



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 May 2010

9855/10

**Interinstitutional File:
2010/0074 (COD)**

**POLGEN 73
CODEC 437
INST 165**

NOTE

from :	Presidency
to :	COREPER II
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the Citizens' initiative - Key Outstanding issues

The Treaty on European Union provides for a citizens' initiative right whereby one million citizens may invite the Commission to bring forward certain legislative proposals. In order to put in place the procedure for such an initiative, the Commission adopted on 31 March 2010 a proposal for a regulation of the Council and the European Parliament setting out the procedures and conditions for the citizens' initiative. The proposal was submitted to the Council on 6 April 2010.

The examination of the proposal by the Council's preparatory bodies begun on 9 April 2010. As a result of a first round of discussions, the Presidency identified four key issues (doc. 8796/10) which were submitted to Ministers for an orientation debate at the General Affairs Council on 26 April. At this meeting, the Council confirmed its intention to reach a general approach on this proposal at its meeting in June 2010.

Based on the political guidance received from the Ministerial orientation debate, the Antici Group continued the examination of the proposal. As result of this second round of discussions, the key outstanding issues are identified in this document. The Presidency invites COREPER II to provide guidance on the issues below, to steer further work in the Antici Group with a view to reaching a general approach in June.

Delegations are reminded that the citizens' initiative is an agenda setting initiative and not a voting instrument nor a referendum. In this context, the procedures and conditions for the citizens' initiative need to be simple, user-friendly and accessible to all EU citizens and more importantly, proportionate to the "non-legislative" nature of the instrument.

1. Registration of the proposed initiative and Decision on the admissibility of a proposed initiative (Articles 4 and 8)

The proposal foresees that a decision on the admissibility of the proposed initiative is taken at an intermediate stage – after 300.000 signatures have been collected from 3 Member States – before Member States are required to carry out checks. During the discussions a number of Member States objected to a two-stage admissibility control and has argued for the admissibility control to take place at the initial phase, that is at the time of registration before any signatures have been collected. These delegations support the merging of Articles 4 and 8.

Others however supported the Commission's two-stage admissibility control, but in the spirit of compromise have suggested to lower the threshold of required signatures, from 300.000 to 50.000-100.000.

The Commission has reminded that a single admissibility check at the outset might have serious human and financial resource implications for the Commission, it would involve considerable risks of abuse of the system and could be seen as a form of censorship of initiatives by the Commission.

2. Verification and Certification of statement of support (Articles 5, 9 and Annex III)

In order for the system to be credible, appropriate and proportionate verification of the data of the signatories needs to be fully ensured. While this principle is accepted by all, the discussions have revealed large divergences among Member States as regards the type of information, as well as the nature of the verifying document(s) to be provided for this purpose. Given the technical nature of this issue, the Presidency has convened an expert meeting to discuss this issue in order to agree on the information to be provided in Annex III of the regulation.

3. Amendments of the Annexes (Article 15)

In its proposal the Commission proposes that Annexes I-VIII of the Regulation be amended by means of delegated acts. The Commission considers that such adjustments would be essentially of a technical nature, which do not warrant a full legislative proposal, therefore the use of delegated powers is justified. Some Member States do not share this argumentation. These Member States can accept the delegation of power by the Commission only as concerns Annex I (minimum number of signatories per MS).

4. Review Clause (Article 21) and Application of the regulation (Article 22)

Given the absence of any experience at EU level with this form of participatory democracy instrument, the proposal provides for a review clause which requires that the Commission report on the implementation of the Regulation after **five years**. Given precisely the absence of any experience and in addition, fearing the additional administrative burdens that may arise, a five year review period is deemed too long for a number of Member States. An earlier review clause of three years seems to rally the support of most.

Linked to this, is the issue of application of the regulation. A number of Member States has argued that in order for them to be able to apply the regulation, notably as regards the certification of an online collection system, they will need to adapt or develop national legislation and/or administrative capacity accordingly. In order for this to happen, a number of delegations have required that the regulation be applied 12 months after its entry into force.

5. Other issues

- **Requirements for the Organisers and the Signatories (Article 3):** A few delegations have insisted on specifying that only the citizens who are legally able to vote can participate in the initiative. The Commission opposes this due to the complications for other Member States and the fact that such a provision would exclude from the right to sign up to an initiative any citizen who would not be inscribed in the electoral lists.
 - **Online Collection Systems (Article 6):** Even though there was an overwhelming support on the possibility for an online collection system, a number of delegations have expressed concerns on their ability to perform the required checks on the systems as well as for the ensuing administrative burdens this may imply. Given the technical nature of this issue, this item will also be discussed in the above-mentioned expert meeting convened by the Presidency.
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