of the EU**. And: It only applies to issues within the European Unions' fields of competence and legislative powers. Otherwise it will not be admissible! (This means that initiatives on issues such as the prohibition of building minarets, or the introduction of the death penalty would be dismissed from the very beginning);

■ the European **Commission is not obliged** to take up a citizens' initiative and transform it into a concrete legislative proposal. The mere fact of submitting an initiative does not in itself give rise to a requirement on the part of the Commission to put forward a proposal for a legal act, let alone a proposal with a specific substance. However, a European Citizens' Initiative should be dealt with **equally conscientiously than a call from Parliament or Council** when they request the Commission to submit proposals. Therefore this stage of the procedure must be transparent and open of the highest possible degree of public scrutiny;

■ in case the Commission does not take up an ECI, **Parliament** could always take it up **via its own rights of initiative (Art. 225 TFEU)** if the majority of its members consider that it would be sensitive to get active in the field proposed by the initiative;

■ **Greens have always considered the European**

citizens' initiative as one of the major innovations of the Lisbon Treaty. We have to care now that the European Citizens' Initiative is implemented in a way that guarantees the legitimacy and credibility of the instrument, makes it strong and effective and ensures its accessibility for European citizens.

II. Issues on which we need to elaborate a common Green/EFA position

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

The Treaty indicates that the signatories of a citizens' initiative must come from a **significant number of Member States.** The Regulation shall establish the exact number. In order to guarantee the expression of a certain European interest it seems necessary to set a minimum number of citizens that are required to support an initiative in each of the Member States involved. At the same time the number should not be too high to allow real free and new initiatives without too much financial and other support to manage it – and not provide the European Citizens' Initiative as an instrument only for those well-organised big organisations that already have a seat and powerful lobby in Brussels.

In this respect, the draft legislation of the Commission even lags behind the proposal of the EP in its last period. The Parliament in its report on guidelines for a proposal for regulation proposed one quarter of Member States. The Commission increased the threshold by proposing one third of the Members States.

EP and Commission then proposed a further threshold (which is not in the Lisbon Treaty) of a necessary support of 0.2% of the citizens in each Member State.

Green position: In order to guarantee European instead of national issues and at the same time keep the right to initiative accessible for ordinary citizens and not just powerful lobbyists the Green Working Group would propose **a minimum number of one fifth of Member States.**

2. Minimum number of signatures per Member State

Concerning this additional threshold we believe that a set percentage for all Member States – as originally proposed by the Commission – is not equitable. Because – for example in the case of a required number of 0.2% of the population – in small countries like Luxembourg an amount of 1000 signatures would be much easier to collect than, for example, 160,000 in Germany. So in big countries the hurdle would be too high, since, for example, in Italy 50,000 signatures are already sufficient to launch a citizens' initiative nationwide – corresponding to around 0.08% of the total population. This means that the percentage required has to reflect the size of a countries population.

We Greens therefore propose **a threshold that is digressively proportional to the population of each state** within the range of 0.05 and 1 percent of the population. And we are delighted that we could convince the Commission to adopt this proposal in their draft regulation.

3. Eligibility to support a European Citizens' Initiative : minimum age and third country nationals

The minimum age is one of the less complicated issues. In principle two options are possible. Either a common minimum age in whole Europe or the support of a European Citizens' Initiative is linked to the eligibility to vote in the single Member State.

Green position: Since the European Citizens' Initiative is not a binding referendum, but an agenda-setting instrument that should be kept as open as possible for participation, and since it could be good for Europe to especially invite young people to take or share initiatives for Europe, we recommend **a minimum age of 16 for whole Europe.**

Third country nationals are so far excluded from the right to sign a European Citizens' Initiative. The Commission in its proposal clearly states that only "citizens of the Union" can support an initiative.

Green position: EU policies concern third country nationals living in the EU as much as EU citizens. Bearing in mind that the European Citizens' Initiative is a non-binding instrument whose major objective is to make the Commission aware of people's concerns and problems, **third country nationals who are residents of the EU should not be deprived of the right to sign a** European

Citizens' Initiative and to draw the attention of the Commission on the concerns of people living in the EU. Moreover, the Greens have always supported more open concepts of citizenship and citizens' rights.

4. Requirements for the collection, verification and authorisation of signature

In order to guarantee the legitimacy and credibility of citizens' initiatives, provisions will be needed so as to ensure adequate verification and authentification of signatures. However, it has to be kept in mind that in this delicate phase of initiating initiatives unnecessary burdens should be avoided. This holds true for the collection as well as for the verification of signatures.

Green position: All possible legal and technical ways to collect signatures should be allowed. This includes the **collection of signatures in the streets as well as online**. For the online collection the Commission should provide a website that allows:

- easy access to sign the initiative;
- to ensure that only existing and legitimated persons sign;
- to ensure that those who signed did this only once;
- to guarantee enough safety for the data given by citizens.

Verification of the signatures should be dealt with by the responsible authorities of the Member States. A verification of every single signature must not be necessary. **Random examination** is sufficient to proof whether a sufficient amount of signatures has been reached.

Personal identification numbers are not necessary for verifying signatures. They would prevent many people who care about the protection of their personal data from signing an initiative. Moreover, according to the European Data Protection Supervisor they have no added value for the verification of signatures. Name, address, and nationality are sufficient for identifying a person.

5. Time limit for the collection of signatures

The Commission suggests a time limit of 12 months for collecting the signatures supporting a European Citizens' Initiative.

Green position: The time limit should be two years (or 24 months). Our experience is that transnational initiatives need enough time for communication, meetings, travelling, translation and creating enough support in a significant number of states – especially if they are not initiated by big and established NGOs. Therefore one year is not enough. The deadline does not mean that citizen initiatives could not be handed in earlier if they have already gained the necessary support. In reality it means that after this date signatures that have been given by citizens become invalid. There is no need for this and it would cause a lot of unnecessary frustration to set this deadline earlier than after 2 years.

6. Registration of proposed initiatives

Green position: Initiatives should be registered. For this purpose the Commission should provide a specific website. This website should also put at disposal an extensive explanation of formal and legal requirements for the success of an initiative.

7. Requirements for organisers – Transparency and committee of organisers

Green position: The initiative has to name at least 7 persons out of a minimum of 3 MS that can speak and decide for the initiative. Such a committee of organisers has two advantages. On the one hand, it requires initiators to put some effort into an initiative already before it can be registered. In this way, it helps to avoid immature and unreasoned initiatives. On the other hand, the committee members can serve as direct reference persons for the Commission – for instance concerning questions of admissibility, hearings and other issues.

For the sake of transparency and democratic accountability, organisers of initiatives should, in addition to the basic information on address and persons responsible,be required to provide basic **information in relation to the organisations that support an initiative and how the initiative is or will be funded**. Disclosure should relate to the initiative's total income and expenditure, and also to any large donations.

8. Examination of citizens' initiatives by the Commission: the admissibility check

In the draft regulation of the Commission the admissibility check is designed as a two-step

process. The first step relates to the registration of a proposed citizens' initiative by the Commission. The Commission intends to use the registration also as a filtering mechanism for not admitting "abusive" ECIs or ECIs "which are manifestly against the values of the Union". A second admissibility check is intended at a latter stage of the process, namely after European Citizens' Initiative organisers have collected 300.000 signatures. The aim of this check is to examine the legal basis of a European Citizens' Initiative and to admit only those initiatives that fall within the framework of power of the Commission to make a proposal.

Green position: There indeed should be a mechanism for excluding citizens' initiatives, which violate fundamental rights respected by the EU. However, rejecting a European Citizens' Initiative on the basis of generalised arguments like "abusive" or "against the values of the Union" is far too unspecified and contradicts the principle of legal certainty. The Commission should instead **decide on the basis of clear legal examination.** A European Citizens' Initiative **should be rejected if it is in breach of Art. 6 TEU, the Charter of Fundamental Rights, and the European Convention of the Protection of Human Rights and Fundamental Freedoms.**

Moreover, **the whole check of admissibility should be done at the very beginning and not after the creation of strong expectations and many months of signatures having been collected.** Checking the legal admissibility of an initiative only after 300,000 signatures is far too late, will cause massive frustrations and can have a detrimental effect on the legitimacy of such decisions and the responsible institution. So registration and the examination of legal admissibility must be done before the collection of signatures is started. The Commission must thoroughly explain its decision to the organisers of a European Citizens' Initiative – and the organisers must have the right to challenge it before the **Court of Justice**.

9. Procedures after a successful European Citizens' Initiative

In contrast to all the detailed rules and provisions that ECI-organisers have to obey, the Commission is pretty short on its own obligations in dealing with a successful European Citizens' Initiative . In Art. 11 of the draft regulation it only stipulates

that it will "examine the citizens' initiative and, within 4 months, set out in a communication its conclusions on the initiative, the action it intends to take, if any, and its reasons for doing so".

Green position: This is the most important point in making the European Citizens' Initiative an efficient instrument for agenda-setting by the citizens and not only a toothless tiger. There must be clear regulations and legal provisions on what has to happen after a European Citizens' Initiative was successful. Our proposal: if the European Citizens' Initiative is formally and legally admissible, the Commission is obliged to discuss the content of its proposal and possible ways to take action on it adequately. The **Commission informs the EP and the Council of Ministers on how it intends to respond to a successful initiative. Parliament and Council can adopt an opinion on the issue.**

Moreover, the initiators of a European Citizens' Initiative have **the right to be heard by the Commission in a public hearing, where they can publically explain and discuss their proposal and reasons – and they must have the right to proper and transparent information on its deliberations and their result.**

Did the Commission come to the conclusion not to take action on the initiative, the European Parliament (in most of the cases the committee on petitions) can take up the issue and invite the Commission to explain its reasons in a public hearing where also the initiators and – if he wishes – the European Ombudsman can explain their view on this decision.

If the Commission comes to the conclusion that it will take legal action, it has to explain in what direction it would consider to propose a legal initiative and how the initiators and stakeholders will be involved. The Commission has to table its proposal within one year following its decision on the ECI. **The EP (or its committees) is free to put the issue on its agenda and to also hold a hearing at any given time.** If the Commission breaches this rules of procedure, organisers can appeal to the European Ombudsman and ultimately to the ECJ.

10. Initiatives on the same issue

Green position: Every initiative has to be registered on the specific website of the Commission, which is public. This could ensure that duplica-

tion would be avoided. Further legal restrictions are not needed. In order to reach the very high quorum initiatives themselves have to be interest in not splitting their force in different initiatives on the same issue.

11. Treaty amendments

Green position: The precise wording of Art. 11 (4) *"... a legal act of the Union is required for the purpose of implementing the Treaties"* leaves room for interpretation of whether treaty amendments fall under the scope of the Citizens' Initiative. However, it has never been the intention of the promoters of Art. 11 (4) to restrict the European Citizens' Initiative purely to secondary legislation. EU treaties are very detailed and complex. In contrast to national constitutions, they include numerous specific policies, tools, and instruments that, in the Member States, would be part of lower legislation. Greens do favour a more generous interpretation in order to allow citizens playing an active role in some of the most important political issues and to genuinely enhance the citizens' initiative as an instrument to "reinforce citizens' and organised civil societies involvement in the shaping of EU policies".[[1]] [2] On the other hand, European Citizens' Initiative that propose Treaty amendments can become by no means a loophole for infringements of the Charter on Fundamental Rights or the ECHR. At the end it will however be up to the European Court of Justice to decide on concrete cases how far it stretches the concept of implementing the Treaties in its verdicts.

12. Additional mechanisms supporting initiators of a European Citizens' Initiative

Green position: In respect to the very difficulty for not already European-wide organised initiatives of the civil society with elaborating and launching an initiative in many different languages and member states and in order to avoid that only organised civil society, big, powerful and financial sound NGOs can this instrument, we have to reflect upon ways to support initiators of initiatives. This contains not only the need for help with translations or legal advice. Since it is often difficult to ascertain the precise scope of EU powers, it will also be essential for organisers of initiatives to be able to consult relevant experts, so that potential problems can be resolved at an early stage. Ultimately, such a provision would also ease the burden on the institutions by less-

ening the likelihood of later disagreements and possible legal appeals.

Thus, initiatives must have the right to receive professional help especially for translation purposes and for advice on the legal design and the admissibility of an initiative.
Since it would make no sense to oblige the Commission to directly supporting the initiative in this phase of the process (because then the same institution that helped with advice and formulations will later on be the one to decide on the proposal – which makes it on both ends of the process less free) an independent solution is needed.

Therefore we propose to establish an independent body for help and advice with citizens' initiatives. This could lead to a very useful **focal point for citizens' engagement and citizens' participation**. It could be led by an authorised EU- appointee for citizens' participation that will be funded by the European Union, elected by the EP and controlled by a board with representatives not only of the council, the commission and the parliament but, in majority, of the civil society.

[1] Article 11 (4), of the Treaty on European Union.
[2] European Commission: Green Paper on a European Citizens' Initiative, COM (2009) 622 final, p. 3.

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Position on the implementation of the European Citizen's Initiative (ECI): Adopted resolution by the European Green Party (Barcelona, March 19, 2010).

Having regard that the European Citizens Initiative is an important step towards a more participatory model of democracy in Europe and will for the first time give citizen's the possibility to directly raise issues and bring them on the agenda of their political institutions. And thus will help to create European-wide initiatives, discourses and consciousness that will bring us closer towards real European democracy and citizenship;

Taking note that exact procedures and conditions required for such a Citizens' initiative are to be determined in a Regulation to be adopted by the European Parliament and the Council on a proposal from the European Commission;

and expressing the wish that the Commission will take due account of the result of the public consultation; to implement the Citizens' initiative in a practicable and citizens-friendly way the EGP-Council is of the opinion that the general framework such legislation should consist of:

1. the minimum number Member States should be 5 with a minimum of 0, 05% of necessary signatures per Member State;

2. the minimum age for supporting an initiative should be set at 16;

3. a legal pre-check must be made available to the organisers of an initiative, A legal check of the admissibility has to take place at the beginning of the procedure;

4. the European Citizens Initiative can be submitted in form of a general proposal, comprising the title, the scope and a motivation and that it can also – but must not – be submitted in the form of a draft legal act;

5. the time limit for the collection of signatures should be two years;

6. that all possible legal and technical ways to collect signatures should be allowed. This includes the collection of signatures in the public sphere as well as onlinegathering of signatures;

7. verification of the signatures should be dealt with by the responsible authorities of the Member States. A verification of every single signature must not be necessary. Random examination can be sufficient to proof whether a sufficient amount of signatures has been reached and;

8. initiatives should be registered and that for this purpose the Commission should provide a specific website and put at disposal an extensive explanation of formal and legal requirement for the success of an initiative;

9. in the interest of transparency and democratic accountability, organisers of initiatives should be required to provide basic information in relation to the organisations that support an initiative and how the initiative is or will be funded;

10. the formal and legal admissibility has to be verified legally under the point of view of the respect of the competences of the EU and the Charter of Fundamental Rights. If the EUROPEAN CITIZENS' INITIATIVE is formally and legally admissible, the Commission is obliged to take into account the content of its proposal and possible ways to take action on it adequately. The initiators have the right to be heard by the Commission in a public hearing and to be informed properly and transparently on its deliberations and their result. Notwithstanding the fact that the letter of the Treaty does not oblige the Commission to take action on all citizen's initiatives, we call on the Commission to take the political commitment to always present a legislative initiative to the EP and the Council. If it does not agree with the proposal, it should state so and explain why;

11. the Commission has 6 months time to proof the initiative.

12. there should be additional mechanisms supporting initiators of a EUROPEAN CITIZENS' INITIATIVE, by establishing an independent agency for help and advice for citizen's initiatives.

The EGP-Council calls upon the Green Group in the European Parliament

a) to organise a common EGP-GGEP meeting with Green members of national and regional parliaments in order to define a common position on the procedure and to discuss about the promotion of specific citizen's initiatives.

b) together with the green European and the national partners actively promote the instrument.

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iRi *Initiative and Referendum Institute Europe*

IRI , Europe's Global Direct Democracy Think-Tank, is a transnational research and education institute dealing on the procedures and practices of modern direct democracy. IRI Europe is a non-partisan, non-profit association with headquarters in Marburg/Germany and brings together some of the top experts and practitioners of the initiative and referendum process across Europe and the world. Current projects include:

▪ implementing a comprehensive informational and educational platform, the IRI NAVIGATOR TO DIRECT DEMOCRACY, based on the new General Typology of Modern Direct Democracy, creating the first world-wide and web-based information and collaboration platform on initiatives and referendums;

▪ developing its world-renowned IRI GUIDEBOOK into a reference work and entry point into the issue available in many languages, featuring by the beginning of 2011 versions in Chinese, Korean, English, Spanish, French, German, Italian, Finnish and Hungarian;

▪ offering tailor-made and award-winning BRIEFING TOURS to modern direct democracy procedures and practices in Switzerland and Europe, offering intensive crash-courses in the use of initiative and referendums;

▪ creating new programmes at the IRI RESEARCH CENTER in Marburg looking into the local use of DD mechanisms across the world and preparing the launch of an INTERNATIONAL JOURNAL on MODERN DIRECT DEMOCRACY;

▪ continuing its efforts to assist Europe in becoming more democratic by advising Europeans on the newly established EUROPEAN CITIZENS' INITIATIVE RIGHT introduced in the European Union's Lisbon Treaty;

▪ co-hosting the GLOBAL FORUM ON MODERN DIRECT DEMOCRACY, the newly established worldwide mapping, meeting and mainstreaming initiative, bringing together the most experienced practitioners from across the globe. The next forum takes place in Montevideo/Uruguay in 2012. [globalforum2010.com].

For more information on our publications, events and programmes check out our Web services at www.iri-europe.org and/or contact us by writing to info@iri-europe.org, Adress: IRI Europe, Box 200540, DE-35017 Marburg, Germany; Phone: +49-(0)6421-1768014.

THE NEW EUROPEAN CITIZENS' INITIATIVE

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YOUR NEW OPPORTUNITY.

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