The European Citizens' Initiative: bringing the EU closer to its citizens?

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The European Citizens' Initiative: Bringing the EU Closer to its Citizens?[1]

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Abstract: *In defiance of accounts which see the European Union (EU) as structurally incompatible with democracy, the Lisbon Treaty set out the general right and specific means for citizens to participate in EU decision-making. Whilst the Treaty codified long-established practices of representative democracy and of dialogue with civil society organizations (CSOs), it also notably introduced a new measure, the European Citizens' Initiative (ECI), commencing in 2012. The ECI has limited formal powers, with no ability to mandate political institutions. It is promoted by the European Commission as an agenda-setting and participatory democracy measure, rather than one of direct democracy. Nonetheless, it has an elevated status within one of the current European Commission's ten strategic priorities, and is remarkable in a number of ways. First, it differs from the European Commission's established partnerships and dialogue with organized interests by focusing on direct forms of wider citizen participation. Second, it is the world's first transnational citizens' initiative, with aspirations to help build an EU-wide public sphere. These aspirations were assessed in a 2017 review of the measure, proposing the introduction of a number of reforms aimed at tackling limited impact to date. This article evaluates the impact of the ECI in its first five years and then discusses the proposed reforms in terms of their potential to increase public deliberation. It develops and appraises evaluative criteria that help to assess whether*

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institutionalizing contention, even in ways highly critical of EU institutions, might enhance public deliberation and bring the EU closer to its citizens.

Keywords: *European Citizens' Initiative; Lisbon Treaty; Democracy; Political participation*

The European Commission Work Programme 2018 includes a pointed reference to the 'untapped potential of the Lisbon Treaty' (European Commission, 2017a, p.3). Article 10(3) of the Treaty on European Union (TEU) endows citizens with a general right to participate in the democratic life of the Union. The European Citizens' Initiative (ECI) (Article 11(4) TEU) has been promoted since its inception in 2012 as a key innovation of the Lisbon Treaty to help democratize the European Union (EU). The ECI was greeted by commentators in deliberativist traditions as 'one of the most important changes to EU governance processes made by the (Lisbon) Treaty' (Eriksen and Fossum, in Warleigh-Lack, 2007: 55). The 2017 Commission proposal for a revision of the measure reflected that '[one] of the benefits of this instrument is … that it allows citizens to forge links with like-minded people across the Union, facilitating pan-European debates on issues that are close to citizens' concerns and helping build an EU-wide public sphere' (European Commission, 2017b).

In its five year lifespan, 71 initiatives have been formally proposed of which 48 have been registered, involving the collection of 8 million signatures (European Commission, 2017b), providing a legacy to evaluate the impact of the measure. An unofficial freestyle initiative also operated during this period, using the ECI wrapper (though not its clunky procedures) to collect a record 3.3 million signatures (STOP TTIP, 2018). As is discussed later, there is evidence that citizens' initiatives have broadened EU agenda-setting, attracted new campaigners, and brought topics to new audiences. Nonetheless, the key premise that

institutionalizing contention over EU issues will bring the EU closer to its citizens is a difficult yardstick to evaluate it by. A related issue is whether ECI campaigns which are highly critical of the EU might ultimately offer a pathway to legitimizing the EU; it is difficult to imagine how populist Eurosceptic demands could have such an effect.

The first institutional review of the ECI in 2017 reflects that 'the instrument has not achieved its full potential' (European Commission, 2017b, p.4) and records 'limited debate and impact so far generated by citizens' initiatives' (ibid, p.5). Commentators have pointed to key flaws in the design of the ECI, centred on its non-binding nature and the ability of the European Commission to dominate the instrument (Karatzia, 2017; Vogiatzis, 2017). Nonetheless, there is a broad consensus that the ECI has political as well as institutional effects, a wider point about the reforms introduced by the Lisbon Treaty covered by the introductory article and other contributions to this symposium (Hurrelmann and Baglioni, in this issue). A key political effect is that the ECI broadens the EU 'public space', although the way it might do so is ill-defined. What kind of public space does it broaden, and how? At a moment when the European Commission has proposed reforms of the ECI hailed by key activist NGOs as 'promising' (ECAS, 2017), what contributions might these proposed reforms make to a broadened public space? Is the broadened public space essentially a political space surrounding EU political institutions, or is it a broader arena of public debate?

These questions are assessed in the analysis ahead by means of a section identifying the key features of the ECI, followed by a section that give an overview of the ECIs proposed in the mechanism's first five years. Based on this overview, this article identifies and assesses three key effects of the ECI beyond legislative change. This discussion is followed by an assessment of the impact which the new reforms of the ECI will have on these effects.

The ECI: Design and Reform

The ECI is 'a tool for participation and for agenda-setting at EU level' (European Commission, 2017b, p.4). ECIs carry no power to mandate EU institutions, but can request the European Commission to propose a legislative initiative. In this latter respect, it has equivalence to powers vested in the European Parliament (EP) and the Council of the EU (Karatzia, 2017); indeed, it is a design feature that the measure should not have powers which in any sense exceed those of the EP, given the primacy of representative democracy in the Treaties (Vogiatzis, 2017). European Commission First Vice-President Frans Timmermans (who holds institutional responsibility for the ECI) very recently asserted in exchanges with the EP that the ECI is not an instrument of direct democracy (ECI Watch, December 2017). Rather, it is one of a number of instruments of participatory democracy used by the European Commission, alongside measures such as public consultations and its established dialogue with civil society organizations, and itemized in the TEU as Article 11 (in the preceding Constitutional Treaty form, referred to as the 'participatory democracy' article). It involves a transnational campaigning process offering a mechanism of access to EU institutional deliberation for registered campaigns successful in acquiring, within a 12 month period, one million (verified) signatures from EU citizens from at least seven[1] EU Member States[2]. The organizing hosts of campaigns which reach this threshold have the opportunity to meet with the European Commission, and for their campaign demands to have a public hearing in the EP. The European Commission must then elaborate upon and publish its reasons for choosing a particular course of action or inaction.

An initiative must first be registered by the European Commission, requiring it to fulfil administrative and legal criteria, and, crucially, a test of admissibility. That is, the initiative must fall within the competencies of the European Commission to act, as laid down in the Treaties and interpreted by the European Commission's legal service. Thirty per cent of

proposed initiatives have fallen at this hurdle, of which six have challenged the ruling before the Court of Justice of the European Union (CJEU), two successfully.[3] Denied registration has been used by some campaigners as an attractive frame ('the initiative they didn't want you to sign') for unofficial signature collection, and thus refused campaigns are considered in this analysis, alongside registered initiatives, in terms of their ability to agenda-set topics in political institutions, introduce contention, and public sphere effects.

In sum, the ECI offers campaigners a means of institutionalized agenda-setting, strengthened by provision for a hearing in the EP and of which the European Commission takes account in making its response. Given that the ECI appears to challenge the Commission's right of initiative, some observers have wondered whether the Commission's approach to it might be luke-warm (Nugent and Rhinard, 2016). In reality, the Commission has tried hard to make the concept work because of its structural interests in deepening the European project and seeking popular legitimacy for it. It has, since the early days of the ECI, lent its servers to campaigners because of the difficulties activists experienced in finding IT systems capable of complying with the requirements for data protection. It has established an advice centre in the Europe Direct Contact Centre to answer directly questions from would-be organizers, including advice on the legal admissibility of envisaged initiatives. Almost all of the refused registrations, all on the grounds of legal eligibility, were in the first two years of the operation of the ECI. Advice will be further strengthened by a new proposal to establish a dedicated online collaborative platform (European Commission, 2017b).

One of the ten priorities of the Juncker Commission, 'to increase democratic legitimacy in the EU through enhanced citizens' involvement and participation' (European Commission, 2017b), which was prominently flagged in President Juncker's *State of the Union* address in 2017, is explicitly linked to the ECI in the Commission Legislative Work Programme of 2018. The Juncker Commission has taken a policy decision to elevate consideration of its

responses to successful (in meeting signature thresholds) ECIs to its highest decision-making tier, i.e., by the entire College of Commissioners. The latest (February 2018) Commission proposals for revisions to the Drinking Water Directive make explicit reference to the first successful Citizens Initiative, *Right2Water* in a number of its provisions, while a recently successful ECI, *Ban Glyphosate*, has met with promises to increase the transparency and quality of studies the Commission uses in scientific assessments (December 2017). From 2017, the Commission is registering initiatives where only aspects fall within the scope of the Treaties for it to act, whereas previously the Commission treated partial eligibility as a reason for refusal.   All of these events have led to the initiative enjoying a period of renaissance, following a 'doldrums' period after its first two years of experimental use when a number of initiatives were refused registration on the grounds of eligibility.

The ECI is the world's first transnational citizens' initiative mechanism. Relative to citizens' initiatives in national or regional jurisdictions, the ECI pales against the mandatory powers to be found in Switzerland and California (Allswang, 2000; Lutz, 2012; Smith and Tolbert, 2004), but shares with others (particularly in Europe – Qvortrup, 2012; Schiller and Setälä, 2012a; Schiller and Setälä, 2012b) a similar effect of agenda-setting (often lesser-known) issues from civil society, without enforcement powers. In doing so, it offers something different from the EU's established practices of dialogue with organized civil society as the best available proxy for an otherwise absent civil society. These practices are commonly found among international organizations because of the ties they lack which would otherwise connect them with citizens, centred on the absence of a government in power. The EU's dialogue dates from shortly after the foundation of the European Economic Community in the 1950s. There is an institutionalized social dialogue, giving representative employer organizations and trade unions special powers in employment related fields, as well as participation in a macro-economic dialogue. There is also a mature dialogue between the

European Commission and eight different 'families' of NGOs, which has been stimulated by the European Commission and which involves a substantial program of funding of NGOs into professionalized advocacy organizations. These dialogues are policy oriented, largely involving advocacy groups responding to legislative program set out by the European Commission in its annual Legislative Work Programme, in a dialogue with EU institutions inside the 'Brussels bubble'. Thus, the ECI, with its agenda-setting effects and opportunities for direct citizen participation, involves something quite new. It received a mixed reaction from civil society organizations, some of whom perceived it as a threat to their established dialogue with EU institutions, although there has been some degree of acclimatization to it from them (Greenwood, 2015). As is described later, the ECI has primarily mobilized a different set of activists from those working in professionalized NGOs in the ecosystem of organizations surrounding EU institutions in the 'Brussels bubble.'

The ECI in Action

Five of the forty signature collection campaigns completed to date have met the threshold: *Water and Sanitation are a Human Right! Water is a Public Good, not a Commodity!* ('Right2Water', aimed against water privatization); *One of us* (aimed at stopping embryonic stem cell research); *Stop Vivisection; Ban Glyphosate and protect people and the environment from toxic pesticides;* and *Minority Safe Pack* (a protection package for national minorities).[4] The first of these to meet the threshold, *Right2Water*, got a thorough airing on German television, such that one half of a sample polled in Germany during the campaign claimed to have heard of the Initiative (Plottke, 2016). A common denominator to all these campaigns involves the backing of established organizations – a key trade union (*Right2Water*: European Federation of Public Service Unions); social movements (*One of us*: Catholic Church; *Stop Vivisection*: Italian animal welfare organizations; *Minority Safe Pack*:

Federal Union of European Nationalities) or online campaigning NGOs (*Ban glyphosate*: WeMove.EU; Campact e.V.; Avaaz Foundation) – which reflects the extent of establishment required to meet the threshold. By contrast, campaigns which have not met the threshold have frequently originated in newly formed organizational structures.

Despite this apparent dependence of campaigns on established patrons, a key innovation of the ECI is a public transnational campaigning process leading to a formal mechanism of political access, and thus quite different from other EU practices of participation based around elite dialogue with interest representative organizations as an imperfect but best available proxy for civil society. In reinforcement of this, Commissioner Maroš Šefčovič, the patron of the ECI in the European Commission at its outset, stressed that the ECI is 'not for NGOs, but for all citizens' (EurActiv, 2011). Campaigns hosted by established advocacy organizations have been notably fewer than those emerging from freshly drawn campaign teams (Bouza Garcia and Greenwood, 2014; European Parliament Research Service, 2015). It should also be noted that the measure has delivered fewer registration requests than the political patrons of the ECI first imagined, attributed to the bureaucratic and legal hurdles in the first years of its operation (Berg and Thomson, 2014). Apart from the requirement for the establishment of a Citizens' Committee of seven individuals from seven different Member States, these (presently[5]) carry personal legal responsibility for the protection of data during the process of collecting signatures.

In terms of a policy response*,* the European Commission refused point blank to meet any of the demands of *One of Us* (with little appetite from the EP to try to persuade the Commission otherwise). *Stop Vivisection* met with statements of sympathy for the demands as long-term goals, but little by way of policy action. *Right2Water* met with a partial (and continuing) policy response from the European Commission. However, given its weak powers, the yardstick for success of the ECI lies not in its ability to achieve policy change,

but in other effects (European Commission, 2015; Bouza Garcia, 2015; Conrad, 2016). It must be recognized that ECI campaigns have a range of motivations, including networking, positioning, and the creation/institutionalization of organizations (Pfafferot, 2013; Bouza Garcia and Greenwood, 2014). Initiatives would also seem to have the power to: broaden the range of topics under consideration by political institutions; introduce contention to EU politics; and to create public discussion about them.   These aspects are considered in turn below, including the potential for development through the proposed reforms of the ECI.

Three Evaluative Criteria for the ECI

(1) Broadening the range of topics under consideration by political institutions: In terms of the first criterion, broadening policy agendas, examples of unconventional issues introduced to the EU political system include the following ECIs (® =refused registration, on interpretation by the Commission's legal service that the proposal lies outside of the scope of the current EU Treaties for the Commission to act):

- End Legalised Prostitution in Europe®;
- End Ecocide in Europe (criminalization of the deliberate or reckless destruction of the natural environment)[6];
- Turn me Off (switching off lights in offices and shops at night);
- Kündigung Personenfreizügigkeit Schweiz (end the Free Movement of People Agreement between the EU and Switzerland);
- Let me Vote (full voting rights for cross-border EU citizens in adopted state);
- An end to front companies;
- European Free Vaping Initiative (take vaping products outside the scope of regulation as a tobacco or medicinal product);
- Weed Like to Talk (legalize Cannabis);

- 30km/hour – making the streets liveable (urban and village speed limit);

- Suspension of the EU Climate & Energy Package;

- Pour une gestion responsable des déchets contre les incinérateurs (for responsible waste management, against incinerators);

- Unconditional Basic Income[7];

- One of Us (stop embryo stem cell research);

- Retaining European Citizenship (for cross-border citizens affected by Brexit);

- Sing the European Anthem in Esperanto[8].

- We are a welcoming Europe, let us help (including immunity from prosecution for those offering humanitarian assistance to migrants).

Initiatives proposing 'lesser known' issues are an ideal means of agenda-setting, whereas mainstream issues are championed by established NGOs with more conventional ways of pursuing their cause than an ECI. New campaigns have predominated the applications for ECI registration (Bouza Garcia and Greenwood, 2014). For ECIs without an established patron or ready access to networks of supporters, there seems limited prospects to achieve the one million signature threshold. For these campaigns, the Petitions Committee (PETI) of the EP has signalled its willingness to treat those under the signature threshold in the same way as it would give consideration to an ordinary citizen petition, with the ability to recommend that the EP uses its powers to request the European Commission to bring forward a legislative initiative, i.e., with similar effect to that of a successful ECI (Vogiatzis, 2017).

A striking feature of ECI campaigns to date involves the disproportionately strong presence among Citizens' Committees of the 21-30 age cohort, whose share constitutes around twice that of each of the next nearest groups, 31-40 and 41-50 (European Parliament Research Service, 2015; see also Gherghina and Groh, 2016). This group are well placed to broaden agendas under consideration by political institutions. Many ECIs have the feel about

them of student, or post-student, politics.   The ECI concept is likely to carry disproportionate appeal among student groups relative to other segments of civil society, with its opportunities for experimentation and adventure, transnational fellowship, public campaigning, deployment of discourse, communication and e-skills. Universities have a highly diverse range of nationalities among their student cohort, making it easy to form a Citizens' Committee, and students who have been on an Erasmus exchange are particularly likely to want to experiment with what Europe can offer.[9] Whilst this group will undoubtedly broaden agenda-setting, the earlier era of experimentation seems to have passed, judging by the more mainstream nature of topics addressed by initiatives open for signature in 2017, such as questions related to EU citizenship and economic differentials within the EU.

Another dimension to agenda-setting breadth is introduced by Oleart and Bouza (2017), who identify how issues have been taken up by campaigns not obviously European in their essence, such as media pluralism and stop water privatization. These commentators emphasize the way in which such campaigns have claimed the 'European' frame for the issues they pursue. Similarly, Duer and Mateo (2014) have shown how the climate of public opinion influences decisions by producer actors on whether to lobby EU institutions, with matters of high salience deterring business lobbying. Even the arena of expert lobbying is subject to the wider climate of contentious politics.

(2) Contentious Politics: The Laeken Declaration preceding the Lisbon Treaty expressed an explicit aspiration that contention over issues in EU politics would help to 'bring the EU closer to its citizens' (Hurrelmann and Baglioni, in this issue). A number of the exemplars of broadening agenda-setting also serve as examples of contentious politics, meaning that initiatives go against the grain of EU public policy. Bouza Garcia and Greenwood (2014)

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undertook an analysis of 60 signature campaigns,[10] and rated 25 as contentious. Prominent among these are initiatives whose registration was (at least initially) refused:

- A Europe of Solidarity (cancel Greek debt); ®

- STOP TTIP! (Transatlantic Trade and Investment Partnership); ®

- Minority Safe Pack (protection for national minorities); ®

- My Voice Against Nuclear Power; ®

- Strengthening citizens' participation in decisions on collective sovereignty (Catalan independence); ®

- Stop Brexit; ®

- British friends – stay with us in the EU. ®

Three of the above campaigns (*A Europe of Solidarity*, *Minority Safe Pack, STOP TTIP!*) continued their crusade with challenges (in the latter two cases, successfully[11]) to the refusal decision before the CJEU. However, *STOP TTIP!* is the only one of the above list to have commenced as an ECI campaign and to have remained prominent in EU wide public discussion.

Bouza Garcia and Greenwood (2014) found that consensual campaigns were more likely to be associated with movers already well linked to EU politics, whereas outsiders were more likely to introduce topics which challenged the direction of travel of EU public policy. Among the registered campaigns were two with clearly Eurosceptic demands, *Abolish the European Parliament*, and *Confidence Vote on EU Government*. It seems a stretch to suggest that such topics might somehow be a pathway to bring the EU closer to its citizens. ECIs can be registered provided, inter alia, they would not undermine fundamental human rights, the rule of law, or democracy. Three of the four successful signature collection campaigns took issue with the direction of specific EU policy initiatives, to varying degrees.

One of Us is the most clear-cut case, in that it challenged EU funding of embryonic stem cell research, and the European Commission refused outright to meet any of the demands of the initiative after taking stock of the positions of the co-legislators (Karatzia, 2017). *Stop Vivisection!* wanted an almost immediate ban on animal testing, whereas current EU legislation foresees a lengthy tapered period or reduced usage. Similarly, the *Ban Glyphosate* ECI joins some Member States in seeking an end to the licence for the use of the most common global weed killer, for which the European Commission won approval for a 5 year extension in 2017. The response of the European Commission to two cases resulted in (unsuccessful) complaints by the organizers, with *One of Us* taking a case before the CJEU and *Stop Vivisection* taking a complaint to the European Ombudsman. These three contentious ECIs all experienced public counter-mobilization by producer interests (Bouza Garcia and Greenwood, 2014; Karatzia, 2017), joined in some cases by Member States. As with contentious politics more generally, these have attracted the interest of the media (see, for instance, Marks and Paravacini, 2017), and create more public discussion than subjects which follow the broad direction of travel of EU policy initiatives, which are largely unchallenged by organized interests or Member States.

(3) Creating Public Discussion: The *STOP TTIP!* campaign seems to have been energized by its refused registration as an ECI, using the frame of rejection as a means to attract a substantial number of petition signatures. The campaign website presents itself as 'an alliance of more than 500 civil society organizations and trade unions from all over Europe' (STOP TTIP, 2018) and makes reference to campaign demonstrations gathering 25,000 individuals in a number of European cities including a concentrated focus of protest events in far flung venues across Romania (ibid). For public sphere impact, there are a variety of noteworthy features of the campaign (De Ville and Siles-Brugge, 2015),

including responsiveness of EU institutions to demands for transparency of negotiations, and politicization of the hitherto obscure Investor-State-Dispute-Settlement (ISDS) mechanism to the point that it became a key sticking point in transatlantic negotiations. The example is significant, because the regulatory emphasis of EU competencies and correspondingly technical character of much EU legislation is a core difficulty in making issues amenable to public discussion, as any cursory glance at the list of topics/files open on the *Europa* online consultation portal would confirm. The *STOP-TTIP!* campaign seems to have broken through this barrier by presenting a rather technical issue in an amenable form for public discussion, and in doing so bringing a high degree of contention to public spheres. Conrad refers to the *STOP TTIP!* initiative as an example of an issue which 'can lead to a conflict-induced awakening of the European public sphere' (Conrad, 2016, p.76). A qualification is that the initiative's success in mobilising opposition against TTIP had relatively little to do with its origins as an ECI, other than to frame the initiative as something the EU Commission did not want people to sign.

It should be emphasised that creating public discussion does not by itself lead to the creation of contentious politics. There are plenty of initiatives which have made relatively straightforward demands on political institutions which bear no claim to contest the broad direction of policy travel, but rather to add policy provision. Examples include initiatives calling for a plain for sustainable development and employment, and initiatives aimed at at strengthening exchange programmes or the recognition of European qualifications.

The ECI's impact on democracy

The consequence of these criteria involves the potential for democratization, in which a key ingredient is held to be public contestation. As Follesdal (2015, p.261) has put it, '[in] a well-functioning democracy, rival[s] present and defend competing policy positions based on a contested conception of the European interest', and on such a basis we find 'evidence [that] European public spheres indeed exist'. The centrality of contestation for democratization at EU level emerges further in debates about a *political* public sphere. Authors such as Kohler Koch (2012) and Crespy (2014) have expressed scepticism about the democratic effects of a system of 'participatory governance' established at EU level which is based around opportunities for professionalized civil society organizations to contribute to EU policy-making through a series of procedures for participation. For both authors, such forms of participation are quite different from a genuine system of participatory democracy that would bring about 'the democratic empowerment of citizens and … equal and effective participation' (Kohler Koch, 2012, p.820). Whilst Kohler Koch focuses more on the structural weaknesses of participatory governance procedures, both focus on the limited range of professionalized advocacy organizations which participate in them. Crespy strikes a more optimistic note, focusing more on 'bridging' organizations, notably trade unions and the wider social movements in which they are embedded, linking contestation to and from civil society with the proceduralized Brussels arena of technical policy-making. Contestation is similarly central to public spheres in the account provided by van de Steeg (2010,p.39), who argues that 'public spheres emerge through the public debate of controversial issues' and points out that, '[t]he more we debate issues, the more we engage each other in our public discourses, the more we actually create political communities'.

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These considerations raise the question as to whether the ECI is best captured as (1) a wider European public sphere; (2) a narrower European *political* public sphere involving contestation and campaigning for political resolution; or in different terms as (3) a 'polity activating device [as part of a] polity under constitution' (Saward, 2013, pp.228-236). Van de Steeg takes forward this latter notion of the public sphere as a polity, in which 'the political community from which the public debate emanates is the point of departure' (Van de Steeg, 2010, p.32). Such a political community is formed of 'a collection of common spaces or fora in which citizens can publicly exchange ideas, opinions and information on problems they encounter while living together in the same polity' (ibid, p.39).

In line with the first conception – a European public sphere – is a claim by Conrad (2016, p.65) who refers to the *Right2Water* campaign as the 'remarkable awakening of a transnational public sphere'. Some direct democracy campaigners estimate that it takes five conversations to convert into one signature.[12] The process of campaigning therefore offers at least the prospect of a political public sphere, i.e., public discussion on political issues. This offers an intriguing prospect, because the ECI results in citizens in different Member States discussing the same issues simultaneously. It also offers the opportunity to 'download' European issues into national arenas. The *Right2Water* campaign left a legacy for campaigners against the introduction of water charges in Ireland, framing a national campaign within the explicit demands and symbols of a European campaign. Protesters on rallies were spotted waving Greek flags, in a sign of solidarity with the fiscal crisis there (Greenwood and Tuokko, 2016).

The legal framework of the ECI is at least set up for a transnational political public sphere. The registration of an initiative requires the establishment of a Citizens' Committee, comprising seven citizens from seven different Member States. Contestable frames and issues are necessarily presented in the process of campaigning and seeking signatures of

support, albeit to varying degrees. The requirement for signatures to be obtained from at least seven different Member States demands the translation of campaign materials for initiatives. Campaigns are therefore available in the language of national publics. Eriksen (in Conrad, 2016, p.77) raises the prospect that 'the democratic function ... can very well be performed by segmented and/or Europeanized national public spheres', in which 'simultaneous transnationalisation and renationalisation of debate about contentious issues is consistent with the understanding of Europeanized national spheres as the functional equivalent of one overarching European public sphere' (ibid, p.70).

Together, these factors raise the possibility of a transnational political public sphere, and a more permissive basis than those accounts which render the EU as inherently unsuitable for democracy due to its status as an international organization primarily concerned with technical regulation (Kohler Koch, 2012). Jügen Habermas (1995; 2001) has addressed the question of a European political public sphere in a number of short contributions. Whilst much of the focus of these involves the need for a constitution for Europe, he has identified how there could be 'a political public sphere which enables citizens to take positions at the same time on the same topics of the same relevance' (Habermas 1995, p.306). For Habermas, this would be constituted from the 'flowing contents of a circulatory process that is generated through the legal institutionalisation of citizens' communication' (ibid, p.306).

The ECI is therefore a close fit with the conditions established by Habermas for the establishment of a political public sphere. It is a mechanism in which the stabilization and legitimization of the discourse takes place through some kind of institutionalization in the form of a 'space' with specific rules and procedures of interaction' (Knaut, 2016, p.58). The effect of this political communication is politicization, which is 'about political conflict and the intensification of political debates in the public spheres' (Risse, 2015a, p. 14), in which

the latter plural is intended to convey recognition of debates about Europe, in particular, in a plurality of territorial contexts (local, national, transnational) (Risse, 2015a; 2015b).

The design concept of the ECI follows a key criterion presented by Risse for the Europeanization of public spheres in which 'fellow Europeans are present in the various national and issue-specific public spheres as both speakers and audiences' (Risse, 2015a, p.10). Greenwood and Tuokko (2017) assessed ECIs which continued as campaigns in other formats despite failing to reach the threshold of one million signatures in the ECI registration period of 12 months. Among such campaigns, celebrity endorsement from fellow Europeans was a key feature in the momentum of *STOP TTIP!*, *Unconditional Basic Income* (UBI) and *End Ecocide* campaigns,[13] after which a spike in signature collection was quickly visible to campaigners. This was a feature of a number of campaigns in Bulgaria, in particular (Greenwood and Tuokko, 2017), where a number of ECIs (*Education is an Investment*; *End Ecocide*; *European Initiative for Media Pluralism*; *Fraternité 2020; My Voice Against Nuclear Power*; *UBI*) reported unexpectedly high levels of support, and the signature threshold was almost reached for the *Stop Vivisection* campaign. A mixture of national campaigning, and cross-border campaign support, lead to a notable number of successes for campaigns. The UBI campaign in Bulgaria resulted in the highest signature collection tally for the initiative across the EU-28 after Germany and France, with a multiple of 2.5 of the quota required.[14] The campaign was also boosted by the involvement of Bulgarian trade unions, support from domestic NGOs and acts of entrepreneurship from active campaign supporters. A new initiative, *Let us reduce the wage and economic differences that tear the EU apart*, is directly designed to appeal to audiences in Central and East European countries. Substantial success in collecting signatures elsewhere in Central and Eastern European countries has been noted, in Croatia (*UBI; STOP-TTIP!*), Estonia (*End Ecocide in Europe*), Hungary (*STOP-TTIP! Minority Safe Pack*) and Romania (*Single Communication Tariff Act;*

Minority Safe Pack, related to ending cross-border data use charges), followed significant

television and radio coverage in particular, due to nationally organized campaigns

(Greenwood and Tuokko, 2017). Notably, the Bulgarian mobilization follows a pattern in

which trade unions provide a key bridge between the spheres of public contestation and EU

politics, in which conflict plays a central role (Crespy, 2014).

Greenwood and Tuokko (2017) judged ten ECI related campaigns to have continuing

(i.e., beyond their period of registration as an ECI) medium- to high-profile public campaigns

offering a contested conception of the European interest, and which carried features of the

formation of political public spheres across national boundaries. Of these, three were 'new'

ECI campaigns in terms of both subject and origin, *End Ecocide in Europe*, *European Free

Vaping*, and *Unconditional Basic Income*, and which had run the course as full signature

collection campaigns (Greenwood and Tuokko, 2017).

Further reforming the ECI

In its 2017 legislative reform proposal[15] for the ECI, the Commission has put forward a

comprehensive range of measures aimed at making the ECI work better. These have their

origin in the generic Better Regulation program applied by the Commission to propose

reform of existing regulatory measures, using its comprehensive REFIT (Regulatory Fitness

and Performance) evaluative tool. Reform measures proposed include harmonizing the age

for eligibility to sign an initiative to 16 years, currently only applicable in Austria. Other

measures involve the establishment of a centralized online system to facilitate signature

collection, and which would offer campaigners the opportunity of further related functions

such as the ability to communicate with supporters during the course of campaigns. The

Commission is now proposing to undertake itself the translation of every registered initiative

into the 24 working languages of the EU. A guiding principle has been to reduce the burden

on organizers and supporters proportionate to the nature of the ECI as having no binding effect (European Commission, 2017b). The data requirements for the verification of signatures has been streamlined, making it easier for campaigners to administer and for supporters to sign initiatives. There is a new help facility to provide campaigners with preliminary legal advice on the formulation and admissibility of possible initiatives. And the Commission has proposed a change to the starting trigger for the 12 month signature collection period, giving campaigners a much longer time period in comparison to the present. The proposals also place obligations on campaigners for public interest effects. There are opportunities built in to the process for further public deliberation, through improved reasoning given in cases where registration is refused, an increase in the time period for the Commission to prepare its response to allow for consultation of other EU institutions and of stakeholders, and the involvement of a wider range of public stakeholders in the hearings of the EP.

The reform measures proposed will clearly make it easier for campaigners and would-be signatories alike, such that an increase in the flow of campaigns can reasonably be expected to at least maintain the diversity of topics introduced to the EU policy agenda. These are likely to continue to offer topics which challenge EU public policy agendas to varying degrees, and public debate will follow an increase in campaigning activity. The easier entry thresholds for campaigners are likely to lead to an increase in 'outsider' organizations using the mechanism, which in turn is likely to lead to an increase in contention orientated ECIs. These seem likely to go beyond the expansion of an EU political space, into a broader public space.

Karatzia (2017) focuses on ways in which institutionalized mechanisms can deliver further public deliberation. These range from the inclusion of a deliberative platform for all ECIs to allow website visitors to comment on ECI proposals, to mechanisms designed to

draw the Council (which was conspicuously absent from ECI hearings) in to ECI debates (European Ombudsman, 2017; Karatzia, 2017). Given, for instance, the entrenched divisions between Member States over the contentious topic of banning glyphosate, the ECI could be a bridge between public and institutionalized debate. Both the Ombudsman and the CJEU have commented on the need for the Commission to expand its reasoning in all stages of the ECI, and in particular for the political choices it makes (European Ombudsman, 2017; Vogiatzis, 2017). This is one of the few areas where stakeholder NGOs have expressed dissatisfaction with the Commission reform proposals, with little by way of new proposals in the 2017 reform package (ECAS, 2017). Both the Ombudsman, and the CJEU, have urged the Commission to elaborate on its reasoning where it refuses registration, both to enable public understanding and to allow campaigners to react accordingly (European Ombudsman, 2017). Core ECI activists are currently focusing on mechanisms aimed at strengthening the implementation of demands made (ECI Watch, 2017). The European Ombudsman has been a key source of reform proposals for reform of the ECI. A key idea aimed at improving public deliberation is her proposal that the Commission should gauge the possible support by the Council and the EP before devising its response to an ECI, with their responses 'seen as an opportunity for a wider debate, thereby strengthening the European public sphere and democracy at EU level' (Vogiatzis, 2017, p.264). A related idea is for the Commission to formally transmit the ECI to the EP and Council for an institutional response to its Communication, with the effect of institutionalizing debate and contention.

Conclusion

The ECI was promoted as a key innovation to boost the democratic features of the EU, but in an ill-defined way. The five-year point since its inception offers a good moment to evaluate it. There have been fewer campaigns than its patrons in the European Commission imagined,

but nonetheless the registration proposals to date clearly reveal that the ECI has had the effect of broadening the EU policy agenda. It is designed for transnational campaigning, has enthused a young audience, and brought new campaigners to EU politics well beyond the reach of the traditional 'Brussels bubble' in which more or less institutionalized NGOs satellite EU institutions. They have used social media and other means to bring topics institutionalized as official EU campaigns to audiences throughout the Member States, with a notable reach beyond the 'usual suspects' into central and east European countries. These campaigners have undoubtedly broadened the range of topics under consideration by political institutions. Six campaigns (including *STOP TTIP!*) have exceeded the one million signature threshold, all of which have carried significant contention, offering 'competing policy positions based on a contested conception of the European interest' (Follesdal, 2015, p.261). Most of these campaigns resulted in counter-mobilization by producer interests, drawing them into public communication. The successful campaigns have brought institutionalized mechanisms of deliberation, while other campaigns have brought public discussion of issues, often providing novel EU frames, with no small degree of contention. Nonetheless, the jury is still out on whether institutionalizing contention over EU issues will bring the EU closer to its citizens, while a greater stretch of imagination is required to see how contentious politics with a critical EU character is ultimately likely to lead to legitimation of the EU.

There seems to be plenty of supporters for the idea that there is a transnational public sphere, albeit of segmented national publics. How the ECI addresses these is significant, because it fulfils the Habermasian criteria of citizens from different countries discussing the same topics of the same relevance at the same time, with a legal institutionalization of citizens' communication. A transnational public sphere seems ill-defined, but the policy orientation of the ECI offers a pathway to greater precision as a transnational political public sphere, in which contentious politics is clearly present, and in which contention is

institutionalized over EU issues. There remain legislative issues which have attracted

European-wide public contention (see, for instance, the account given by Dür and Mateo,

2014, involving public mobilization over the Anti-Counterfeiting Trade Agreement, ACTA),

and in which the ECI has not featured. But the ECI has provided an institutionalized

opportunity for contention, with political effects.

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[1] Before Brexit, this was intended to be a watermark of one-quarter of EU Member States.

[2] Signature thresholds per country are weighted in relation to the size of populations.

[3] Successful challenges were launched by *Minority Safe Pack (Case T646/13)* and STOP TTIP! (Case T754/14),
both now registered in modified format.

[4] At the time of writing, signatures for this campaign have yet to be verified. Following this, there would be a
policy response from the European Commission, a hearing in the EP and a meeting with the ECI organizers.

[5] The new reform proposals remove this liability by the establishment of a new legal structure for the host
committees of campaigns.

[6] This initiative was first version refused registration, then registered in revised format.

[7] This initiative was initially refused registration, later registered in modified format.

[8] This was not, as some initial coverage assumed, a prank, but a proposal originating from within the European
Esperanto Association.

[9] Some of the ECIs which appeared at an early stage of the measure have been registered as part of coursework
on a Masters course in European integration, at Sciences-Po Paris.

[10] These include 'pilot' unofficial campaigns run in the period immediately before the ECI commenced.

[11] Both campaigns were subsequently registered as ECIs; Minority Safe Pack involved registration of those parts
of the demands which were held by the CJEU to fall within the jurisdiction of the Treaties (Case T-646/13).

[12] Conversation with Carsten Berg, now at the ECI Campaign.

[13] For instance, celebrity chef Jamie Oliver endorsed *STOP TTIP!* ('I really don't want beef with growth
hormones, nor chicken washed with chlorine … and I certainly don't want our farmers undermined', STOP
TTIP!, 2018), and fashion designer Vivienne Westwood supported End Ecocide (End Ecocide, 2018).

[14] Email exchange with Klaus Sambor, UBI Campaign Committee, 5 February 2014. 32,006 signatures were
obtained by the UBI campaign in Bulgaria.

[15] Proposal for a Regulation of the European Parliament and of the Council on the European citizens' initiative, COM2017 482 final.

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