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CONSIDERATIONS REGARDING THE REGULATION ON THE CITIZENS' INITIATIVE

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CONSIDERATIONS REGARDING THE REGULATION ON THE CITIZENS' INITIATIVE

Roxana Alina PETRARU [1]

Abstract

The citizens' initiative idea is not a new one. Since 1988 the European Parliament has pleaded for the introduction of this kind of initiative. The issue was discussed in Amsterdam in 2002, when it was brought again on the agenda by the European Parliament.

The "Citizens' Initiative" is one of the major changes introduced by the Treaty of Lisbon. The establishment of this institution has pursued the democratization of the Union and the opportunity to directly involve the European citizens in the community policies. On the strength of this new initiative right, a million of citizens from several Member States may ask the Commission submit a legislative proposal in areas falling within the Union.

Keywords:

Citizens' Initiative, European citizenship, the Treaty *of Lisbon*, *the EU Regulation*

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Introduction

The necessity of creating a European citizenship has been recognized for the first time in writing in the draft Treaty on the European Union[2]. The Maastricht Treaty legally expressed this concept and emphasized the evolutionary nature related to the progress of the community construction, to the absolute freedom of movement and choice of residence, to the participation in the political life of citizens of any EU state, to the equality of treatment regarding the citizens of all States in terms of diplomatic and consular protection. Established by art. 8 par. 1 of the Treaty, the European citizenship does not replace the citizenship of the various states from the Union but adds to it[3]: "All nationals of the Member States are citizens of the Union". It involves specific characteristics to the extent that each Member State is free to define the nationality of its inhabitants; thus, the European citizenship comes only to complement the national citizenship, granting additional rights to the European citizens. Consequently, the residents of the European Union Member States have a dual citizenship. The European citizenship does not suppress any right inherent only to the national one, but only confers additional rights that will be exercised within the Union or within the Member States.

The Lisbon Treaty, which takes on many ideas pointed out along with the project for the establishment of the European Constitution, adds new dimensions to the idea of European citizenship. The Lisbon Treaty, officially called the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community was signed on the 13th of December 2007 at a summit in Lisbon, Portugal and entered into force on the 1st of December 2009. The Treaty of Lisbon amends the Treaty on the European Union and the EC Treaties (without replacing them) and provides the Union with the legal framework and tools necessary to meet future challenges and citizens' expectations. The Treaty lays stress on the democratic dimension of the Union by underlining the role of the citizen.

[2] The Spinelli draft was adopted by the European Parliament on February 14th, 1984, and although it was not put into practice, it had a major influence on the further development of the European Union, representing the basis of the works that led to the establishment of the Maastricht Treaty.

[3] Under the Treaty of Amsterdam: the European citizenship "complements (the national one) but does not replace it"

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Regulation (EU) NO. 211/2011 of February 16th 2011 on the European Citizens' Initiative4

The adoption of the Citizens' Initiative Regulation was the result of an agreement at first reading between the Council and the European Parliament; the document was adopted by the Parliament during the plenary session on December 16th , 2010. This document is important because it contains all the procedural details for implementing the Lisbon Treaty innovation.

Considering the practical and organizational aspects of implementing the citizens' initiative, an organizing committee composed of at least seven members from seven different countries of the EU (European citizens) is requireditura These "organizers" have to bring forward the initiative and must have the age at which citizens are entitled to vote in the European Parliament elections. Article 3, paragraph 2 of the Regulation stipulates that, should the organizing committee include European parliamentarians, they will not be considered in regard to the minimum number that the committee must include. This does not mean, however, that the European parliamentarians are not allowed to be part of this structure. To ensure the link between the EU institutions and the committee a representative and an alternate should be appointed.

In order to register a proposed citizens' initiative in the online register of the Commission, the following information are required: title of the proposed citizen initiative, the subject matter of the initiative, a description of the objectives of the proposed citizens' initiative on the basis of which the Commission is invited to act, the provisions of the Treaties regarded as relevant by the organizers for the proposed action, full names, postal addresses, nationalities and dates of birth of the seven members of the citizens' committee, mentioning the representative and his alternate, as well as their e-mail addresses, all sources of support and funding for the citizens' initiative proposal at the time of registration. The organizers must provide the Registry, and if need be, on their website, regularly updated information on the sources of support and funding of the proposed citizens' initiative.

Within two months from receiving this information, in accordance with the Regulation, the Commission must record the proposal for a citizens' initiative with a unique registration number and must send a confirmation to the organizers, provided that the committee of citizens is legally establisheditura Also, the proposed citizens' initiative is not to be outside the scope of jurisdiction of the Commission regarding the submission of a draft bill of the Union for the implementation of the treaties. The Citizens' initiative proposal should clearly not be abusive, frivolous or manifestly contrary to the Union's

[4] The regulation is available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?_uri=O J:L:2011:065:0001:0022:RO:PDF, visited on March 1st 2011.

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values. The registration of the proposal may result in avoiding the duplication of initiatives with the same objective.

If the Commission refuses the registration of a proposed citizens' initiative, the Commission must inform the organizers of the reasons for refusal and of all judicial and extrajudicial remedies that are available to them. After recording the proposal, the organizers are responsible for collecting statements of support from signatories for a proposed citizens' initiative. The official forms are attached to the Regulation and are the only ones accepteditura The statements of support may be collected in paper form or electronically. As far as the online collection is concerned, the organizers can use a single online collection system to collect the statements of support in several or all Member States. For online collection the system needs to be certified by the relevant Member State competent authority. This certification is necessary for security reasons[5].

The proposal provides for a time-limit of 12 months for the collection of statements of support. This reflects the need, confirmed by the responses to the Green Paper on European citizens' initiative[6], „ to ensure that citizens' initiatives remain relevant since such initiatives are often linked to specific issues and may relate to problems which, in the absence of a term, or in case the term is too long, lose their relevance. Also, the context in which people sign may change if the period is too long. The 12 months term is considered, therefore, to be a reasonable term which allows the collection of all data, and which at the same time, is not too long as to jeopardize the initiative. Thereafter, the register will indicate that the period has expired and, if applicable, the fact that the necessary number of statements of support was not collected.

Regulation brings clarification in regard to the origin of a million citizens mentioned in the Treaty of Lisbon. The Signatories of a citizens' initiative shall come from at least one quarter of Member States. This requirement is necessary in order to demonstrate that an initiative represents a genuine community interest and not a particular interest of one or more Member States. On the other hand, it is considered that this threshold of 1 / ¤ reduces the bureaucracy and the possible coordination problems that may occur in case of a higher threshold. The minimum number required for each Member State is calculated by multiplying the number of MEPs per country by 750. For Romania, the formula is 750X33. All signatories must be of legal age to vote; in the case of Romania, the age is 18. Moreover, the voting age in all Member States is 18, except Austria, where a minimum age of 16 is required.

[5] According to the Regulation by the 1st of January 2012 the Commission shall develop and maintain an open source program that contains the technical and safety factors relevant for the observance of the provisions regarding the online collection systems.

[6] http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/docs/com_2009_622_ro.pdf

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After the collection from the signatories of the statements of support needed, the organizers submit the statements of support, in paper or electronically, to the relevant competent authorities designated by each Member State for verification and certification. For this purpose, the statements of support collected in paper and electronically signed using an advanced electronic signature and those collected through an online collection system have to be separateditura Organizers submit the statements of support to the relevant Member State whose competent authority, within three months from receiving the request, verify the statements of support by conducting appropriate verifications, in accordance with the national law and practices, as appropriate. On this basis, the respective authorities issue a certificate that refers to the number of statements of support valid for the respective Member State.

After obtaining these certificates the organizers may submit to the Commission the citizens' initiative, together with information on all forms of support and funding received for the initiative in question. This information is published in the register. After receiving a citizens' initiative in accordance with the Regulation, the Commission: publishes the citizens' initiative without delay in the register, receives the organizers at an appropriate level in order to give them the opportunity to explain in detail the matters raised by the citizens' initiative; within three months, sets out in a communication[7] its legal and political conclusions on the citizens' initiative, the actions it intends to take, if any, and its reasons for taking or not taking that action.

If all the requirements specified by Regulation are met, the organizers shall be given the opportunity, within three months to present the citizens' initiative at a public hearing. The Commission and the European Parliament shall ensure that this hearing is organized at the European Parliament, if appropriate together with such other institutions and bodies of the Union as may wish to participate, and that the Commission is represented at an appropriate level.

The organisers shall be liable for any damage they cause in the organisation of a citizens' initiative in accordance with applicable national law. To this end, the Member States shall ensure that the organizers are subject to appropriate sanctions for infringements of this Regulation and, in particular, for false declarations made by organizers and the fraudulent use of data. Throughout the citizens' initiative procedure, the organizers and the European Union institutions shall ensure the protection of personal data in accordance with European Union principles. Regulation (EU) NO. 211/2011 of February 16th 2011 on the citizens' initiative shall enter into force on the twentieth day

[7] The communication is notified to the organizers, as well as to the European Parliament and Council and made public.

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following its publication in the Official Journal of the European Union[8] and shall be apply starting with April 1st 2012. This term is caused by the Member States' need to adopt measures to facilitate the implementation of the procedure established by the Regulation.

Conclusions

The Regulation on the citizens' initiative brings on the long-awaited clarifications on this newly established "institution". The European Commission is now in position to take into account the citizens' initiatives. We consider the procedure to be coherent and practical and we are looking forward to hearing the response of the Member States regarding their mission to establish the legal framework for the implementation of the citizens' initiative.

Although many see this "initiative" as a second chance given to the lobby policy exercised by the various governments and organizations, we believe that the "citizens' initiative" is a real chance granted to the democracy which may even counteract the pressure that is now put on the EU institutions.

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[8] The regulation was published in the Official Journal of the European Union L65/year 54 of 11th March 2011