

# The European Citizen Initiative (ECI)

## Discussions regarding some legal aspects



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# Aims of the presentation



- Answers to the questions addressed to the panel
- Impossible to be exhaustive
- Legal “fiction”

# *Table of content*



**I. Introduction**

**II. Does it enter in the scope of implementing the Treaties?**

**III. Does it enter in the scope of the power of the European Commission?**

# Table of content



**IV. Does the Commission have to adopt an act following a ECI?**

**V. What are the obligations related to the institutional follow-up of the ECI?**

**VI. Legal remedies when the Commission is reluctant to act?**

**VII. Which types of acts and which procedure to apply?**

# Introduction



- Convention
- Constitutional Treaty
- 1<sup>st</sup> of December 2009 Lisbon Treaty
- 16<sup>th</sup> of February 2011 Adoption of the Regulation
- 1<sup>st</sup> of April 2012: Application of the Regulation

# Does it enter in the scope of implementing the Treaties?



- **Article 11 TUE**

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European 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.**

- **Article 4 of the Regulation**

(b) the proposed citizens' initiative does not manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union **for the purpose of implementing the Treaties;**

# Does it enter in the scope of implementing the Treaties?



- The limit: the competence of the Union
- The revision of the Treaty?
- Two questions:
  - When are you outside the competence of the Treaty?
  - When and how are you going to check this aspect?

# Does it enter in the scope of the power of the European Commission?



- **Article 11 TUE**

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of **inviting the European 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.

- **Article 4 of the Regulation**

(b) the proposed citizens' initiative **does not manifestly fall outside the framework of the Commission's powers** to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties;

# Does it enter in the scope of the power of the European Commission?



- Two questions
  - When are you outside the powers of the Commission?
  - When and how are you going to check this aspect?

Does the Commission have to adopt an act following a ECI?



- Legal obligation
- Political obligation

## What are the obligations related to the institutional follow-up of the ECI?



- Before the adoption of the COM Final of the European Commission
- After the adoption of the COM Final of the European Commission

# Legal remedies when the Commission is reluctant to act?



- Legal actions
  - Failure to act
  - Action for Annulment
  - Extra-contractual liability
- Administrative actions
  - Ombudsman
- Political actions

# Which types of acts and which procedure to apply?



- Article 11 TUE

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European 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 (...)

- Article 288 TFUE

To exercise the Union's competences, the institutions shall adopt **regulations, directives, decisions, recommendations and opinions.**

# Which types of acts and which procedure to apply?



- The type of act depends of the legal basis

- If there is no indication

## Article 296

Where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality.

(...)

## Which types of acts and which procedure to apply?



- The type of procedure depends of the legal basis

## Which types of acts and which procedure to apply?



- Not only legal acts according to the Treaty?
- Article 10 of the Regulation  
(c) within three months, **set out in a communication its legal and political conclusions** on the citizens' initiative, the action it intends to take, if any, and its reasons for taking or not taking that action.



**Thank you very much for your attention**