

European Citizens' Initiative and the Democratic Deficit in Albanian Legislation: A Comprehensive Analysis

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Abstract

Democracy can take various forms, with participation and representation being crucial aspects of modern democracy. In a representative democracy such as the European Union (EU), representative democracy is expressed through elected institutions such as the European Parliament, while participatory democracy is embodied in the European Citizens' Initiative (ECI) established in the Treaty of Lisbon. This revolutionary form of democracy, reformed within the EU, consists of participatory democracy, where the EU engages in creating and providing European citizens with the opportunity to submit a request to the European Commission for the drafting of new legislation in a specific field within its competence. Thus, the ECI becomes a new machine for policy-making in the EU, driven by ordinary citizens. In this way, European citizens are granted the direct right to have a say in the EU legislative process. However, the implementation of the ECI poses several challenges, including the need for sufficient awareness among citizens, the complexity of the procedure, and the potential mismatch between citizen demands and EU policy priorities. The aim of this paper is to analyze the implementation of the ECI as an integral part of the Treaty of Lisbon, particularly in relation to EU member states that have provided opportunities for citizen participation in their national legislations, including the provisions offered by the legislation of the Republic of Albania in this field.

Keywords: *Referendum, ECI, Democracy, Participation Influence, Initiative.*

Introduction

The journey of Europe towards economic integration and political unification is an exemplary phenomenon worthy of analysis in every aspect. However, our analysis will primarily focus on European policy-making and the particular significance given to the voice of citizens within the EU. Starting from the Treaty of Paris (1952), which established the European Coal and Steel Community, and continuing with the Treaties of Rome, which established the European Economic Community and Euratom (1957), Europe embarked on a path of economic integration.

While the EU of 2004 faced the *Draft European Constitutional Treaty* signed by its member states, the ratification process faced numerous challenges. Referendums held in France and the Netherlands in May-June 2005 resulted in the rejection of the constitutional treaty. Europeans once again demonstrated the difficulty of relegating national constitutions to a secondary position, as the term "*Constitution*" itself instilled fear in those who saw its adoption as a threat to national sovereignty. This highlighted the complexities of incorporating national constitutions and the concerns surrounding the potential erosion of national sovereignty.

The European constitutional crisis came to an end with the "*5 a.m. compromise*"¹ in June 2009, which prevented the constitution from being fully implemented but allowed its aspirations and ideas to enter the political discourse successfully. Consequently, on December 13, 2007, the EU member states signed the Treaty of Lisbon, amending the Treaty establishing the European Community and the Treaty on European Union.²

While the entry into force of the Treaty of Lisbon primarily brought institutional changes within the EU, its true revolutionary aspect lies in the European Citizens' Initiative (ECI). The ECI engages various structures within the EU in the preparation of specific regulations and guidelines to enable the realization of this democratic revolution.

This paper aims to comprehensively analyze the implementation of the ECI as an integral part of the Treaty of Lisbon, with a particular focus on EU member states that have provided opportunities for citizen participation in their national legislations. Furthermore, it will examine the provisions offered by the legislation of the Republic of Albania in the field of citizen engagement and its relationship with the European democratic deficit.

¹ Under the energetic presidency of Germany, the European Council agreed to abandon the European Constitution and approve a new treaty on June 19, 2009.

² On December 1, 2009, the treaty came into force after two referendums in Ireland and decisions by the German Constitutional Court (June 30, 2009) and the Czech Constitutional Court (November 2, 2009).

The Legal Framework for Implementing the European Citizens' Initiative

The legal basis for the European Citizens' Initiative (ECI) is Article 11 of the Treaty of Lisbon, which states that "*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*" (Article 11, paragraph 4 of the Treaty on European Union). From the perspective of civil society, this provision of the ECI in the Treaty of Lisbon holds particular significance as it primarily relates to strengthening participatory democracy, intensifying and structuring dialogue with citizens, and engaging in thorough consultations during the formulation of EU policies, all of which contribute to enhancing citizen-institution dialogue. (Kavrakova, 2021)

The procedure to be followed for undertaking such an initiative is outlined in the EU Regulation on the European Citizens' Initiative ((UNION, 2011)), which provides for all the procedural steps in accordance with Articles 11 and 225 of the (Union, 2012) and Articles 24 and 241 of the Treaty on the Functioning of the European Union (COUNCIL, 2011). Given the importance of the ECI, the European Economic and Social Committee, as well as the Committee of the Regions, have provided their opinions to the European Commission during the drafting of the Regulation on the European Citizens' Initiative.

According to this Regulation, "*signatories*" are individuals who have filled out the form in support of the ECI and have the right to vote in the elections for the European Parliament. The "*organizers*" are responsible for organizing the ECI and must be composed of individuals from at least seven different EU member states, who are required to present the proposal, subject matter, and objectives to the Commission in one of the official languages of the EU.

A revolutionary aspect is that the Commission also recognizes "*electronic signatures*," which places responsibility on the organizers of the ECI for the collection, storage, deletion, or destruction of such data, in addition to the paper-based records. (General, 2013)

Article 15 of the Regulation requires Member States to designate the competent authorities responsible for carrying out the necessary follow-up, certification, and verification when their citizens participate in an ECI.

Minimum numbers of signatories for initiatives registered since 01/02/2020

The thresholds correspond to the number of the Members of the European Parliament elected in each Member State, multiplied by the total number of Members of the European Parliament (European Commission, 2021).

Country ¹	Threshold	Country	Threshold	Country	Threshold
Belgium	14,805	France	55,695	Netherlands	20,445
Bulgaria	11,985	Croatia	8,460	Austria	13,395
Czechia	14,805	Italy	53,580	Poland	36,660
Denmark	9,870	Cyprus	4,230	Portugal	14,805
Germany	67,680	Latvia	5,640	Romania	23,265
Estonia	4,935	Lithuania	7,755	Slovenia	5,640
Ireland	9,165	Luxembourg	4,230	Slovakia	9,870
Greece	14,805	Hungary	14,805	Finland	9,870
Spain	41,595	Malta	4,230	Sweden	14,805

Citizen Initiatives in the Legislation of EU Member States

All the countries that form the European Union are rule-of-law countries and have similar legal provisions regarding the role of citizens in society. Citizen initiatives are seen as a means for citizens to participate in policymaking at various levels.

Countries such as Austria, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and the Netherlands recognize the Citizen Initiative as a means of policymaking at the national level. Other countries like Austria, Germany, Spain, Sweden, and the Netherlands recognize the Citizen Initiative as a means of policymaking at the regional level. Meanwhile, countries such as Belgium, Germany, Hungary, Italy, Luxembourg, Slovenia, Spain, and Sweden recognize the Citizen Initiative as a means of policymaking at the local level.

These Citizen Initiatives significantly differ in their scope of action and generally operate according to different procedures, aligned with the respective levels of the Citizen Initiative. For instance, the Belgian Constitution, in its Article 75 (Belgium, 1831), stipulates that each region has the right to propose a legal norm (considering the three communities: Flemish, German, and French). The Italian Constitution, in Articles 71 and 87, recognizes the Citizen Initiative but requires signatures to be notarized (Italy, 1947). However, out of the 13 initiatives undertaken, none of them have been successfully enacted into law by the parliament. Austria, through its right to petitions (Volksbegehren) (AUSTRIA, 1920), which grants recognition to 1.7% of the electorate, has seen numerous Citizen Initiatives, but only a small percentage has

¹ The Member States are listed alphabetically using the spelling of their source language (protocol order).

been enacted into law (out of 213 initiatives in 2003, only 29 became laws) (Vanzetta, 2006).

Hungary and Poland (Assembly, 1997)have incorporated citizen participation in their respective constitutions for national policymaking, including a low threshold for signatures (Hungary, 1949). Spain poses challenges for Citizen Initiatives, as the required quota is 500,000 signatures, and there is a demand to introduce electronic signatures as a form of endorsement (Spain, 1978).

While EU member states have a rich practice regarding Citizen Initiatives, there is no consolidated practice reflected in concrete acts that address the concerns raised by ordinary citizens.

Citizen Initiatives in the Republic of Albania

Albania is one of the countries where the practice of citizen initiatives is still in its infancy, despite the constitutional recognition of the right for ordinary citizens to propose laws. According to the Constitution, "*the right to propose laws is vested in the Council of Ministers, every deputy, as well as 20,000 voters.* (Parliament, 1998)" Chapter IV of the Constitution, which addresses the legislative process in Albania and the subjects entitled to this right, has not yet witnessed the submission of a proposed law by the third subject (20,000 voters) under Article 81/1. Instead, this right has primarily been utilized by the executive branch.

Citizen initiatives in Albania have mainly been employed within the framework of referendums, (Parliament, 1998) which serve as a direct expression of the people's will. However, instances where referendums have been requested have been limited to issues related to declaring a specific law or provision unconstitutional, while no referendums have been conducted for matters of particular importance.

Although the Constitution stipulates that "*Self-government in the local units is exercised through their representative organs and local referenda. The principles and procedures for the organization of local referenda are foreseen by law in accordance also with Article 151, paragraph 2*" it is important to note that there have been no cases of local referendums to date. (Parliament, 1998)

The exclusive exercise of passive participatory democracy in Albania reflects citizens' engagement solely in cases where rights are violated, while the absence of active forms of participation signifies indifference and a lack of recognition of rights by the citizens, as acknowledged by the Constitution.

In order to foster a more vibrant culture of citizen initiatives in Albania, it is crucial to address the limitations and obstacles currently hindering their effective implementation. Measures should be taken to raise awareness among citizens about their rights and the potential impact of their active involvement in the legislative process. Furthermore, legal provisions should be revised to facilitate and encourage

citizen participation, ensuring that proposed laws from the third subject are duly considered.

Additionally, promoting and organizing local referendums can empower communities and enable them to actively engage in decision-making processes that directly affect their localities. This would enhance the principles of local self-governance and provide a platform for citizens to shape the development and policies of their respective regions.

Moreover, comprehensive educational campaigns and initiatives should be implemented to enhance civic education and foster a culture of active citizenship from an early age. This can help instill a sense of responsibility, civic duty, and an understanding of democratic values among the younger generation.

In conclusion, Albania has yet to fully realize the potential of citizen initiatives as a means of fostering a participatory democracy. By addressing the existing challenges, promoting awareness, and strengthening the legal framework, Albania can create an environment that encourages citizen engagement, promotes transparency, and ensures that the voices of its citizens are heard and valued in the legislative process.

Challenges of implementing ECI

The success or failure of European Citizen Initiatives (ECIs) can be attributed to various factors that influence their outcomes. Here are some reasons why ECIs can be both successful and failed cases (Farrell & Sunindijo , 2020):

Signature Thresholds: ECIs must gather a specific number of signatures from citizens across multiple EU member states to be considered successful. If an ECI fails to meet the signature threshold in a sufficient number of member states, it will be deemed unsuccessful. The requirement to gather a large number of signatures within a limited time frame can pose a significant challenge for ECIs, leading to their failure.

Complexity of the Issue: The success of an ECI can be influenced by the complexity and nature of the issue it addresses. If the topic is highly technical or lacks broad public awareness, it may be difficult to gather the necessary support and signatures. ECIs that tackle complex or niche subjects may face challenges in mobilizing public interest and support, leading to their failure.

Political Will: The response of the European Commission and other EU institutions to an ECI plays a crucial role in determining its success. If the political will to address the issue raised by the ECI is lacking, it is less likely to result in significant policy changes. The European Commission is not legally obliged to propose legislation based on a successful ECI but must provide a formal response outlining its reasoning.

Timing and Relevance: The success of an ECI can depend on the timing and relevance of the issue it addresses. If an ECI aligns with ongoing policy debates or societal concerns, it has a higher chance of attracting public support and influencing

policymakers. However, if the issue is not considered a priority or lacks public resonance at the time, the ECI may struggle to gain traction and achieve its objectives.

Campaigning and Mobilization Efforts: The success of an ECI is also influenced by the effectiveness of the campaign and mobilization efforts behind it. A well-organized and widely supported campaign can increase public awareness, engage citizens, and gather the necessary signatures. Conversely, a lack of resources, coordination, or public engagement can hinder the success of an ECI.

It's important to note that even if an ECI does not lead to immediate legislative changes, it can still have an impact by raising awareness, shaping public opinion, and influencing future policy discussions on the given issue. ECIs serve as a democratic tool for citizen participation, regardless of their immediate outcome.

There have been several successful cases of implementing the European Citizen Initiative (ECI) in the European Union. While the success of each ECI can vary, here are a few notable examples:

"Right2Water": The "Right2Water" ECI, launched in 2012, aimed to ensure that all EU citizens have access to clean and safe drinking water and sanitation. It gathered over 1.8 million signatures from across the EU, surpassing the required threshold. This initiative raised awareness about the importance of public water and sanitation services and led to a European Commission response acknowledging the significance of water as a human right (Right2Water, 2012).

"Stop Vivisection": The "Stop Vivisection" ECI, launched in 2013, called for the repeal of the EU directive allowing animal testing in scientific research. It gathered over 1.1 million signatures, meeting the threshold for a response from the European Commission. Although the initiative did not result in a legislative change, it contributed to the public debate on animal experimentation and promoted alternative methods (vivisection, 2015).

These examples demonstrate the potential impact of ECIs in raising awareness, shaping public debates, and influencing policy discussions at the EU level. They also highlight the role of citizen participation in driving meaningful change in EU policies.

While the European Citizen Initiative (ECI) is designed to empower citizens and provide them with a platform to influence EU policies, not all ECIs have been successful in achieving their goals. Here are a few examples of failed cases of implementing ECI in the EU:

"One of Us": The "One of Us" ECI, launched in 2012, aimed to prohibit EU funding for activities that destroy human embryos, such as research involving embryonic stem cells. Despite gathering over 1.7 million signatures, it did not meet the required threshold in enough EU member states. As a result, the European Commission did not propose any legislative changes in response to this initiative (us, 2014).

"Stop TTIP": The "Stop TTIP" ECI, launched in 2014, called for an end to the negotiations on the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the United States. While it gathered over 3 million signatures, it did not meet the signature threshold in a sufficient number of member states. Consequently, the European Commission continued with the TTIP negotiations (TTIP, 2017).

"Ban Glyphosate": The "Ban Glyphosate" ECI, launched in 2017, sought a ban on the herbicide glyphosate and the adoption of measures to promote alternatives to its use. Despite gathering over 1.3 million signatures, it fell short of the required threshold in several member states. As a result, the European Commission did not propose any legislative changes based on this initiative (glyphosate, 2017).

These examples highlight the challenges faced by ECIs, including the requirement to gather a significant number of signatures in a diverse range of EU member states. The failure to meet the signature thresholds in these cases resulted in limited or no legislative action by the European Commission. However, even in cases where ECIs do not lead to immediate policy changes, they can still contribute to public awareness, shape debates, and influence future policy discussions.

Conclusions

European Citizen Initiatives (ECIs) present a model that should be implemented by all EU member states to enhance and strengthen participatory democracy, fostering responsible and active citizens in the policymaking of the Union. The proper utilization and the example set by EU member states will make the ECI a revolutionary initiative for aspiring countries seeking to join this unique organization. The inclusion of the European Economic and Social Committee and the Committee of the Regions as two structures with a distinct role in the functioning of this initiative signifies that its objective is to highlight common economic and social issues among several states that must be addressed by the European Commission.

This implies that even within their own territories, member states should follow such an example. The same criteria and opportunities for implementing such initiatives should also exist in non-EU member countries, which cannot participate in the ECI without becoming part of the European Union first.

In conclusion, the implementation of citizen initiatives in Albania can serve as a valuable tool to enhance participatory democracy and empower its citizens. By adopting a similar model to the European Citizen Initiative (ECI), Albania can provide its citizens with a means to actively engage in the political decision-making process and address shared concerns. The experiences and lessons learned from EU member states can serve as a guide for Albania to establish effective procedures and ensure the meaningful participation of its citizens. Moreover, leveraging technology and media platforms can facilitate the collection of signatures and promote widespread awareness and participation in citizen initiatives. By embracing the principles of the

ECI, Albania has the potential to foster a more inclusive and responsive democracy that reflects the needs and aspirations of its citizens.

The transition from representative democracy to participatory democracy is a revolution for the EU, built upon the foundation of representative democracy where citizens at all levels now set the agenda. Technology and media will play a crucial role in the progress of the ECI, facilitating the collection of signatures (1 million endorsements) and engaging ordinary citizens in this initiative.

The EU currently needs a *human touch*, and this spirit was infused by the Treaty of Lisbon.

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