

Proposal for a regulation of The European Parliament and of the Council on the European Citizens' Initiative

Submitted by Cabinet Office on 14 November 2017

SUBJECT MATTER

The attached document seeks to replace EU Regulation 211/2011 on the European Citizens' Initiative (ECI) with a new EU Regulation. The proposed new Regulation would, subject to some exceptions, apply from 1 January 2020.

The ECI is a Treaty right and EU Regulation 211/2011 sets out the way in which it is made available in practice. The proposal at hand aims to make the existing ECI process less burdensome and more accessible for the organisers and supporters of initiatives by addressing weaknesses identified to date in the current Regulation.

The proposal, which reflects widespread stakeholder consultation, seeks to improve the operation of the ECI in relation to three broad aspects:

- Difficulties for citizens in proposing legally admissible initiatives.
- Complexities and burdens for organisers in collecting statements of support.
- Limited debate and impact generated by initiatives so far.

The main specific changes proposed include:

- allowing for the registration of partial initiatives;
- allowing for an organisation (rather than seven eligible citizens) to be the organiser of an initiative;
- the introduction of a new ECI helpdesk to be run by the Commission;
- a new online ECI collaborative forum to facilitate discussion, advice and support for organisers;
- the Commission will provide translations in all official EU languages in the register after registration is confirmed and before the start of the collection period for the initiative concerned;
- a new central online collection system setup and operated by the Commission;
- a new EU file exchange service for the transfer of statements of support to the competent authorities of the member states; simplification of signatories' data requirements;
- the possibility for all EU citizens to give their support based on their nationality;
- introducing a minimum age of 16 years for signatories compared to 18 years at present;
- the choice of date for organisers to start collection campaign; and
- the option for ECI signatories to be kept informed by email.

The Commission suggests that these changes will bring about improved effectiveness, efficiency and savings in several areas such as online collection, translations, statements of support forms, and submission of statements of support to national authorities in the member states.

SCRUTINY HISTORY

The EU Regulation on the ECI was previously subject to scrutiny as document 8399/10, COM (2010)119 on which the FCO submitted an EM, 23 June 2014. An Explanatory Memorandum document 7737/15, COM (2015)145 reporting on the application of the Regulation No 211/2011 on the ECI was submitted by Cabinet Office on 24 June 2015.

MINISTERIAL RESPONSIBILITY

The Minister for the Constitution, Chris Skidmore MP, is the Minister with responsibility for the European Citizens Initiative.

In addition, the Secretary of State for Exiting the European Union, Rt Hon. David Davis MP, and the Secretary of State for the Home Department, Rt Hon. Amber Rudd MP, both have responsibilities for and an interest in matters relating to EU Citizenship.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

The UK's ECI policy is a reserved matter under the UK's devolution settlements. The devolved administrations have therefore not been consulted in the preparation of this explanatory memorandum. However, Scottish, Welsh and Northern Ireland Ministers will have an interest in the eligibility of EU Citizens to partake in EU democratic processes particularly during the process of the UK exiting the European Union. We will engage the devolved administrations on these proposals in line with the arrangements set out in the Memorandum of Understanding and Supplementary Agreements between the UK Government and the devolved administrations.

LEGAL AND PROCEDURAL ISSUES

- I. Legal basis: Article 24 of the Treaty on the Functioning of the European Union (TFEU) on the adoption of the provisions for the procedures and conditions required for a citizens' initiative within the meaning of Article 11 of the Treaty on European Union.
- ii. European Parliament Procedure: Ordinary legislative procedure.
- lii. Voting procedure: Qualified majority vote.
- Iv. Impact on United Kingdom Law: Regulation (EU) No 211/2011 on the citizens' initiative of 16 February 2011 is currently in force in the UK. This proposed Regulation will repeal the current Regulation and replace it, and will, therefore, be directly applicable in the UK. The legal framework for the ECI is complemented by Commission Implementing Regulation (EU) No 1179/2011 of 17 November 2011 laying down technical specifications for online collection systems pursuant to Regulation (EU) No 211/2011. The proposed new regulation will require the

European Commission to adopt in an implementing act technical specifications for individual online collection systems.

- v. Application to Gibraltar: Yes
- vi. Fundamental rights analysis: Article 8 of the Charter of Fundamental Rights provides that everyone has the right to the protection of their personal data. Article 8 of the European Convention on Human Rights protects the right to private and family life. Article 16 of the TFEU also provides that everyone has the right to the protection of personal data concerning them. As organisers will collect and process personal data the Regulation takes into account the requirements of the General Data Protection Regulation (Regulation (EU) 2016/679) which will enter into force from 25 May 2018.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

None

SUBSIDIARITY

Since the existing Regulation provides for an EU-level system, any amendments to the system can only be made through EU legislation. Therefore subsidiarity principles do not apply.

POLICY IMPLICATIONS

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. The Government respected the result and triggered Article 50 of the Treaty on European Union on 29th March 2017 to begin the process of exit. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and apply EU legislation.

The proposed new Regulation on the ECI complements the political rights already enjoyed by EU citizens, namely the right to vote and stand as a candidate in municipal and European Parliament elections. The improvement of the ECI instrument is consistent with other Commission initiatives, reflecting the political guidelines of the Juncker Commission, aiming at enhancing citizens' involvement and participation in EU policy-making.

The UK Government shares the Commission's priority of increasing the democratic legitimacy in the EU through enhanced citizens' involvement and participation (Priority no 10 – A Union of Democratic change). It also supports proposals that are intended to make it easier for EU Citizens to participate in EU democratic processes and for competent authorities to administer the ECI. We believe that the Commission's proposal is likely to improve the operation of the ECI in practice. The proposal may also ease requirements on Member States, notably through the creation of a Commission-run data collection system.

The lowering of the age at which someone may sign an initiative – from 18 to 16 – is not a priority issue for the Government. This is because this proposal, will in no way, affect the rights of citizens to vote in elections in line with existing law on the franchise.

The Regulation places a small number of obligations on member states, notably the requirement to certify statements of supports for initiatives. In the UK, this is not an onerous process. The Cabinet Office has recently streamlined its processes for certification and the requirement to do this in three months of receipt of statements of support is acceptable. (This requirement is unchanged from the existing Regulation.)

The UK Government will continue to engage openly and cooperatively with our EU partners on the proposed reforms to the EU Regulation on the ECI whilst it is obliged to do so as a member state.

Importantly, the UK Government will consider all our obligations and take decisions in relation to the timing and implementation of these proposals as required during the exit negotiations period. These include consideration of whether any changes to the current domestic implementation of the ECI are required, also in line with the implementation process and process for exiting the European Union.

CONSULTATION

Not applicable.

IMPACT ASSESSMENT

No impact assessment is considered necessary given its institutional nature, the revision of the Regulation (EU) No 211/2011 has no direct significant economic, social or environmental impacts.

FINANCIAL IMPLICATIONS

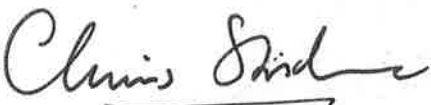
Given the way in which the ECI currently operates and would operate in future under the proposal, there are only very limited costs implied. The financial statement attached to the proposal details the estimated implementation cost. The cost for implementation at the national level is essentially zero.

TIMETABLE

The Commission has indicated that its aim is to have the rules in place and applicable from 1 January 2020.

OTHER OBSERVATIONS

Not applicable.



Chris Skidmore MP
Parliamentary Secretary to the Cabinet Office