The Significance of the European Citizens' Initiative for Pan-European Participatory Democracy

Luis Bouza García

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Introduction and background

The Lisbon Treaty has introduced a new Article 11 of the Treaty on European Union (TUE) that creates a European Citizens' Initiative (ECI) allowing one million citizens from a significant number of member states to invite the European Commission to submit a proposal within the framework of its powers. The ECI fully entered into force on 1 June 2012 when all the elements established by Regulation 211/2011 were ready and the first initiatives were registered. This is thus an ideal time to analyse the significance of the ECI as an example of a transnational participatory democracy mechanism. Article 11 of the TUE introduces different forms of citizens' participation. The first paragraph mandates EU institutions to encourage the expression of civil society at European level. Paragraph 2 instructs EU institutions to establish regular relations with representative associations and civil society, whereas paragraph 3 orders the Commission (not all institutions) to consult 'parties concerned' in the process of making legislation. The ECI is only introduced in paragraph 4 of the article.

The first of these three paragraphs can largely be seen as a legal recognition of policies concerning their relation to civil society that EU institutions had already introduced in practice by contributing to the creation of European-level civil society organisations (Greenwood, 2011) or under the concept of 'civil dialogue' (Fazi and Smith, 2006). The ECI is thus not the first attempt to organise participatory mechanisms beyond the national state or at European level. International and European institutions (Organisation for Economic Co-operation and Development, United Nations and Council of Europe) have developed policies of consultation with civil society organisations (Steffek and Hahn, 2010) as a way to improve policy-making. The EU has not only sought to use these mechanisms as a way to obtain expertise from civil society, but also as a way to design a participatory strategy seeking to reconnect European institutions with citizens and their preferences (Greenwood, 2007; Bouza García, 2010). However, this aspect of the civil dialogue strategy has been critically assessed as unable to associate ordinary citizens with policy-making. This is because they produce different biases such as large representative organisations against cause groups (Halpin and McLaverty, 2010). Another relevant drawback of these mechanisms is that they tend to create their own institutional dynamics by favouring forms of collective action based on expertise and direct access to decision-makers rather than mobilisation or deliberation by large numbers of citizens (Kohler-Koch and Finke, 2007).

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*   Opinions expressed in this paper are only those of the author and not necessarily those of his academic institutions of affiliation.

In this sense, civil society consultation makes an important contribution to the creation of a level playing field between different types of interests (Greenwood, 2007) but has not been able to provide significant opportunities for grassroots citizens' participation in EU policy-making.

The ECI is thus a significant innovation for at least two reasons: it is the first example of a transnational participatory mechanism relying on the mobilisation of individual citizens (Kaufmann, 2010) and it has the potential to transform the existing relations between European civil society and EU institutions. Although citizens' initiative mechanisms exist in different constitutional systems—in such American states as California and in European countries like Switzerland and Italy (Cuesta López, 2008)—no such mechanism exists so far in the international arena.

The ECI relies on a different logic. Although it will also depend on organised civil society for the articulation of pan-European campaigns, it will rely on massive mobilisation of supporters across Europe. The ECI is thus likely to favour strong communication with citizens and the mobilisation of groups so far little involved in European policy-making, and has as well a very strong potential for contributing to the emergence of a European public sphere, making relations with civil society more inclusive and more representative of the concerns of European citizens. This paper aims at highlighting the significance of this new mechanism and its potential for making EU policy-making more inclusive and able to foster stronger communication by citizens and their organisations in the European public sphere.

In doing so, the paper will firstly analyse the origins of the ECI in the European Convention (2002–2003) and of the policy debates on the regulation of the concrete aspects and mechanisms of the ECI (2010–2012) as this yields relevant information on the expectations of the ECI and what its real effect may be. Secondly, it will analyse what the ECI is as well as what it is not, in particular in comparison with similar mechanisms existing in states of the USA or Switzerland and with other forms of activism relying on the mobilisation of narrower constituencies. Thirdly, based on previous and ongoing research, the paper will analyse which civil society actors have registered European citizens' initiatives, in order to understand whether the ECI is effectively causing the increased inclusiveness and outreach to citizens that have been anticipated.

The origins of the ECI and its Regulation

The ECI is an old new tool. On the one hand, collective petitions by citizens to public authorities, even before being formalised in the form of citizens' initiatives, are a venerable tradition, as the 'cahiers de doléances'[1] of French citizens preceding the 1789 revolution attest. More importantly, initiatives functioning on the grounds of citizens' support by signing a collective petition have existed formally in the USA and Switzerland since the 19th century[2] (Cuesta López, 2008: 58–65). However, these mechanisms differ quite strongly from the ECI for at least two reasons. Firstly, unlike the Swiss, American or Italian version, the ECI is not a mechanism of direct but of participatory democracy, since the last decision rests within representative policy-making institutions. Unlike Switzerland or the American states, where citizens can call for a popular vote to introduce new legislation or constitutional amendments (legislative or constitutional initiatives), or Italy where this can be done to change existing legislation (also known as the abrogative referendums), the EU institutions have the final say. Secondly, these tools have remained associated with local or at most national politics, as there is no known experience of a similar form of collective action being recognised in a transnational context such as the EU (Kaufmann, 2010).

But even for the EU itself the history of the ECI must be traced to events predating its recent implementation. The ECI has recently acquired full legal rank following the entry into force of the Lisbon Treaty (2009), of a regulation of the Parliament and the Council (211/2011) and implementation of relevant aspects at national level (2012). However, the idea and even the very concrete wording of the text were included in the un-ratified European Constitution in June 2003. This means that the ECI has been a part of the agenda on participation in the European Union for almost a decade. This section proposes an overview of the debate as a way to understand the expectations linked to the ECI and the main policy dimensions that it implies.

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1 Literally, 'complaint books', the grievances addressed to the king by the assemblies of non-privileged citizens of the Estates General of the kingdom in pre-revolution France. These collective grievances were used as an argument to transform the Estates General into a constitutive assembly during the 1789 French revolution.

2 Cuesta López (2008: 58–59) argues that in comparative constitutional law the Swiss and American initiative systems are the oldest ones and are related to the strength of local citizens' assemblies in the Swiss cantons and American states. The Swiss cantons (the members of the Swiss federation) acknowledged the right of citizens to collectively propose or oppose bills followed by a referendum in the 1840s. This was also granted at the federal level in the 1870s. This allows Swiss citizens to propose new legislation or constitutional amendments and to call for a referendum on the result of their initiative once it is passed or to ask for a citizens' consultation on new legislation approved by the Parliament. In the USA, the right of citizens to propose and vote on new bills or amendments to the constitutions of the states was recognised in over 20 states between 1890 and 1920 (Cuesta López, 2008: 63–65). The California popular ballot is an example of how relevant this tool can be in producing or stopping legislation as citizens' initiatives can modify taxation.

The ECI and the European Convention

The ECI was first formulated at the end of the Convention on the Future of Europe (2002–2003), a large gathering of representatives of national governments, national parliaments, the Council, the Commission and the European Parliament convened by the European Council in 2001 as a way of avoiding the perceived deadlocks of traditional treaty reform via intergovernmental conferences. One of the reasons why the Convention on the Future of Europe was created for the reform of the treaties in 2001 was to allow for a more transparent and fundamental debate, aimed at bringing the EU closer to the citizens. Hence, since the beginning of this original forum of debate, civil society and participation became buzzwords of the Convention (del Río Villar, 2004). Thus one of the ways in which the Convention responded to its mandate to bring the EU closer to citizens was the creation of mechanisms of participation that would complement representative democracy.

In practical terms, however, the first mechanisms of participation discussed by the Convention consisted in forms of dialogue between the EU institutions and the organisations of civil society. It was not until the end of the Convention that the ECI was considered. Different sources point out that the idea of including a Treaty article allowing citizens to introduce an element in the agenda of the European Union was introduced by a coalition of European organisations led by IRI Europe and Mehr Demokratie (Lamassoure, 2005; Kaufmann 2010). The campaign by these organisations is an interesting instance of how traditional lobbying of political decision-makers was used to promote a device of participatory democracy (de Clerck-Sachsse, 2012).

French Convention member Alain Lamassoure argues that the ECI was the least ambitious of the different initiative mechanisms discussed during the Convention (Lamassoure, 2005). In the wake of the referendums for the ratification—which ultimately failed in France and the Netherlands—one of the central objectives of the proponents of the ECI was to introduce a direct democracy device whereby citizens could call for pan-European debates, akin to those existing in Switzerland or the USA. This was considered a powerful way to make citizens come together as Europeans able to propose and decide on legislation, giving them a very strong voice in the policy-making process. The more modest ECI was, however, accepted as a compromise in favour of the creation of complementary participation opportunities that would not demand a radical conceptual transformation of EU democratic legitimacy devices.

Probably because of its relative modesty, the ECI went largely unnoticed between the end of the European Convention in 2003 and the ratification of the Lisbon Treaty in 2009. Had Article 11 of the TUE introduced pan-European referendums, it might not have survived the conscious removal of all the elements of the failed Constitution which had symbolic federal implications in the drafting of the Lisbon Treaty. The inclusion of the ECI in the Lisbon Treaty is probably also a testimony to the EU's concern about its distance from its citizens, which had been already identified in the call for the Convention in 2001, and had only grown bigger after two failed referendums on the Constitution in France and the Netherlands (2005) and one on the Lisbon Treaty in Ireland in 2007. A rapid implementation of the ECI would thus be a way to deliver on promises that the Lisbon Treaty would contribute to make the EU more democratic.

Almost immediately after the entry into force of the Treaty, the Commission delivered a Green Paper on the Citizens' Initiative (European Commission, 2009). This Green Paper was to serve the Commission to consult stakeholders on the ECI before proposing a regulation in the second part of 2010.

The policy aspects of the ECI debate

However, before the ECI could be implemented several of the questions that the Treaty left open had to be addressed in secondary legislation. The Treaty provision on the ECI reads as follows:

> 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. (TUE, Article 11.4)

The first obvious doubt is what exactly 'a significant number of Member States' means, and in connection with that, whether the number of signatures from each of these member states would have to be balanced or whether they could be mainly concentrated on a smaller number of countries.

The Commission's first proposal in its Green Paper (European Commission, 2009) was relatively demanding in this regard. Inspired by the Treaty provisions on enhanced cooperation stating that one third of member states could launch a form of more advanced cooperation between them, the Commission suggested that signatures be gathered in at least nine member

states. However, a significant number of the civil society stakeholders who had participated in the consultation expressed their opinion that this was extremely demanding, as it would require the organisers, who would not have the means for European cooperation that member states have, to develop infrastructure in at least nine countries, thus multiplying the organisational costs. The European Parliament was more in line with stakeholders wishes as even before the Commission's consultation it had produced a report demanding that the minimum number of member states where signatures have to be collected be set at one quarter (European Parliament, 2009). A quarter of member states, seven, was the compromise figure finally adopted in the ECI Regulation.

Unlike the number of countries where signatures had to be gathered, there was a relatively broad consensus on the fact that these signatures had to be distributed proportionately among these states in order to maintain the European nature of the initiative by making the number of signatures proportional to the population. However, in order to avoid the danger that initiatives could be 'Europeanised' by gathering most of the signatures in large member states and collecting a very small number of them in smaller countries, it was decided to use a proportionally decreasing system for smaller states, as happens in the distribution of seats to the Parliament.[3]

Another obvious issue was that of the need for a legal foundation for the action of the Union and for the Commission to have the competence to initiate legislation. The implication was that there was a risk that citizens would make the effort to collect a million signatures in seven different member states only to find later that the substance of their initiative could not be discussed because of the lack of a legal basis. In order to avoid this, the Commission initially suggested that it would check the legal acceptability of initiatives after 300,000 signatures had been gathered. However, this was again considered very demanding by the European Parliament (European Parliament, 2009) and civil society stakeholders in the sense that gathering 300,000 signatures already required significant infrastructure and activism, and that the possibility to have the initiative dismissed at this stage was akin to a lack of legal certainty and would cause frustration. The reason why the Commission made this proposal was to avoid the burden of performing legal checks for possibly unsuccessful initiatives and to avoid offering a possible

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3   In the European Parliament, smaller member states have a proportionally higher representation than larger ones in proportion to their population. member states such as Malta or Luxembourg (under 500,000 inhabitants) choose six MEPs whereas Germany, with a population of 80 million, elects 96. Article 7.2 of the ECI Regulation follows the same logic, requiring a proportionally higher number of signatures in smaller Member States, as it requires that the number of signatures to be collected in each member state should be the result of multiplying the number of MEPs of each member state by 750.

means of litigation in court on these matters. But during the discussion agreement was reached that the Commission would check all initiatives on registration, but that a more in-depth analysis, probably in relation with subsidiarity and proportionality, would be carried out after a million signatures had been collected (Mincheva and Szeligowska, 2012). Although it is not possible to check how the Commission will apply these two checks, because no ECI has yet reached a million signatures at the date of writing, the Commission has already refused to register three initiatives on the grounds of lack of a legal basis.[4]

Another relevant debate was triggered by the issue of the role of the promoters of the ECI. Although Article 11.4 of the Treaty is silent on this point, comparative initiative law tends to reserve for the organisers and promoters of initiatives a significant role in the management and even in the policy discussion triggered by the initiative (Cuesta López, 2008). In this sense, the Commission's proposal already included a form of recognition for the promoters of the initiative, allowing them to be heard by the Commission and to present their initiative to the European Parliament. The discussion of this issue at EU level was influenced by fears that the ECI might be hijacked by lobbies and would no longer represent an opportunity for ordinary citizens but for groups already having access to the EU via traditional lobbying. To prevent this from happening, the European Parliament proposed to reserve the right to initiate ECIs to legal persons organising a pan-European citizens committee. This idea was included in the ECI regulation. Thus promoters of ECIs will have to create a committee of seven people legally residing in seven member states, in order to avoid initiatives being organised centrally from Brussels. Furthermore, Article 4.1 of the ECI Regulation (211/2011) establishes that promoters have to declare the financial support they have for carrying out their initiatives.

Finally, a number of detailed discussions took place regarding among other issues the minimum age to support ECIs, the validation of signatures and whether citizens were to provide ID numbers when signing (Kaufmann, 2010). In all these matters, the Regulation opts for continuing existing practice in similar matters. In this sense, the minimum age for supporting ECIs is defined as the minimum age for voting in the elections to the European Parliament in each country. Similarly, the regulation leaves it to the authorities of every

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4   These had to do with automatic EU membership for new states formed when they secede from EU member states, nuclear energy and using Esperanto to sing the EU anthem. Non-registered ECIs can be consulted on the online portal that the Commission has devoted to the ECI: <http://ec.europa.eu/citizens-initiative/public/initiatives/non-registered> (accessed 24 September 2012).

member state to establish the system for validating signatures and whether to demand that citizens provide evidence of personal identity or not.

Finally, it is also worth reflecting on two issues that were not directly raised during the regulatory process but that are likely to remain important. The first one relates to the relative difficulty of gathering a million signatures in seven different member states. Although it will be necessary to wait until the success or failure of the first ECIs launched since June 2012 to determine this more accurately, data on European signature collection campaigns launched before the entry into force of the ECI point out that only five out of 21 campaigns attained a million signatures (Bouza García, 2012). Furthermore, organisations with a very salient role in EU civil society, such as the European Trade Union Confederation (ETUC), were not able to attain this number. In this regard it must, however, be pointed out that the difficulty of gathering signatures may be significantly lowered by the possibility established by the ECI Regulation to collect statements of support for ECIs online. That said, so far it is proving relatively difficult to realise this possibility, as there have been technical issues with the software. Furthermore, some organisers and members of the European Parliament (MEPs) are now arguing that there should a public platform for collection of statements of support,[5] rather than requiring organisers to hire a server at their own expense.[6] This means that the opportunity provided by the possibility to collect signatures online is so far not being put into use. This is thus related to the issue of funding. The financial cost of carrying initiatives and eventual compensation for promoters was not substantially addressed during the debate. This is noticeable since EU institutions, in particular the Commission, have generously funded the coordination of organised civil society at European level, especially by providing funding to the creation of European civil society organisations (Greenwood, 2011). The ECI web portal clearly shows that not all organisations are disclosing their sources of funding. As for those that declare it, none seem to be directly funded by public authorities.

This overview has identified the main policy issues that have been raised by the ECI. The following sections try to understand the significance of the ECI in the context of the EU's efforts in promoting citizens' participation and its potential effect in making such participation more diverse.

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5   See the video 'Citizens' Initiative Hits a Snag' containing the opinions of a few MEPs: <http://www.youtube.com/watch?v=0qFbWiwY52o&feature=youtu.be> (accessed 25 September 2012).

6   An ECI has even been recently registered (26 August 2012) precisely on this demand. See <http://ec.europa.eu/citizens-initiative/public/initiatives/ongoing/details/2012/000011> (consulted on 25 September 2012 for the last time).

The contribution of the ECI to participation: what it is and it is not

Since the entry into force of the Lisbon Treaty, the European Citizens' Initiative has been pointed out as 'one of the most visible and concrete expressions of the innovations brought by the Lisbon Treaty' (Council of the European Union, 2010: 1). However, evaluations tend either to overextend expectations of the ECI or to diminish its significance. For instance, the ECI is sometimes hailed as a way in which EU citizens may deeply transform the EU by calling pan-European referendums on all policy areas, as has happened in California (Pichler, 2008). On the other hand, it is not unusual to read sceptical conceptions of the ECI that argue that just like previous attempts with European participatory mechanisms it will not succeed in bringing citizens closer to the EU (de Cleck-Sachsse, 2012). Thus in order to be able adequately to assess the ECI it is necessary to understand as exactly as possibly which type of participation it entails.

What the ECI is

The first dimension is that one million citizens can invite the Commission to take an initiative. This means that the ECI has been framed in a way that does not legally challenge the Commission's monopoly of legislative initiative which makes the policy-making system of the EU so unique. The Parliament and the Council have thus highlighted that a million citizens will now acquire the same right as these two institutions, that of asking the Commission to act—Articles 241 and 255 of the Treaty on the Functioning of the European Union (TFUE). The wording makes it clear that citizens can invite the Commission to act, without obliging this institution to carry out the initiative proposed by the citizens. Thus not only does the ECI not challenge the Commission's monopoly of initiative, but it leaves this institution with the political discretion to accept or reject, in part or fully, the citizens' initiative.

The second relevant dimension is the material limits of the ECI. The Treaty Article sets two types of limits. Firstly, the ECI must be within the powers of the Commission to propose legislation. This means that the ECI cannot be used to introduce policy proposals in fields where the Commission does not have a capacity to act, such as defence or foreign policy. Secondly, the initiative must serve to implement the Treaty, that is, it must have a legal basis in the Treaty and contribute to realise the Treaty's values and objectives. It cannot thus be used to create new policy areas or scrap existing ones. In order to try to facilitate the task of identifying the matters where citizens can introduce ECIs, the Commission has published on the ECI web portal a list of policy areas where it can initiate legislation, which includes the Treaty articles

providing the legal basis in each area (see the Appendix). On a first approach the list is comprehensive, as it includes most of the EU's policy areas; but the Commission can only propose legislation in those areas according to the legal basis in the Treaty. Citizens can thus ask the Commission to propose legislation but only as far as it is in agreement with what is established in the Treaty. For instance, citizens can present an ECI on education, for example, on the Erasmus programme, but they could not ask the Commission to introduce legislation for the harmonisation of education in the EU, as this is explicitly excluded in the Treaty (Article 165, TFUE). To sum up, a million citizens can invite the Commission to act only within the framework of its own powers. From this point of view, it seems that the initiative entails something that citizens could already do: use their freedom of expression to act collectively for building political pressure on the European Commission to act in a given sense.

What the ECI is not

It is also relevant to consider what the ECI is not. Article 11.4 does not empower the proponents or the Commission to call for a European referendum on the subject of the initiative. Nor is there any such provision in the ECI Regulation. This means that it is not a direct democracy device where citizens can call fellow citizens to give their opinion in a referendum initiative, but an agenda-setting initiative, 'a mechanism of *participatory democracy* which is fully subordinated to the political will of the representatives that could approve, alter or reject the citizens' proposals' (Cuesta López, 2012: 256). The EU invites citizens to participate via the ECI, but representative institutions remain in control of the process. Unlike the system existing in the USA, Switzerland or Italy, the signatories of a citizens' initiative have no mechanisms to change the decision of the institutions, other than to vote office holders out in the next elections. The ECI thus remains fully coherent with a representative democracy framework.

Nor is the ECI a petition, with which it is usually confused, in particular in contexts where initiative mechanisms do not exist. The Treaty of Maastricht (1992) gave citizens an individual right to address petitions to the European Parliament. There are at least two essential differences between petitions and ECIs. Firstly the right of petition is an individual one, whereas the initiative is collectively addressed to the Commission by one million citizens or more. Secondly, petitions express citizens' concerns or individual demands about existing European policies, whereas ECIs seek to set the European policy-making agenda.

The ECI and civil dialogue

Finally, the ECI also differs from previous European experiences with participatory mechanisms. Since the mid-1990s, European institutions have sought to develop close links with the ever-growing number of interest groups established in Brussels. This has resulted in the so-called civil dialogue (Fazi and Smith, 2006): that is, a series of norms and formal and informal codes of conduct regulating the relations between EU institutions and civil society organisations other than the trade unions and business organisations. Article 11 also contains two paragraphs (2 and 3) that give a legal basis to civil dialogue and extend the mandate to consult civil society to all the Union institutions.

The expectation of the Commission has been that consulting civil society organisations would contribute to bring European policies closer to the grassroots constituencies of these organisations:

> Civil society increasingly sees Europe as offering a good platform to change policy orientations and society. This offers a real potential to broaden the debate on Europe's role. It is a chance to get citizens more actively involved in achieving the Union's objectives and to offer them a structured channel for feedback, criticism and protest. (European Commission, 2001: 15)

In this sense, the strategy of associating civil society organisations with policy-making has been associated with the EU's search for increased legitimacy by direct citizens' input (Greenwood, 2007; Kohler-Koch and Finke, 2007). However, academic research notes that civil dialogue has focused on the consultation of Brussels-level bureaus and has had little impact at the grassroots level. On the one hand, it is frequently pointed out that dialogue with civil society focuses on exchanges of technical expertise that civil society organisations typically concentrate in their Brussels offices. On the other hand, the very institutional design of civil dialogue, which requires a rapid reaction by stakeholders, makes it difficult for European organisations to consult their members (Fazi and Smith, 2006). All this has meant that to a very large extent the consultation of civil society by EU institutions has not had a real impact at the grassroots level of these organisations.

Furthermore, dialogue between civil society organisations has been regularly criticised as producing a significant number of biases. Firstly, since institutions seek to obtain relevant expertise—data, analysis or technically viable proposals from organisations active in civil dialogue (Greenwood, 2007)—the effect is that those organisations that are able to speak the same language as EU

institutions have a more salient role than those which are more critical or simply lack technical and EU-specific expertise. Secondly, in order to facilitate dialogue by reducing the complex array of pan-European organisations, the Commission has favoured with direct funding the emergence of large European 'umbrella organisations' in some of the most relevant policy areas. In doing this it has been suggested that large membership-based representative organisations with a geographical spread across Europe have been favoured over smaller European organisations, national organisations and groups representing causes rather than interests (Halpin and McLaverty, 2010).

To sum up, dialogue with civil society is undoubtedly a valuable tool from the democratic point of view in that it contributes to a fairer representation of different types of interests and to better policy-making due to the provision of broader and specific expertise to EU institutions. However, it privileges large European representative organisations over national organisations or groups representing causes, and it is unlikely to facilitate contacts between ordinary supporters and members of civil society and European institutions.

By contrast, successful ECIs will depend on a non-negligible amount of support from grassroots citizens. This does not mean that the ECI will challenge the role of civil society organisations. Although, as was discussed above, there have been attempts to emphasise the role of ordinary citizens rather than organised interests in the articulation of ECI campaigns, comparative experience clearly shows that where initiative mechanisms exist, these are usually promoted by organisations of civil society or political groups (Smith, 2009: 125–129). This makes much sense because, as was noted, initiatives are usually framed in the context of representative democracy. In such a context it is virtually impossible to hold massive political action without a relevant professional or quasi-professional organisation. The novelty of the ECI is not that it will bypass organisations, but that it will force organisations to make citizens' active involvement a more central part of their activism.

A further non-negligible difference between civil dialogue and the ECI is the control over the agenda. Civil dialogue consultation is organised by the Commission on the items of the agenda that the Commission chooses. In this sense, the institutions set the rhythm, the topics and the wording of the proposals. However, the ECI allows citizens to choose the topics that they want to bring forward to the attention of the Commission and the moment to do it, as the Commission has a relatively short time in which to act on citizens' initiatives.

The ECI thus appears to have the potential for making citizens more active in a pan-European public sphere than has been the case up to now. To date, European civil society is strongly present at the EU level but has relatively little contact with grassroots citizens. By contrast, the success of the ECI requires the mobilisation of a number of European citizens who are willing to support a European policy proposal. A million citizens is certainly not the largest manifestation of European publics, but it may constitute a significant number of people concerned by a given topic. The fact that those willing to represent these citizens and causes will need to provide evidence of support is a significant step towards a bigger contribution of civil society to the emergence of a European public.

The ECI and diversity

The previous section has claimed that the ECI can bring participation in the EU closer to citizens in that it is based in the active mobilisation of citizens rather than on contacts between institutions and organisations already active in Brussels and relatively distant from citizens.

Expectations

This section suggests that there are reasons to think that the ECI may also make the field of civil society participation more diverse. As argued above, European civil society organisations established in Brussels already have ways of accessing EU institutions when they want to make a policy proposal. Significantly, these ways of access have also been recognised by the Treaty. Since these ways of access are more certain and less costly in terms of material resources, it is to be expected that existing European organisations will use this mechanism.

Additionally, it has already been said that carrying out ECIs requires a high degree of public mobilisation. Although it is obvious that signature collection is not the most contentious form of collective action, in general forms of direct citizens' mobilisation such as demonstrations, marches and collective petitions have been associated with forms of contention of the current form of European integration (Ruzza, 2007: 65; Balme and Chabanet, 2008). On the other hand, it is also frequently pointed out that organisations more usually involved in dialogue with EU institutions are critical but active supporters of European integration, and that the European Commission has been able to use their proposals as support for further European integration (Greenwood, 2011).

Put simply, the expectation can be summarised by saying that the ECI may be used mostly by organisations which so far are not involved in European consultation processes but which have an interest in European politics and an ability to mobilise citizens. Understanding why these organisations have not been involved in existing consultation processes will thus help to understand to which ends they may use the ECI. On the one hand, it has already been noted that civil dialogue tends to exclude national organisations, those advocating a cause or those relying less strongly on expertise. The first expectation is thus that ECIs may be carried out by organisations that have no other ways of access to policy-making in the EU.

The second reason why organisations may not participate in civil dialogue is because they do not share the agenda promoted by the Commission in these exchanges. This may be because they do not share the proposal, or simply because they do not find issues of their interest in the consultation agenda. In this sense, it must also be expected that the ECI will increase the diversity of the field of EU policy-making, not only in terms of who participates but regarding the issues brought into the agenda.

Preliminary analysis

Furthermore, empirical data seem to confirm that the most established European organisations are not interested in the ECI. The first set of data[7] comes from the consultation on the Green Paper on the European Citizens' Initiative (European Commission, 2009). Firstly, it appears that a significant number of the organisations that demanded that the Convention include civil dialogue in the Treaty (Bouza García, 2010) did not participate in this consultation. This is a strong suggestion that some six years after the Convention their priority was civil dialogue and not the ECI. The following quote from the contribution of the Social Platform, the most representative of the organisations that advocated the recognition of civil dialogue, comes as a strong confirmation of this:

> Social Platform welcomes the Green Paper on the citizens' initiative. As a response, Social Platform calls on the European Commission to launch a public consultation on how to implement the first part of the Lisbon Treaty article 11 on civil dialogue. […] This would ensure that both parts of the article are properly implemented. Social Platform would like to stress that the right to petition *[sic]* is not the only new instrument related to participatory democracy that the Treaty of Lisbon introduces into EU decision-making processes. (Platform of European Social NGOs, 2010: 1)

The rest of the 26-page paper is exclusively devoted to demanding that the Commission take action on civil dialogue.

The relative lack of interest in the ECI is also true for the remainder of European organisations. Quite atypically, a majority of the contributions from organised civil society came from organisations which are not members of the European transparency register, according to the website of the consultation.[8]

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7   Available at <http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/consultation_en.htm> (accessed 15 September 2012).

8   Available at <http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/contributions_en.htm> (accessed 16 September 2012).

Although this register is not mandatory, most of the organisations active at EU level have incentives to register. Interestingly, a large number of the contributions from unregistered organisations come from organisations active at national level, including political parties, and are written in a larger diversity of languages (Bouza García, 2012).

A second group of data comes from the signatures collection campaigns launched before the ECI was legally in force. Fischer and Lichtbau (2008) and Kaufmann (2010) provide a complete overview of the signature collection campaigns carried out since 2002. Certainly these campaigns cannot be taken as direct predictors of the usage of the ECI by civil society for different reasons because organisations wishing to carry out ECIs may have preferred to wait until the implementation before using their own resources for collecting signatures. Nevertheless, it is a good indicator in relation to the type of collective action tool that signature collection is at EU level. After allowing for repeated cases and campaigns not actually launched, Bouza García and Greenwood (2012) find that 21 campaigns were launched in the period 2003–2012 between the Convention and the entry into force of the ECI (Table 1 below).

Table 1 Signature collection campaigns (2003-2012)

Name of the campaign	Main promoters
Oneseat initiative	MEPs
Equality for all!	Association Européenne pour les Droits de l'Homme
Against Nuclear Energy	Friends of the Earth
European Health Initiative / European Referendum	Dr. Rath Health Foundation
For a political Europe of Freedom, Security and Justice	French MPs
Efficient 112 all over Europe	European Emergency Number Association
Help Africa	MEPs
Initiative pour un Service Civil Européen	Mouvement Européen France
Save Our Social Europe	Austrian Welfare Association

1million 4disability	European Disability Forum
GMO Initiative I	Greenpeace
Initiatives of applied anthroposophy—Eliant	French and German anthropo-philosophical organisations
High Quality of Public Services	European Trade Union Confederation
For a European Referendum on the EU Constitution	Union of European Federalists
Initiative for the Initiative	AEGEE, ECAS, King Baudouin and Madariaga foundations
Emergency Initiative for Darfur	French organisations
Referendum on the next EU Treaty	MEPs
Cancer Unite	Stakeholders on cancer care
GMO Initiative II	Greenpeace
Free Sunday Initiative	German Catholic organisations
European Obesity Day Charter Initiative	Pharmaceutical industry

Source: based on data from Fischer and Lichtbau (2008); Kaufmann (2010)

Contrary to the expectations raised above, the data in Table 1 indicate that these campaigns have not been promoted by organisations otherwise excluded from EU politics. The table shows that 13 of the 21 campaigns have been promoted by European organisations and officials such as MPs or MEPs. Since these political actors have easy access to the European policy-making agenda, the ECI does not so far appear as an agenda-setting tool for excluded organisations. That said, the table also provides clear examples of the contribution of the ECI to fostering cooperation among national organisations attempting to obtain influence at EU level, since a number of national organisations from one or several member states cooperated to launch initiatives.

This suggests that the main motivation for carrying out initiatives is to promote innovation on the European policy-making agenda. In this sense, although it is difficult to find a common thread in the subject matter of all these initiatives, it clearly appears that they address issues which are quite typical of civil society concerns, such as participation and citizenship, social

welfare, health and the environment. Although all these issues are regularly addressed in civil dialogue, some of these initiatives are clearly likely to acquire a different formulation in comparison to traditional proposals at EU level. In this regard, bans on nuclear energy and genetically modified organisms or referendums on the treaties are topics that are certainly off the usual civil dialogue agenda.

When it comes to the diversity it is surprising that gender issues, a traditional EU civil society question in the 1990s (Greenwood, 2011), have not been addressed in pilot initiatives or in the official ECIs launched at the time of writing.[9] This may sound relatively surprising given the significance of gender issues. However, it is interesting to note that the development of gender issues may have confronted a similar barrier as the ECI in general: the subsidiarity check (Mincheva and Szeligowska, 2012) and the growing concern of EU member states about EU legislation in social and civil affairs, which are typically addressed by feminist movements. The fate of the current EU debate about increased representation for women on companies' boards[10] will probably confirm whether this expectation is appropriate or not. In any case, issues such as this can provide future ground for cooperation between cause entrepreneurs in the Commission and civil society organisations.

So far it is difficult to say whether the ECI will be mainly used by excluded organisations or by those already active at EU level. It is equally difficult to anticipate whether it will mainly serve to challenge the agenda of EU institutions or to advance it further. However, it is already clear that it offers new opportunities not presently available in either be the register of ECIs or the transparency register. The ECI undoubtedly has significant potential to bring more diversity to EU policy-making and relations between European institutions and organised civil society.

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9   Available at <http://ec.europa.eu/citizens-initiative/public/initiatives/ongoing> (accessed 18 October 2012).

10   Information available at <http://ec.europa.eu/justice/gender-equality/gender-decision-making/index_en.htm> (accessed 18 October 2012).

Conclusion and recommendations

The European Union has searched for ways to come closer to its citizens during the last decade. In doing this, the EU has improved the functioning of its representative institutions by strengthening the role of the European Parliament and its control over the Commission and the legislative process. It has also launched efforts at giving citizens a more direct say in the policy-process by creating the right to petition and improving consultation of civil society before policy is made.

Civil society consultation has made a significant contribution to a more balanced and transparent European policy-making. Additionally, it contributes to an increase in the quality of policy-making, in that it facilitates access by decision-makers to the expertise of different parties. However, this strategy has not met expected success in bringing ordinary citizens closer to the European Union. The main reason for this seems to be that civil dialogue has favoured contacts with organisations having relevant European expertise without requiring a significant mobilisation of these citizens. In doing this it may have favoured large European organisations that are generally inclined to more European integration over other types of groups.

This paper has suggested that the ECI provides the opportunity for a significant innovation in the field of EU-civil society relations for two main reasons. Firstly, signature collection relies on a totally different type of collective action. Although promoters need to be well informed about the European Union's agenda, the main challenge is to coordinate a campaign for obtaining signatures accross Europe to support a proposal. This contributes more significantly to bringing debates on the EU closer to citizens than does dialogue with institutions. The second key innovation is that it moves the selection of topics on civil society agendas from institutions to civil society organisations and citizens. In this way, the ECI has a strong potential to bring the EU closer to organisations that so far have not used existing opportunities because of their own nature or a lack of items of their interest in the agenda. It is also important to point out that the ECI will not replace existing mechanisms for dialogue with civil society. It rather means that EU institutions will have two different channels to get a sense of civil society's expectations of the EU.

It is probably too early to anticipate whether the ECI's institutional design will favour increased diversity or not. On the one hand, it is clearly a demanding design in that it requires a significant measure of coordination at European level without a programme so far for supporting this financially. On the

other hand, efforts have clearly been made to promote signature collection via the Internet,[11] and this is likely to decrease the cost of action at EU level. However, the issue of financial support and responsibility by promoters is likely to emerge again in future debates on the regulation of the ECI.

Finally, the key issue regarding the evolution and political impact of the ECI will be that of the attitude of European institutions towards initiatives, and in particular that of the Commission, since it will have to decide whether to put citizens' proposals forward or not. Several possibilities are open. The extremes are between a position of total openness where the Commission will present all initiatives irrespective of their content or a position where it will reject all of them (Auer, 2005). Probably political reality will be found in the middle, and it will be interesting to analyse which strategy the Commission will adopt towards new players and new agenda issues.

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11   European Commission, 'Commission Offers Own Servers to Help Get First European Citizens' Initiatives Off the Ground', Press Release 18 July 2012, available at <http://ec.europa.eu/commission_2010-2014/sefcovic/ headlines/press-releases/2012/07/2012_07_18_eci_en.htm> (accessed 16 September 2012).

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Acronyms and abreviations

ECI   European Citizens' Initiative

EU   European Union

MEP   member of the European Parliament

MP   member of Parliament

TFUE   Traité sur le fonctionnement de l'Union européenne (Treaty on European Union)

TUE   Traité sur l'Union européenne (Treaty on the Functioning of the European Union)

Appendix: List of the policy areas and Treaty articles (TFEU, unless provided otherwise) on which ECIs can be based

Agriculture and fisheries	Articles 38 – 44
Budget	Articles 310 – 324
Civil protection	Article 196
Competition	Articles 101 – 109
Consumer protection	Article 169
Culture	Article 167
Customs	Articles 30 – 33
Development and cooperation	Articles 208 – 213
Economic and monetary policies	Articles 119 – 144
Education, training, youth and sport	Articles 165 – 166
Employment and social affairs	Articles 145 – 161
Energy	Article 194
Enlargement	TEU * – Article 49 Article 212
Environment and climate action	Articles 191 – 193
External trade	Articles 206 – 207
Fight against fraud	Articles 325
Food safety	Articles 43, 168 – 169
Free movement: • Persons • Services • Capital	 • Articles 45 – 55 • Articles 56 – 62 • Articles 63 - 66
Humanitarian aid	Article 214
Industry and enterprise	Article 173
Information society	Articles 179 – 190
Internal market and free movement of goods	Articles 26 – 29, 114, 115

Justice, freedom and security • Policies on border checks, asylum and immigration • Judicial cooperation • Police cooperation	Articles 67 – 89 • Articles 77 – 80 • Articles 81 – 86 • Articles 87 – 89
Non-discrimination and citizenship	Articles 18 – 25
Public health	Article 168
Regional policy – Economic, social and territorial cohesion	Articles 174 – 178, Articles 162 – 164
Research and innovation	Articles 179 – 190
Taxation	Articles 110 – 113
Tourism	Article 195
Transport	Articles 90 – 100