



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate G
SG-G-4
General Institutional Issues

MEETING OF THE EXPERT GROUP ON THE CITIZENS' INITIATIVE

2 October 2012

SUMMARY REPORT

Chair: Mário Tenreiro, Head of Unit G4 "General institutional issues", Secretariat General

1. OPENING ADDRESS BY COMMISSION VICE-PRESIDENT ŠEFČOVIČ

Commission Vice-President Šefčovič offered the Member States an overview of the current political context and the key challenges that lay ahead. Although the Commission was very pleased to note citizens' enthusiasm for the European Citizens' Initiative, and that the requests for registration received so far concerned serious, citizen-led projects, he conceded that the first months had not been straightforward, and that creative solutions were required to help the first initiatives get off the ground. While thanking DE – where the first initiative to start collecting statements of support had been certified – and LU – which would be responsible for certifying a majority of citizens' initiatives in the next months – the Vice-President pointed out that the medium- to long-term objective was to find a range of reasonably-priced hosting providers across the EU. He further indicated that the Commission would, by way of redress for the difficulties the first initiatives had experienced, extend the deadline until which they could collect signatures, effectively compensating for the time that had been lost since their registration with the Commission.

2. STATE OF PLAY BY THE COMMISSION

The Chair noted that the Commission had so far received 22 requests for the registration of proposed initiatives. 12 had been approved and registered (one had since withdrawn), and two decisions were pending. Details were publicly available on the ECI website. One initiative, whose online collection system was certified in Germany, was already collecting signatures online.

The Commission informed the Member States that, as a temporary and exceptional measure, it was providing a hosting platform on its servers in Luxembourg. This offer was being made to the first citizens' initiatives on an optional basis, and it was intended as a time-limited solution to, inter alia, the high financial costs currently being cited by private hosting providers to host a system and prepare the necessary documentation to get it certified. The Commission had been working closely with Luxembourg, which would be responsible for certifying all initiatives that chose to use the Commission's platform.

Linked to this, the Commission indicated that it would extend the period during which it would consider as valid online and paper statements of support collected by the organisers of the first citizens' initiatives. This one-off extension to the 12-month deadline was in line with the spirit of the Regulation, and was necessary to ensure that the "pioneer" citizens' initiatives were not unjustly penalised by the teething problems encountered during the early stages of the implementation of the new tool. The Commission would notify the Member States (and the ECI organisers) in writing of the new deadline date immediately after it had reached a decision (which was imminent). The Chair clarified that the extension of the collection period would only apply to those initiatives registered with the Commission more than one year before the new deadline (e.g. before 1 November 2012 for a new deadline of 1 November 2013). He added that Member States' cooperation and flexibility, in particular for the verification and certification of statements of support collected beyond the formal 12-month period following registration with the Commission, would be key to ensuring that this "corrective" extension was effective.

During the exchange of views, several Member States indicated that it would be legally impossible for them to verify or certify statements of support collected after the 12-month period foreseen in the Regulation: not only were they bound by the Regulation and national law, but they also feared it might be discriminatory with regard to subsequent citizens' initiatives. A number also expressed data protection concerns.

The Chair clarified that the "corrective interpretation" being proposed by the Commission was based on the finality rather than on the letter of the ECI Regulation. The 12-month period after registration foreseen in Article 5(5) was intended to ensure that proposed citizens' initiatives remained relevant, but was based on the understanding that the effective collection could take place during that period, which was clearly not the case for the proposed initiatives currently registered. For this reason, an extension of the collection period should not be considered unlawful. Access by the Member States to data from supporters of an initiative should not be considered unlawful either, bearing in mind that it would be done with the explicit consent of the data subjects and that it only concerned data that the Member State already knew (name, date of birth, ID numbers, etc.). The proposal to set a new deadline date would place currently registered initiatives on a level playing field with future initiatives, which would not suffer from the same issues and therefore delays. This also meant that the discrimination concerns raised by delegations were unfounded, as well as being purely hypothetical, given that it was difficult to imagine what the grounds would be for any complaints or legal action.

After further discussion, and taking into account the concerns that several Member States continued to express, the Chair invited those Member States that shared these concerns to officially certify only those statements of support they felt they were legally bound and able to verify, but to notify separately and informally to the Commission the number of valid statements of support collected between the end of the formal 12-month period and the new deadline. These would be taken into account by the Commission when calculating whether a given initiative had reached the target of 1 million signatures. The Chair made it clear that, in this scenario, the recognition of the statements of support collected outside the period foreseen in the Regulation would be the sole responsibility of the Commission. However, the collaboration of the Member States was needed as they are the only ones that can receive, count and verify the statements of support. The Chair concluded that there was a general willingness of Member States to work on that basis and explained that there was enough time to discuss the details.

Finally, the Chair recalled that the platform provided by the Commission was a transitional measure, and underlined that the long term objective remained a market-based and EU-wide solution. With this in mind, the Commission would soon launch a call for expression of interest in order to identify competitive hosting providers in all the Member States. This decentralised approach would avoid an undue burden being placed on a minority of member States. The Commission also warmly welcomed the fact that certain Member States had foreseen the establishment of public hosting platforms in their national legislation.

3. STATE OF PLAY IN THE MEMBER STATES

The Chair invited the seven Member States that had not yet provided the Commission with details about transitional measures or national provisions adopted for the certification of online collection systems to update delegations. Following a brief exchange of views, during which four delegations took the floor, the Chair concluded that all Member States would be fully compliant as of the end of November 2012. He asked for the information to be provided in writing to the Commission, so that it could be circulated to all Member States, in accordance with Article 21 of the Regulation on the citizens' initiative.

After a Commission presentation on the conclusions of the last ISA meeting of 19 September on the validation tool, two Member States, DE and FI, presented the systems/methods they had developed to verify statements of support. The Commission recalled that the software it was providing, which was available on the 'Joinup' website¹, was not mandatory. A MS asked to receive the xml scheme used by the software. The Chair informed delegations that it was available on Joinup² and would be uploaded on CIRCABC³.

Delegations held a brief exchange of views, discussing, amongst other things, sample sizes, scanning methods, margins of error, and the secure transfer of data between organisers and Member State authorities.

The Chair concluded that the Commission would draft a set of general guidelines covering, inter alia, online certification and the verification mechanism. These would be prepared and distributed to the Member States in the weeks following the meeting.

4. DATA PROTECTION

The Commission informed the Member States about the state of play on several data protection issues.

According to the ECI Regulation, the obligation of notification rested solely with the organisers; it was separate from registration (for which the Commission was responsible) and certification of online collection systems (for which the Member States were responsible). The key question, at this stage, concerned the scope of this

¹ <https://joinup.ec.europa.eu/software/ocs/release/all>.

² https://joinup.ec.europa.eu/asset/natural_personthe_european_cit/release/020.

³ <https://circabc.europa.eu/w/browse/033657cc-7faa-4476-8a9a-bd5555b8f38e>

notification responsibility, which included determining the applicable data protection law. The Commission believed that ECI organisers were legally bound by the data protection laws of one Member State only, which should in principle be the one of the residence of the citizens committee's representative. Their notification obligation would therefore depend on the law of that Member State. In addition, it was particularly important, the Commission argued, that the costs for organisers were minimised, so that data protection not become a stumbling block.

In order to clarify and agree on a common understanding/approach on this and other related issues, the Commission had presented a short information note at the most recent meeting of the 'Article 29 Working Party' (WP29), which was set up under Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Although the WP29 has no binding powers, it had proved a useful first opportunity for the Commission to present its observations and interpretations, including on e.g. a simplified and common notification procedure and possible exemptions.

5. ONLINE COLLECTION: STATE OF PLAY AND EXCHANGE OF VIEWS

The Chair began the final agenda item by reminding the Member States that any changes they wanted made to Annex III had to be notified to the Commission as soon as possible. The Commission would not be in a position to take on board late requests in the current revision process. The Member States discussed whether including "signatory numbers" for the random sampling would prove helpful.

The Commission briefly updated the Member States about its platform, including the intensive work that was ongoing with the Luxembourgish authorities, and the outcome of discussions with the ECI organisers (the minutes of the meetings between the Commission and the organisers are also available on 'Joinup'⁴ and would be uploaded on CIRCABC). The paperwork had been finalised, and the first of the initiatives that had accepted the Commission's hosting offer was almost ready to request the certification of its online collection system, meaning that it should be able to start collecting online in the coming weeks.

The Commission presented the draft of a non-paper on a certification procedure for online collection systems: the objective was to reflect on a possible common procedure, or at the very least to set standards and guidelines to assist organisers. Member State delegations were generally supportive of the objective, and, overall, thought the non-paper a good basis for further work. The exchange of views demonstrated the differences in approach to the certification of online collection systems, with some Member States able to certify solely on the basis of appropriate documentation to be provided by the organisers, and others requiring on-site audits. The Chair asked delegations to consult their national experts and to send in writing any comments or ideas they had related to the non-paper, on the basis of which it could be developed.

Discussions then focused on experiences acquired to date with the certification of online collection systems. The debate highlighted above all the need for the

⁴ <https://joinup.ec.europa.eu/software/ocs/news/new-meeting-hosting-eci-online-collection-systems-european-commission>

Commission and the Member States to more pro-actively communicate and exchange information between them, in particular following requests for the registration of proposed initiatives with the Commission and for the certification of online collection systems with competent Member State authorities. An early-warning system of this sort would enable greater room for manoeuvre during the various preliminary stages of the ECI procedure, including for ECI organisers.

Also based on the day's exchanges, the Chair concluded that Member States, which were broadly satisfied with the high level of security standards required by the implementing Regulation, did not at present consider it necessary to amend the technical specifications.

6. NEXT STEPS

The Chair indicated that no further meetings of the Expert Group were planned for 2012.

He recalled that the Commission would:

- inform the Member States as soon as possible of the extended deadline date for the collection of statements of support for the first proposed citizens' initiatives;
- prepare a set of guidelines and recommendations for the Member States covering, inter alia, the certification of online collection systems and the verification of statements of support.

The Chair asked the Member States to:

- notify the Commission by 15 November 2012 of any changes that need to be made to Annex III;
- Provide written comments to the Commission by 15 November 2012 on the draft non-paper on the certification procedure for online collection systems discussed during the meeting.