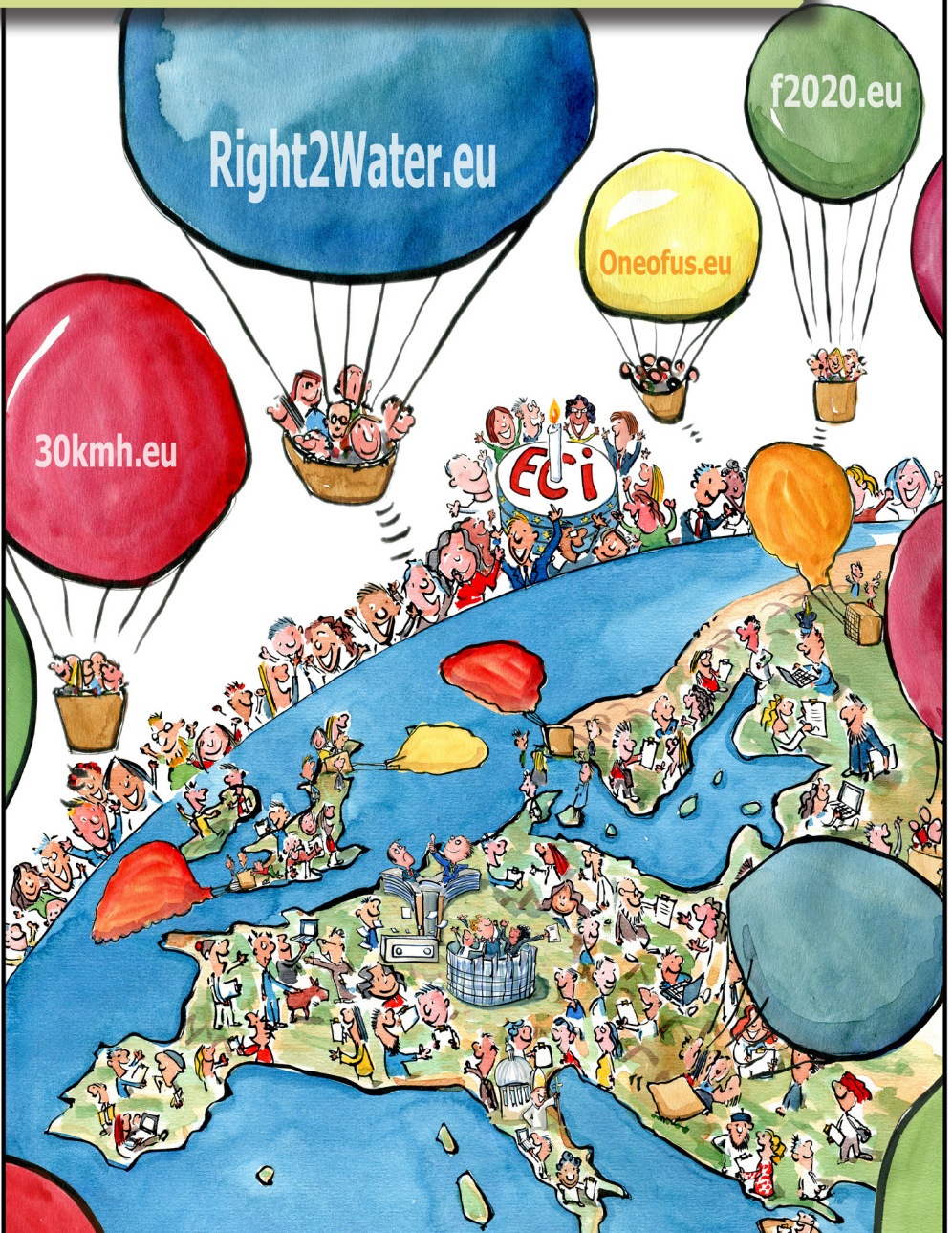


The European Citizens Initiative Briefing



The first year with transnational direct democracy in practice



DEMOCRACY INTERNATIONAL



www.citizens-initiative.eu

iri Initiative and
Referendum
Institute Europe

IMPRINT

This briefing has been prepared and published by Democracy International, ECAS, the ECI Campaign and IRI Europe.

Authors: Bruno Kaufmann {Survey} and Carsten Berg {Feature}

Illustrations: Frits Ahlefeldt

Editor: Paul Carline

Layout and Production: Cora Pfafferott and Werner Scholz

© 2013 All rights with DI/ECAS/ECI-C/IRI-E



2013 ECI Survey

A small step for Europe, a big step for democracy

The European Citizens' Initiative celebrates its first anniversary

Around 1.5 million statements of support, thousands of discussions and meetings, hundreds of days. The first year with the all-new European Citizens' Initiative – the world's first direct, digital and transnational tool of participative democracy - has offered a true roller coaster ride, with many up and downs. After centuries of democratization, decades of fundamental debates, and years of political struggles, we can now look back on the first 365 days with the European Citizens' Initiative (ECI). A useful experience indeed.

Everything began rather low-key. On April 1, 2012 – it wasn't a joke! – the European Commission uploaded its new ECI registry, definitely the single most important element of participatory infrastructure for the new instrument. With this website the Commission created a unique

and powerful platform for formal aspects related to the ECI – in not less than 23 languages. At the same time, a first version of an online signature collection software (OCS) was released. That was all. While the registry proved to be a robust and reliable tool at the frontend (open to everybody), all the backend features (like the protected “manage your initiative” sections and the OCS) had and continue to have problems in working smoothly.

Moreover, the human resources behind those electronic services in the Commission were and remain very limited. The latter must be seen against the background of a manifest ambivalence towards the new instrument of citizen participation by the Commission’s leadership.



Officially welcomed and hailed as a great achievement, it was not only the leading figures in the institutions who received the citizen initiative takers - the newest pre-legislative players in the complex political kitchen called the EU - with a lot of reserve, and even ignorance, when faced with the challenge of running a modern representative democracy, based on the rule of law, delegation of powers and direct citizen participation.

The whole “Europe” project fell into a deep crisis as a consequence of both the global financial crisis and the inability of the member states to further reform and adapt to transnational democratic dynamics. As a consequence, the divides within Europe have grown bigger - between a rather well-off North and an economically struggling South. So the ECI received anything but a really welcoming and friendly start or an efficient operating environment.

Several potential ECI organisers filed their application for an ECI during the first hours of operation. Some of them were rather unprepared - even they themselves had basically no idea about the process as such. On May 9, Europe Day, the Commission registered the first ECI: "Fraternité 2020 - Mobility. Progress. Europe" – an initiative by young people from across Europe for better funding of exchange programmes: a 'nice, but also non-controversial proposal, which later on had great difficulty in gathering support from EU citizens in the required quantities.

The very next day, another initiative was registered: the "Right to Water" ECI, addressing a big issue – water privatisation – and hosted by powerful trade unions. And it took only one more day before another initiative - #3 – was online: a proposal by conservative forces around the (non-member) Vatican State to make the use of human embryos in stem cell research and in vitro fertilisation of babies illegal. So it took just exactly three days and the "ECI World" had three very different types of initiative.



So here we have two of the main features which shaped the first year of ECI practice: firstly, a very harsh context, where until now active European citizenship has been mainly understood – in the best case - as nice PR, or - in the majority of cases - as an unwelcome disturbance in a highly complex and non-transparent government-controlled system; and secondly, the initial use of the ECI has nevertheless offered a very illustrative monitor of the broad spectrum of problems to be solved, as the initial 20+ initiatives have covered everything from very technical-administrative matters (#2012 {11}, online platform) to down-to-earth concerns (#2012 {14}, speed limits) and constitutional affairs (#2013 {3}, voting rights). The ECI can hence be seen as an additional mirror of what's going on in Europe and where exactly the shoe pinches.

Let us then briefly assess the practical use of the new instrument and how well the various initiative proposals have been received across Europe. Here we are still in an early phase, as the ECI is still widely unknown and there are practical challenges linked to the globally unique and first of its kind e-collection mode (see below).

Nevertheless, the early ECI practice offers a few insights into possible dynamics of this participative process. Most impressively, this has been illustrated by the “Right to Water” ECI. At the beginning of January 2013, only some 50,000 Europeans had signed this proposal aimed at ensuring public ownership of water resources. One month later – suddenly - more than 1.2 million citizens had stated their support!

As our special feature emphasises, the “right2water” initiative was able to pool essential financial, organizational and strategic resources with a fully-fledged user approach to the ECI, for example by not waiting for the online collection system to work properly but starting to gather signatures on paper from the early days. In addition, the timing of this initiative must be termed almost supra-optimal, as the EU Commission presented its highly contested water privatisation Directive exactly at the moment when the “right2water” initiative was ready to take off and when media across Europe had finally woken up to the new instrument at the beginning of the year.



However, the European Citizens' Initiative record is still rather thin in such success stories since most of the other active initiatives are still reporting support numbers in the five digit or very low six digit range. Reaching the "magic" seven digit figure – one million – seems still to be far away, even though the Commission has solved some of the initial technical collection problems by directly prolonging the collection timeline for many initiatives (until November 1 this year) or by allowing the initiatives to re-submit and re-register their proposals, which resets the 365-day period available for gathering statements of support. However, the very first year of the very first transnational tool of participative and direct democracy is very rich – and most useful for the further democratization of European democracy – when it comes to concrete actions, visible efforts and intended goals – as our "ECI Activity File" underlines and the "ECI Anniversary Poster" illustrates.

In the first 365 ECI days, 27 initiative proposals have been filed; of these, 8 projects were not registered by the European Commission based on the formal registration requirements in the ECI Law (Regulation (EU) No. 211/2011).

These requirements relate to:

- a) the formation of a citizens' committee and the designation of contact persons (Art. 3.2)
- b) the competence to submit a proposal for a legal act (for the purpose of implementing the Treaties)
- c) compliance with the "non-abusive, non-frivolous and non-vexatious" conditions of the initiative
- d) compliance with the values of the EU as set out in Article 2 of the Treaty on European Union.



Each organiser who has filed an initiative on the Commission Registry receives a letter from the Commission within 2 months. If the admissibility check produces a negative response, the letter (which is later published online on the Registry) informs the organisers as to the reasons for the negative decision.

Of the eight initiatives which were not registered so far, none was refused because of requirements a) (formality), c) (language) or d) (values). All rejections were based on requirement b): the competence issue. However, in a few cases (Proposal #26 on self-determination) the Commission also asserted that “amending the Treaties falls outside the scope of the citizens’ initiative”. This view is highly contested and it would certainly be worthwhile testing this decision in the Courts - an option which is open to organisers of rejected initiatives by Art. 263 of the Treaty on the Functioning of the European Union.

In at least two known cases the organisers have tried to learn the lesson and adapt their initiatives to the Commission’s interpretation of the regulation. In this way the rejected ECI proposal #17 on an “unconditional basic income” has been successfully relaunched and was finally registered as ECI # 2013 {1} in early 2013, while the people behind proposal #7 on nuclear energy have put their ECI on ice, after having checked various options for getting their proposal re-registered.

Five initiatives have used the opportunity given to organisers by the ECI Law to withdraw their proposals during the signature gathering period. This can be done for a host of reasons - reasons, however, which do not have to be communicated to the Commission. In the five actual cases, three initiatives were withdrawn because of tactical reasons, one because the organisers were unhappy with the process and one because the people behind the proposal were happy with developments and understood that their ECI had become unnecessary.

Three initiatives (ECI#2012 {02}>{16}, single communication; ECI# 2012 {12} > 2013 {2} end ecocide; ECI # 2012 {6} > 2013 {3}) simply used the withdrawal option to restart the signature gathering period. They did so on the day when they received the registration letter from the Commission. Another of the early initiatives (ECI # 2012 {4}) on “dairy cow welfare” was withdrawn because the organisers were unhappy with the progress of their efforts and the available procedure as such. In a letter to the Commission (dated 20/07/2012), the organisers conclude that “the ECI as it stands today does not seem ready to collect one million signatures safely or at reasonable costs for organisers”.

Luckily, many others have come to a different conclusion and have – in close contact with the EU and national authorities as well as independent sources of support and assistance – continued their efforts. One initiative, however - ironically, the one with the most reported funding next to the “dairy cow welfare” ECI - withdrew its initiative simply because they were happy with the way things had developed.



ECI # 2012 {15} on the “Termination of the bilateral treaties with Switzerland” never started to gather signatures or tried to reach out transnationally. Instead, it posted a message on the website, after withdrawing the proposal on February 4, 2013, stating that the Swiss government would in any case have to end its restrictions on freedom of movement by 2014 as agreed in the bilateral treaties. In sum, while the tactical withdrawals make good sense and represent an interesting way of maximising the effects of an ECI, the “cow welfare” withdrawal leaves an impression of prematurity. The “swissout” proposal was also finally somewhat premature as such, as the organisers had obviously not checked the conditions of the bilateral treaties, which include an end to all restrictions.

Fourteen initiatives are currently up and running. On the registry their status is classified as “open”, which means that their clocks are ticking away the time allowed to gather the necessary statements of support.

Nevertheless, only ten of these initiatives are in fact gathering signatures, while the other four are still waiting to get their electronic systems up and running for the online collection process i.e. they are not using the paper mode at all. On the other hand, there is one initiative (#2012 {12}, waste management) which is using the analogue gathering method (on paper) exclusively. With no numbers of support reported at all, this initiative also seems to have little ambition of reaching the required one million signatures before the deadline.

After one year of operation we have a surprisingly rich picture of ECI practice - offering us the opportunity to introduce a ranking exercise which goes beyond the pure aggregation of support numbers. What we have done is to combine the signature gathering successes with the individual initiatives' ability to reach out transnationally, to offer financial and organizational transparency, to use the available collection modes and, last but not least, to envisage a clear and comprehensible functionality of the ECI.



And here, Europe, are the results of the first ever ...

“Transnational People Power Top Ten”: the European Citizens’ Initiative Ranking 2013:

1. Right to Water	27 points
2. Fraternite 2020 & One of Us	21 points
4. 30 km/h & Stop Vivisection	16 points
6. High Quality Education	15 points
7. European Media Initiative	14 points
8. End Ecocide in Europe	12 points
9. Responsible Waste Management	9 points
10. Basic Income & Let me Vote	7 points

The criteria used for putting together this list were allotted points, which were then totalled.

a) Progress (according to reported support): 12

No signatures	0
> 10,000	1
> 50,000	3
> 250,000	5
> 1,000,000	8
More than 1 million	12

b) Transnationality: 6

Initiative proposal (languages):

High (3), Medium (2), Low (1)

Initiative Website (languages):

High (3), Medium (2), Low (1)

- | | | |
|----|--|---|
| c) | Transparency: | 3 |
| | High (3), Medium (2), Low (1) | |
| d) | Collection: | 3 |
| | Online & Paper (3), Online or Paper (2), None (1) | |
| e) | Functionality: | 6 |
| | Initiative proposal (with or without draft legal act):
Clear (3), mixed (2), unclear (1)
Signature Counter (with MS reporting statistics)
Both (3), no MS reporting (2), None (1) | |

Our assessment offers a series of highlights in relation to the current practice, including:

- impressive support gathered by the “Right2Water” Initiative (ECI#2012 {03}), which is also reflected in several policy spinoffs- such as the initial reaction by the EU Commission and the water-related policy changes in e.g. Portugal and Germany;

- genuinely transnational low-cost campaign by the “Fraternité 2020” initiative (ECI#2012 {01}) with both the proposal and the website available in all the 23 official languages of the EU;

- exemplary statement of support reporting system introduced by the “30 km/h” initiative (ECI #2012 {14}), which updates the incoming support on a daily basis and which is displayed by member state;

- willingness to not only “invite” the European Commission to act on a defined policy but to provide a full “draft legal act”, as the “Single Communication” initiative (ECI #2012 {16}) has done;

- use of the new instrument (ECI) to prepare for a new instrument (online platform) in order to improve the new instrument (ECI), as in the case of the “Online Collection Platform” initiative (ECI #2012 {11})

In sum, the first year with the European Citizens' Initiative has not only offered many useful lessons and interesting insights into the process and practice of an emerging transnational democracy, it has also given a lot of relevance to forthcoming improvements, reforms and revisions. Please read our "special feature" about the "Right2Water" initiative and study our "Outlook" into the European Citizens' Initiative of the future, the ECI 2.0.

The ECI has been labeled the first instrument of "superdemocracy", as it offers a direct, transnational and digital form of citizen participation. With millions of individuals as well as hundreds of organizations, authorities and institutions involved, there has been some real progress, such as:

- 1) the ECI has put up a "direct" democratic umbrella across the European Union, inviting and requiring a new approach to citizen participation in principle;
- 2) the ECI has given the concept of transnational "European Union Citizenship" a new reality beyond existing freedoms and channels of influence, opening the door to the world of formal agenda-setting and decision-making by the people;
- 3) the ECI is about to make e-collection of statements of support a new standard, tackling challenging problems by developing practical solutions when citizens can make their voices heard digitally.



Special Feature

The Right 2 Water Initiative

Pioneering the million, targeting transnationality, changing a policy

The Right 2 Water European Citizens' Initiative is a pioneer among the first more than 25 attempts to set the EU agenda. In early February this ECI hit the magic hurdle of one million statements of support. As those signatures must come from a transnational sample, the initiative continues. At the same time it offers an interesting showcase on the options and limits of the new tool.

This ECI aims at establishing water and sanitation as a human right and providing water as a public good by keeping it out of the internal market rules. The organizers are against the liberalization of water services in the EU: "We want the Union to change their mindset from its current focus on competition and a completely market-based approach to a public service attitude and a rights-based approach.

Water is a limited natural resource and a public good fundamental for life and health. It is a 'natural' monopoly and must be kept out of internal market rules."

The European Commissioner for the Single Market, Michel Barnier, has argued that his legislation would not impose the privatization of water, as he recognizes it as a common good. However, he does not plan to exempt water from the internal market rules. In particular his legislation, the so-called "Directive on Concessions", focuses on granting public bodies the right to tender public services, including water distribution, to private businesses if they want to do so.

Given the intense debate on this issue Barnier declared that he would reformulate his proposal, giving more room for public bodies to decide how to deal with water. But the controversial debate continues, while a million citizens want to see the pledge for the protection of water to be waterproofed by having it written into EU law.

Properly fundraised and well prepared ECI

The right2water ECI has been initiated by the European Federation of Public Service Unions (EPSU) which is an umbrella organization representing more than 270 unions or 8 million public service workers across Europe.

The EPSU didn't only prepare their campaign plan well in advance; they also fundraised 100,000 EUR before even beginning the campaign - about the amount experts recommend you to start with if you want to conduct a fully-fledged and successful ECI. The funds are used for paid staff and the manifold tasks connected with an ECI, in particular assisting with practical and organizational issues such as translations, the registration, legal expertise, the development of the website, regular newsletters as well as volunteer and signature return management. In addition, further EPSU staff are investing time over the entire collection process which is estimated by the initiative to cost up to 50-80,000 EUR.

Moreover, the organizers inspired the creation of new networks that go far beyond EPSU's own established networks - such as action groups from the environmental, social and health sectors. Political parties also jumped on the train to promote the initiative at regional and national level. For example, the parliament of Andalucía, the most populous region of Spain, voted in favor of supporting this ECI. While it is not easy to calculate and convert into financial terms, it becomes clear that the right2water ECI is strongly backed by a well elaborated network and a wide-ranging infrastructure.

Challenging campaign start

The ECI applied for registration with the EC on the first possible day in April 2012 and was officially registered by the Commission on May 10th, 2012 as the second ECI in history. But even though this initiative



had been prepared and financed very well in advance, a lot of patience was required before one could see this ECI taking off. After the first half year, only 3.5% of the necessary signatures had been collected. In contrast to other registered ECIs, right2water first began to collect statements of support in the traditional paper-based way. However, the figures ultimately speak a clear language about the dominating mode of participation: only about 5% of signatures have been collected on paper and the other 95% of supporters have signed online.

The numbers of supporters are not equally distributed per month - as shown in the table below - but have strongly increased beginning in mid-January 2013 when the European Commission was proposing specific legislation and national mass media, in particular public TV, were reporting on the issue as a potential threat to public water quality. However, the table shows that this did not happen uniformly in all European member states, but only in Germany and Austria.

Distribution of signatures

Country	Minimum number of signatories per country	Collected signatures	Missing / Surplus Signatures
Austria	14,250	54,460	40,210
Belgium	16,500	18,519	2,019
Bulgaria	12,750	425	-13,075
Cyprus	4,500	87	-4,413
Czech Republic	16,500	1,965	-14,535
Denmark	9,750	1,050	-8,700
Germany	74,250	931,737	857,487
Estonia	4,500	718	-3,782
Finland	9,750	4,447	-5,303
France	54,000	3,711	-51,789
Greece	16,500	719	-15,827
Ireland	9,000	2,236	-6,764
Italy	54,000	18,302	-36,448
Latvia	6,750	352	-6,398
Lithuania	9,000	1,826	-7,174
Luxembourg	4,500	1,036	-3,464
Malta	4,500	1,674	-21,826
Netherlands	19,500	3,673	-15,827
Poland	38,250	541	-37,709
Portugal	16,500	1,409	-15,091
Romania	24,750	673	-24,077
Slovakia	9,750	5,743	-4,007
Slovenia	6,000	4,269	-1,731
Spain	40,500	13,986	-26,532
Sweden	15,000	2,126	-12,874
United Kingdom	54,750	2,585	-52,165

The distribution of signatures by early February 2013 showed a high concentration, with 84% of supporters coming from Germany. The minimum quorum of at least 74,250 supporters has been exceeded there twelve times over, with a total of more than 900,000 collected signatures. Similarly in Austria, where more than 5% of the signatures come from, and where the minimum quorum of at least 14,250 supporters has been exceeded four times with a total of more than 50,000 collected signatures.

By February 9th, 2013, when the magic one million target was hit, only Germany, Austria and Belgium had reached the minimum quorum. This implies that this initiative must continue to collect a substantial number of signatures in order to reach the distribution quorum of at least seven member states. The ECI must also continue to collect support to compensate for potentially invalid signatures. In fact, up to 20% of signatures could be invalidated by national authorities as a result of incomplete or inaccurate information.

The online challenge

The initial slow growth of this initiative can be explained by various factors. On the one hand, the water issue was not very well known yet in Europe, with the same being true for the ECI instrument as such. It thus takes a long time to outreach and to communicate the message Europe-wide.

But it is not only time that is crucial; the technicalities of the online collection system (OCS) are also decisive. Due to the fact that the OCS didn't work in the first months, the European Commission had to apologize to ECI organizers, offering all registered ECIs an extension on the collection deadline to November 2013. However, the organizers of this ECI continue to report that even in 2013 thousands of signatures have been lost due to major defects in the online collection system offered by the European Commission.

Legal barriers difficult to overcome

In view of the strict legal framework, the relative success of this ECI is remarkable. Campaigners report that EU citizens living outside their home country often cannot sign initiatives. For example, Dutch citizens living in Austria report that they cannot sign in Austria as they need an Austrian passport or ID card in order to sign. But they also cannot sign in the Netherlands as the Dutch authorities require them to be residing in the Netherlands.

In addition, citizens are generally reluctant to sign ECIs in countries that require ID or passport details. Eighteen member states ask their citizens for personal identification numbers when signing an ECI. Such requirements are unnecessarily intrusive, raise privacy concerns and deter individuals from engaging in the democratic process. The ECI Right2Water distribution table shows that more than 95% of statements of support are coming from countries that do not require ID card numbers. This can be interpreted as an unequal treatment of citizens when it comes to participation at European level.

Critical alliance-building

The 'Water is a Human Right' initiative is a remarkable example of citizens proposing law through the ECI. Several factors explain its success. The most important one is that the campaign has been very well prepared, fundraised and organized with sufficient time. It has been crucial that it transformed into a broad alliance that goes far beyond the initiating public service unions to include thousands of volunteers and groups such as environmental organizations and political parties.

This ECI would not be as successful as it is if it had not been covered by the mass media. The conclusion is that an ECI takes off if it is connected with current issues that have a national impact and are covered by the national mass media. The ECI organizers have succeeded in placing a relatively unknown issue on the European agenda with a new - and for many citizens still unknown - ECI instrument which in many ways is still in its infancy.



European Citizens' Initiative Resources

OFFICIAL

Official Registry for the ECI of the European Commission (with updated links to all open initiatives, national competent authorities, the official user manual and also to other avenues of participatory democracy in the EU)

ec.europa.eu/citizens-initiative

The European Parliament offers its own guide to the ECI

europarl.europa.eu/news/en/headlines/content/20120322FCS41704/html/A-short-guide-to-the-European-Citizens%27-Initiative

as well as the European Economic and Social Committee eesc.europa.eu/?i=portal.en.civil-society-european-citizens-initiative

INDEPENDENT

The partnering organisations offering this Briefing Kit all provide special sections dealing with the ECI, including

Democracy International
democracy-international.org/eci.html

European Citizens Action Service (ECAS)
www.ecas-citizens.eu/content/view/343/341/

ECI Campaign
www.citizens-initiative.eu

Initiative and Referendum Institute Europe
www.iri-europe.org/european-citizens-initiative

LITERATURE

There is a growing literature around the history, development and practice of the European Citizens' Initiative, including the following publications by the author of this briefing:

Active European Citizenship and Representation (2013). Assessing the ECI in the broader concept of EU Citizenship. PRS. Bern (iri-europe)

European Citizens' Initiative Pocket Guide (2013). A guideline to the new direct democratic tool at the European level. GEF, Brussels (europeancitizensinitiative.eu)

Citizens' Initiatives in Europe (2012). The story behind the agenda-setting right of citizens across Europe on all political levels. Palgrave, Macmillan, Birmingham.

The Next Big Thing (2011), Making Europe ready for the Citizens' Initiative. Wissenschaftsverlag, Berlin.

The European Citizens' Initiative Handbook (2011). The history of the making of the first transnational tool of participative democracy. GEF, Brussels.

Global Citizens in Charge (2010), How Direct Democracy Makes Representative Democracy More Representative. KDF, Seoul.

The European Citizens' Initiatives (2010), Into new democratic territory. Wissenschaftsverlag, Berlin.

IMPRINT

This briefing has been prepared and published by Democracy International, ECAS, the ECI Campaign and IRI Europe.

Authors: Carsten Berg (berg@iri-europe.org),
Bruno Kaufmann (kaufmann@iri-europe.org)

Illustrations: Frits Ahlefeldt

Editor: Paul Carline

Layout and Production: Cora Pfafferott and Werner Scholz

© 2013 All rights with DI/ECAS/ECI-C/IRI-E

