

Background discussion document for an ECI on full political rights for EU citizens on the move – “My Europe, my vote”

Provisional Version - August 2018 for the workshop on ECI`s during the summer university

INTRODUCTION

-Part 1 explains why this ECI is being put forward. The reasoning is that it is high time to challenge political forces which call for restrictions on freedom of movement and immigration and at the same time for better integration of migrant communities. Surely it is high time to give EU citizens full political rights and accept that in a democracy there is no taxation without representation. Granting full political rights encourages integration.

-Part 2 explains what has already been done and how ECIT intends to see this ECI develop. Even though the case for achieving universal suffrage is strong, it does not mean that collecting signatures will be easy. This has been confirmed by a survey and expert advice received which suggests coalition-building, taking time to raise the funds needed and carrying out a lead-in and test drive phase. The actual signature collection is not planned until 2020, when a new regulation on ECIs comes into force which should make this instrument easier to use. A two-year campaign is the minimum.

The paper ends with some consideration of what happens next if we are successful in collecting one million signatures.

PART I. WHY THIS ECI?

In the past few years, electoral campaigns and votes all over Europe have seen a strengthening of the most extremist wings and a rise of demagogic anti-EU political discourse. Little has been done to counteract the appeal to fascism, racism and xenophobia, which can become accepted as “normal” in the public debate. We believe that governments and mainstream parties are failing to rise to this challenge and are instead either burying their heads in the sand or giving way to nationalistic demands. How else can one explain the timidity of the European Parliament in failing to support transnational lists for the European elections in May 2019? Why are governments reluctant to accept even the timid reform introduced at the 2014 European elections whereby the lead candidate with the most votes becomes President of the next Commission? Why is nothing being done to develop the first transnational citizenship of the modern era, as the answer to resurgent nationalism and a Europe of centrifugal forces? What else can keep Europe together? Why do attempts at reform of the EU end up either as a dead letter or as half measures? The alarm is sounding and that is why we need your support.

INCOMPLETE CITIZENSHIP

In 1993, with the entry into force of the Maastricht Treaty, EU citizenship was created and included the right for European citizens to vote and stand as candidates in local and European elections in a country other than their own in which they are resident. The addition of European political rights to the economic and social rights associated with freedom of movement was only a partial step forward, since it did not include regional elections or the ones which really count - the national or presidential ones. Furthermore, European citizens do not generally have the right to vote in referenda in their country of residence, even though there have been several on European issues over the last generation. In addition, we can no longer ignore the fact that whatever the geographical level of the democratic contest, the same forces are involved, and elections are interconnected.

LEGAL BASE OF THE INITIATIVE

Anyone seeking to launch an ECI is acutely aware of this problem since about one third of some 80 ECIs attempted have been rejected by the Commission as being outside its competence and having no legal basis in the Treaties.

This proposed European citizens' initiative is based on Article 25 of the Treaty on the Functioning of the EU (TFEU) which gives a mandate to the European Commission to report every three years on the development of European citizenship and make proposals for new European rights¹. The next citizenship report is due in 2019. The Commission already accepted an ECI called 'Let Me Vote' based on Article 25, which was limited to the right to vote in national elections - this initiative goes further in demanding full political rights. We are reasonably confident because of the precedent with the previous initiative that the Commission will accept this one and also because of the advice we have received from the ECI forum², which states that: "it is, in fact, possible to give effect to your proposal, without any Treaty change, by using article 25 TFEU to extend Treaty provisions which allow EU to vote in municipal elections in their Member States of residence."

WHY SUPPORT THIS ECI?

- **To claim European citizenship.** Political rights are the defining feature of any citizenship. Having only partial political rights is a subtle reminder that you are still a foreigner and not equal to citizens in your host country. It is not surprising that the existing rights are

¹ Article 25 – "The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of the provisions of this part. This report shall take account of the development of the Union. On this basis, and without prejudice to the other provisions of the Treaties, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may adopt provisions to strengthen or to add to the rights listed in Article 20(2). These provisions shall enter into force after their approval by the Member States in accordance with their respective constitutional requirements."

² This is the first ECI in preparation to make use of the advice of the forum. Questions are submitted in writing and replies given within 8 days. We have found this free-of-charge service excellent and tailored to providing in depth advice, so can confidently recommend its use to other ECI organisers

insufficiently used and receive very little attention from political parties. However, EU citizenship has deeper historical roots, greater legal substance and is more widely practised than suggested by the official statistics of those living or working in another EU Member State. For these reasons, there is the need to finally *give* full political rights to all EU citizens. In fact, in a series of landmark judgements making this a real citizenship, the Court of Justice of the EU has repeatedly declared: “Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law...”. The court and legislation, such as the so-called citizenship directive (no 2004/38), have allowed EU citizenship to go beyond its purely economic origins in the free movement of labour in a common market to cover all categories of the population. It is time political rights caught up.

- **To remove a stain on European democracy.** Ensuring that people who use their rights to move freely or to migrate do not lose their voting rights is the last hurdle to guarantee universal suffrage and apply in full the principles of no taxation without representation and of one person, one vote. The courts are showing the way forward: “The right to vote is not a privilege. In the twenty-first century, the presumption in a democratic state must be in favour of its inclusion” (European Court of Human Rights judgment of 7 May 2013 in the case of Schindler v the UK). The argument that people who move abroad lose touch with the society and politics back home and should therefore be disenfranchised was never strong. In a true democracy, the right to vote is no longer conditional on such factors as land ownership or the degree of connection to the body politic. Cheaper transport and digital technologies have allowed migrants to keep in touch more easily with politics back home, where they should be considered as an asset and source of soft power. Similarly, in host country societies, granting full political rights to European citizens will on balance encourage their integration. Europe must recognise that individual rights, especially political rights, are paramount.
- **To give the EU more prominence in democratic contests.** Giving European citizens full political rights will help ensure too that the EU is given more prominence in electoral and democratic contests. Nevertheless, in the current situation, Europeans are excluded from most electoral contests where the issues of “more or less Europe” are played out. National elections – look at recent ones in Greece, Austria, the Netherlands, France or Italy – are no longer purely national affairs and even regional contests whether in Catalonia or Scotland can have profound implications Europe-wide and indeed are being used to raise European issues. Turning European citizens from passive by-standers to actors in the struggle for political power obliges political parties and public opinion to pay attention to their wishes. In some cases, such as the 2016 referendum in the UK on membership of the EU, that could also have changed the result, since 3 million EU citizens resident in the UK were not allowed to vote and UK citizens resident in the EU for more than 15 years were disenfranchised. Support for this citizens’ initiative is to put up a barrier against the nationalising of the political process to undermine Europe and to act in favour of citizenship and democracy beyond the nation-state. It makes little sense that European citizens resident in other member states can vote in European elections to decide on the composition and priorities of the European Parliament but may be disenfranchised from national elections which can

influence how the European Council representing national governments ultimately determines European policy.

If we are successful in collecting 1 million signatures, what happens next?

This ECI makes the case for full political rights and argues that disenfranchisement is unacceptable just because people use the right to live and work anywhere in Europe. If this ECI succeeds, there will be a full debate in plenary session and a public hearing in the European Parliament. The Commission will take up a position and publish its response. Our objective is to assert the principle by claiming European citizenship, removing a stain on European democracy and convincing the EU that citizens' rights are paramount. We want to win the argument on all three points. How these aims should be implemented is another issue. Could the Commission put forward a European law to extend electoral rights from local elections to other elections and referenda, combined with recommendations to Member States? Reforms will take time and results may vary depending on the country concerned and the type of election or vote. Article 25 TFEU requires that the Council gives unanimous agreement after obtaining the consent of the European Parliament and that the provisions are approved by each Member State's constitutional procedure, thus leaving space for national decision-making. In theory reform to secure full political rights for European citizens can follow any of the four following options:

- a. European citizens retain full voting rights in their country of origin;
- b. They acquire such rights in their country of residence after a certain number of years;
- c. All European citizens of voting age have choice between a. and b.;
- d. European citizens should have a fair opportunity of acquiring the nationality of the Member State of their residence if they wish to vote there

Which option is better will depend not only on the nature of the electoral contest but also on whether politicians see Europe as more or less federal or intergovernmental. For citizens, having democratic rights is more important than the question of where and under what conditions they are practised provided these are fair and non-discriminatory.

The best option is the third one, giving citizens a choice on where they can vote, provided there are rules against double voting, which are properly enforced. **The message is: for Europe's sake, at least let us vote!**

PART 2 WHAT HAVE WE DONE SO FAR AND WHAT ARE OUR PLANS TO LAUNCH THIS ECI?

Where did the idea for the ECI come from and what has been done so far?

The idea for this citizens' initiative came from the summer university on European citizenship held on 30 August-1 September 2017 on the basis of an academic analysis by Ben Hulme from Warwick University. It grew out of discussions about ways to increase the popular appeal of EU citizenship: the consensus was that this is not an easy objective in the current climate. Demanding full political rights attached to EU citizenship was seen as the one measure which would raise the profile of this first transnational citizenship of the modern era. Plans moved forward with the organisation of an internal brainstorming session held in May 2018 at the Maison des Associations internationales with

potential partners, such as the ECI campaign, New Europeans, ACT4 Free Movement and European Movement, Italy. Other youth or student organisations were interested but unable to come to Brussels. A survey was launched to which a dozen more individuals replied from a range of different, mostly European, associations. This first exploratory phase shows that a majority of potential partners are fully supportive and willing to become involved by helping collect signatures. At the same time, a minority express doubts about being able to persuade enough people to sign given the poor record with ECIs and whether an ECI touching on difficult constitutional issues would be followed up by the Commission and national governments. The sense that this is a more than worthwhile initiative but no easy option is confirmed by the advice received on fundraising from the ECI forum, which is to establish a clear budget and to “take your time” to raise the funds needed they estimate at 500,000 euros. This would be made up of 60% from large donors and the rest from in-kind support from partners, smaller donations or crowd-funding. The totals are borne out by our own budget estimates, even if it may be possible to succeed with this ECI for less. The advice from the forum has proved to be a good reality check.

SWOT analysis

Against this background a SWOT analysis of this proposal could read as follows:

Strengths: Very strong arguments in favour of this initiative and its likely acceptance with a legal basis; strong potential support with the debate about the future of Europe very much on the agenda and in particular how to make politics more transnational; a significant but hard to reach group directly affected by the loss of political rights from practicing freedom of movement; in general, a good level of political support.

Weaknesses: The weakness of the legal basis; the difficulty of turning support into actual commitments since fighting for rights people do not have tends to be everyone’s and no-one’s responsibility; differences in attitudes towards extending political rights

Opportunities: The emergence of this and other campaigns leading up to the next European elections which could support each other; signs of a new start and interest in the ECI as an agenda setting instrument with the revision of the basic regulation near completion.

Threats: The greatest threat is that the ECI fails to get the necessary support to create momentum and that the European elections in May 2019 are followed by a backlash against such reforms; to counteract this threat a pre-launch testing period to build up momentum is proposed.

What are the next steps?

Initially we had considered launching this initiative in the run -up to the European elections in May 2019 but given the advice from the forum confirmed by the survey so far, we propose to allow at least a year for fundraising and the pre-launch phase. The advantage of this is that before the ECI is officially registered, a significant volume of statements of support will have been gathered which can be converted into signatures so that the operational 12- month period for signature collection

gets off to a flying start and has a good chance of gaining momentum. A successful ECI means collecting 114 signatures every hour of every day for one year. The preparatory period is particularly justified in the case of an ECI which requires real awareness raising and citizen participation before people are going to sign. One of the defects of the regulation is that the period for actual signature collection is limited to 12 months, too short a time for initiatives such as this with real content and which involve more than just clicking the send button. The advantage of waiting to launch this initiative until the beginning of 2020 is that the new regulation on citizens' initiatives, which will make requirements for signature collection easier and more uniform across EU member states, should enter into force then. 4 phases of preparation are proposed before the ECI is launched, alongside fundraising efforts:

1. Sowing the seeds for the ECI- dedicated website and collection of supporters

Before the end of 2018 a dedicated website should be created with a clear mission statement and supporting evidence for this ECI in order to attract potential partners and a wider public. This task is more difficult than it might appear at first sight requiring research into the background, collection of evidence from different elections, and news of campaigns on voting rights from across Europe, which is scattered and not available from easily accessible sources. The website should paint a picture of the various ways the issue of universal suffrage for EU citizens and other migrant populations comes up depending on the country and type of election. And, there should be evidence of the concerns of individuals about disenfranchisement and storytelling- i.e. quotes and short video. Sections/ pages might include:

- i) What are the existing political rights of EU citizens and why they should be used more effectively by political parties and voters, particularly in the run-up to the next European elections? What is being done and what more can be done to persuade more EU citizens to stand as candidates and vote in their country of residence?
- ii) A section each on regional elections, national elections and referenda where the narrative and reasons in favour of extending the franchise are different, even though having full political rights is the goal
- iii) How this campaign fits with others in the run-up to the European elections to reform the EU and make it more democratic. A number of representatives of civil society and more political pro-European campaigning groups see this proposal for an ECI as part of a package of reforms.

A background paper on the lines of this paper should be available on the website for those who want to consider becoming more closely involved. It will take some time to build the website which should be launched in January 2020. The budget for this seeding operation is estimated to be about 20.000 euros

2. Building the constituency

The website, combined with individual contacts and other action, will be the main tools for building the constituency and support network, which covers a variety of different types of organisation, reflecting the fact that the interests involved in strengthening European citizenship are scattered:

- organisers of previous ECI's on political rights for EU citizens or European citizenship more generally and specific current regional or national campaigns for voting rights for foreigners
- organisations reaching the target group of EU citizens living and working in other member states and promoting the participation of migrant communities in public life;
- European-level movements or organisations promoting transnational citizenship and democracy beyond the nation state – the ECI could accompany other proposals in the run-up to the May 2019 European elections;
- Key individuals among the decision-makers and in the academic community who can add political weight and intellectual credibility to the ECI.

The building process will involve maintaining a strong public presence for the initiative during the run up to the European elections, developing a data base of contacts and encouraging those particularly interested to respond to the survey. There should though also be opportunities for meetings about the initiative in the 7 or more EU member states targeted for signature collection. It will also be essential to have at least one major European event where everyone can come together before the launch of the ECI.

3. Summer university

The summer university in 2019 to be held at the end of August, beginning of September will be the fourth version. It would therefore be logical to make this annual rendezvous the opportunity to bring together everyone involved with the plans for the ECI. There should be an offer of training in how to succeed with an ECI in one's country and handle on-line and face-to-face signature collection. The timing is right: 4 months before the launch of the ECI, just after the new European Parliament will have had its first sessions and a new Commission will be launching a public consultation process for the preparation of the report on the development of Union citizenship which is prepared every three years in terms of Article 25. The summer university could follow the format of previous editions with time and space for partner events, exhibitions and brainstorming. In order to develop a broad consensus for a successful ECI, the agenda should include:

- A look back at the European elections and the implementation of the existing right of European citizens to vote and stand in their country of residence. There will undoubtedly be a need for debate with members of the European Parliament about how to make the use of the existing European political right more effective;
- Examination of the case for extending the franchise with sessions each on regional elections, national elections and referenda.

The summer university should bring together multi-disciplinary expertise: research on patterns of free movement, studies of voting patterns among migrant communities, representatives of electoral commissions etc. Between September and the end of the year, the findings of the summer university should be taken to events to be organised in each of the minimum of 7 countries targeted for signature collection.

4. Pre-launch preparatory phase

After the summer university the contents of the website should be built up and a campaign launched to gather pledges to sign the ECI and to ask one's own circle and network to do the same. This pre-launch activity targeting individuals can be combined with a crowd-funding appeal for which targets should be set. This test drive of the ECI should help to ensure that when it is officially launched pledges will quickly be turned into statements of support and signatures. (estimated budget: 30,000 euros)

Apart from the external promotion activity, this 3month final preparatory stage should also see the internal preparations and funds in place for the ECI launch in January 2020 and the preparation of a campaign pack for partners and supporters.