



VOTERS

WITHOUT

BORDERS

Full political rights for
mobile EU citizens



European
Citizens' rights,
Involvement and
Trust

LAUNCHING THE ECI “VOTERS WITHOUT BORDERS“

FIRST REFLECTIONS ON STRATEGY

Introduction

This European Citizens' Initiative (ECI) demands that, in addition to the right of EU citizens to vote and stand in local and European elections in their country of residence, they should also have electoral rights in regional, national elections and be able to vote in referenda. Since Union citizenship was added to the Treaties in 1993 at Maastricht, it has suffered from the paradox that the right to vote is granted in lesser order elections, but not in the ones that really count. This situation is a stain on European democracy because it leaves some Europeans, because they exercise the first right of the European citizen-to move freely- either by accident or design, deprived of political rights which are the touchstone of any democratic citizenship. In this paper we consider:

-Why this initiative is being put forward?

-What needs to be done?

-How will we do it?

The opportunity to launch this ECI is now. The EU agenda is not yet too crowded as a result of the delayed start on 1 December 2019 of the new Commission and a newly elected European Parliament. The more user-friendly regulation on ECI's comes into force on 1 January 2020 and should both make signature collection easier and spark more interest in this agenda-setting instrument. The reform includes more help for organisers of ECIs by a forum for advice and discussion and help desks in all EU member states. Questions of democracy are very much on the agenda but have yet to take shape in an action plan and a citizens' conference on reforms to the system for electing the European Parliament (see [Section VI of the political guidelines](#) of the new Commission President). Increased turnout in the 2019 European elections was the result of increased European activism by young voters. The ECIT foundation is taking advantage of the new willingness to support European ventures by setting up a task force to campaign for the ECI. But the good will to work together created by the European elections will not last forever.

In addition to the window of opportunity at EU level, citizens across Europe are increasingly aware that political rights are the only piece of power in their hands. In a much more volatile and divided climate, electoral rights are seen to count for more as increasing numbers of voters abandon traditional party- political loyalties and vote tactically. Electoral rights and even trust in fair and safe elections can no longer be taken for granted as a result of fake news, foreign interference in campaigns and polarisation by populists where electoral contests are marred by

hate speech and threats against politicians. This is the right time for electoral reforms and innovation in not just representative but also participatory democracy for example by creating citizens' assemblies. In this process of reform such basic issues as an effective right to vote and universal suffrage in the first place should not be overlooked.

The instrument of the European citizens' initiative which was added to the chapter on Union citizenship and non-discrimination by the Treaty of Lisbon is the right basis on which citizens should come together and demand that this shared status should be strengthened. This involves first creating a citizens' committee to present an initiative for a European law on full political rights for EU citizens, which if accepted by the Commission as within its competence is then registered. The legal basis proposed here is Article 25 TFEU.¹ The next triennial report the Commission will issue under Article 25 is due in 2020 after a public consultation. The organisers then have one year to collect over one million signatures from a minimum of 7 EU member states for each of which a threshold is established. The Commission is not obliged to act on a successful initiative but is under a moral obligation to do so: it produces a reasoned opinion on the initiative and there is a public hearing and debate in the European Parliament.

I) WHY THIS ECI

The ECI forum has produced a [package](#) of 6 guides for ECI organisers which is a useful methodological basis on which to frame and build a campaign strategy. An evident starting point is to give a very clear explanation of the reasons for presenting the initiative since people will then be much more willing to sign. The problem this ECI addresses is a very basic one of democracy. The numbers of EU citizens living and working in other Member States of the EU has doubled in the last ten years. Over 15 million are of voting age, which is not an insignificant number. All the signs are that with over 70% of people recognising, according to Eurobarometer surveys, that they are European citizens, this number will increase in future. The same opinion poll also shows consistently that freedom of movement is seen as the most outstanding of the EU's achievements.

The problem is that democratic participation is still seen through national eyes and has not caught up with increasing transnational activity. People living in other Member States feel unrepresented in politics. This is not surprising since they are only given the right to stand and vote in municipal and European elections in their country of residence and are underusing these

¹ According to Art. 25, "[t]he 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" regarding European citizenship. Furthermore, "[t]his 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."

rights because they are excluded from the elections and democratic choices which really count and still made to feel more like foreigners than full members of the community. This ECI sets out therefore to put right a democratic wrong for good reasons:

i) To make European citizenship a real citizenship. Political rights are the defining feature of any citizenship and the means by which rights can be represented and extended. Leaving an increasing number of people with only partial political rights is inconsistent not only with the popularity of this first transnational citizenship of the modern era, but also with the substance it has developed as a result of the case law of the Court of Justice of the European Union and an expanding body of regulations on free movement and residence, recognition of professional qualifications and access to social security entitlements in one's country of residence. EU citizenship has developed beyond its economic origins and free movement of labour to cover all categories of the population, so that EU citizens should no longer be considered just as guest workers, but as full and equal members of society. The European Court 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...." It is high time political rights caught up with these developments.

ii) To take a step towards universal suffrage. EU citizens like other migrants are for the most part in work contributing with their taxes, sending their children to the same schools and using the same services, as their national neighbours. Giving them full political rights would be consistent with the ban under EU law of any discrimination on the grounds of nationality and the principles of no taxation without representation and one person, one vote. As the European Court of Human Rights (ECHR) stated in its judgment of 7 May 2013 *Schindler v the UK*: "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." It is illogical for example that European citizens can vote and stand in local elections but not in the regional ones which concern many of the same public services which impact on everyday life. They can elect members of the European Parliament from the region where they live but not the government which participates in the Council of Ministers of the Union, where many would argue the real power lies. Although over the last generation many referenda have been on European issues, EU citizens are generally excluded. Despite the fact that in a digital and globalised world with better access to communication and cheaper travel, it is much easier to stay in touch with politics in one's country of origin a number of European citizens remain disenfranchised in practice and in law. This is contrary to European values. iii) To encourage better integration of EU citizens with local communities. Granting people full political rights where they live can help favour their integration in society. Conversely disenfranchisement or too many barriers put up against the electoral rights of EU citizens is a reminder to them and also to the population at large that they are in a different category and of less interest to politicians. The political differentiation between EU and national citizens gives the wrong signal to policies of integration and does nothing either to help tackle the integration of migrants and refugees

from outside the EU in European society. The wider aim of scaling up and equalising political rights for all legally resident migrant communities goes beyond what is legally possible for this initiative. This ECI should nevertheless be seen as a step towards that aim, in order to avoid discrimination between EU citizens and third country nationals. There is deep concern across Europe about the fracturing of society between stayers and movers. There are initiatives to set up special consultative councils and forums for dialogue between EU citizens and the local population. These efforts are necessary but are no substitute for equalising political rights so that both local and migrant populations receive equal attention from candidates and political parties and see their concerns not just listened to but represented in the decision-making process. iv) To help build a transnational European democracy. This initiative addresses the fundamental issue of how to ensure that effective electoral rights are made compatible with freedom of movement. It should be a part of the 6th priority of the new Commission: “a new push for European democracy “. Building on the record turnout in the 2019 European elections, the new Commission does recognise the need to give European citizens a stronger role in decision-making and is asking them to take a role as a third party alongside civil society and the EU institutions in a conference on the future of Europe. The need to reform the system of lead candidates and introduce transnational lists for elections to the European Parliament is recognised. This ECI goes in the same direction and should be part of the European democracy action plan promised. There is a greater willingness shown by the EU and national governments to share concerns about elections. These concerns relate to protecting the security and public trust in electoral processes from the attempts coming from within countries and across borders to influence outcomes and undermine democratic processes with fake news. Equally important however should be concerns that everyone always has the chance to vote in the first place.

WHAT NEEDS TO BE DONE?

The ECIT foundation has already done preliminary work, which has been discussed with potential partners, sent out questionnaires and organised debates on European political rights at each of the four summer universities since 2016. The foundation staff and board members also have academic and practical experience with both European citizenship and ECIs since their origin. Nevertheless, surprising as it may seem for such a basic issue as political rights, there are many questions to which there are no clear answers until further research is done. For example, although the 15 million voters living and working in another country is a significant number, the impact of making sure all can vote in all democratic contests among a population of some 450 million in EU-27 is in general not so much as to make a significant impact. Nevertheless, in certain areas or in certain elections the impact can be significant. Not enough detailed mapping has been done of intra-EU migration flows. It is clear that patterns are very uneven, heavily concentrated on certain trajectories or in certain regions. Some 3.8% of EU

citizens live and work in another member state but the proportion of all those congregating in a destination of choice can be significant-representing in Brussels for example 40% of the population. Whilst 1% of Germans of working age live in another member state, the figure is 19.7% for Romanians. Therefore, the impact of some people living abroad on voting back home is insignificant, whereas in other cases it is decisive.

One can argue that it is up to political parties to adapt to the changes in the electorate rather than the other way round. But to be realistic, because the impact of generalised voting rights for EU citizens will have such diverse impacts, there should be policies of scaling up rights but also foreseeing more local and national safeguards, such as requiring a longer period of prior residence in regions where EU citizens reach above a certain proportion of the population. Account should also be taken of diverse patterns of freedom of movement and attachment to the body politic, so that EU citizens are given the choice where possible of voting back home or in their country of residence provided there are proportionate safeguards against double voting. Some free movers have taken the decision to settle permanently in their adopted country of residence, others may have moved round a number of countries for shorter periods, including countries outside the EU. From the perspective of the populations on the move, choice about where you vote in all elections and referenda would appear the right approach. The 15 million cannot all be forced into the same mould. There may also be some conditions placed on who can stand as a candidate for particular posts. More research and statistical analysis should accompany the ECI with a scoreboard and maps of Europe's blackspots.

Subject to more fact-finding and exploration as the campaign develops, here are some preliminary observations on different levels of election and referendum. The most authoritative sources on electoral rights are the Globcit website attached to the European University Institute(EUI), the European Parliament's research on election results and the website of the Commission (DG Justice)

i) Lessons from the [application of existing rights](#) to stand in local and European elections. One advantage of the grant of partial political rights is that they do provide answers to what could be the impact of extending the rights to other elections and referenda .The implementation of the directives on participation in European and municipal elections does provide precedents for safeguards on voting and eligibility of candidates for office, which in practice have been very limited. The most important lesson is that fears about the impact of extending political rights are less justified than fears that the new rights will not be taken up by enough voters. A paradox of European democracy is that those who are probably more affected by European decisions and legislation than most other groups are making least use of their voting rights. Increasing turnout among people living and working in other Member states should be a priority for the next European elections. Positive action by political parties to include more EU citizens as candidates, introducing transnational lists and other reforms to make the elections more European would encourage more turnout by mobile EU citizens. But how many are voting in their country of residence? Less

than 10%? Or back home? No one appears to know. Difficulties include lack of information, sometimes complicated procedures to avoid double voting, lack of organisation for postal votes and voting in consulates and above all the lack of automatic registration of EU citizen voters in their country of residence (See [FAIR EU synthesis report](#): electoral rights for mobile EU citizens-challenges and facilitators of implementation by Aline Ostling).

ii) **Regional elections.** Since the Maastricht Treaty came into force a generation ago in 1993 and allowed EU citizens to participate in local elections, the regional level or city level has become more important, often taking over competences for services divided amongst local authorities to achieve connectivity and economies of scale. The role of regions and cities has been strengthened by the EU dimension in which they increasingly compete and work together, stressing their contribution and place in Europe. For the local and mobile populations cities and regions become as a result more of a focus of attention than just the parts where they happen to live. Extending rights to vote and stand in municipal elections for EU citizens to regional elections should appear to be a natural process of democracy keeping up with the distribution of power among different levels of governance. Since the Maastricht Treaty, the EU has created a Committee of Regions where elected representatives come together and play an increasingly important advisory role in EU decisions.

This extension of electoral rights is complicated by the differences in legal status and functions of regions and cities and the ways that they are governed. The more fundamental obstacle is the premise is that only nationals can vote in regional elections, even though some countries such as Sweden and some cities elsewhere have shown that it is possible to extend the franchise to EU citizens. Political parties at regional level are likely to differ in their attitudes to such a proposed reform, some being protective of their specific regional identity, others seeing the region as the level at which to welcome and promote European participation.

iii) **National elections.** A previous ECI called "Let me vote" did not manage to collect enough signatures but did pave the way to encourage debate about the issues surrounding free movement and political rights. "Should EU citizens living in other member states vote there in national elections?" EUI Working paper RSCAS 2012/32 is a collection of short contributions in answer to this question from academics, practitioners and organisers of the ECI and contains many of the arguments for and against reform. Although EU law upholds the principle of non-discrimination on the basis of nationality some contributors supported the view of all EU Member States that voting in national elections should be reserved for their own citizens. A counter argument is that acquisition of another nationality is such an important individual decision, especially if it means giving up one's own in cases where dual citizenship is forbidden, that it appears too high a barrier to access a right

to vote. For many EU citizens living for a short time in different EU countries this would simply not be an option. For longer term residents there are significant obstacles, especially when faced with different national procedures for naturalisation requiring for example periods of prior residence between 5 and 12 years. There is very little chance that in order to encourage voting in national elections EU governments will agree to harmonise their legislation and make the acquisition of nationality easier.

The Commission has so far not so much challenged the status quo against voting in one's country of residence as issue a recommendation (2014/53/EU of 29 January 2014) recommending that all EU citizens resident in other Member States should be able to vote back home. In an accompanying communication (COM (2014) 033 final) "addressing the consequences of disenfranchisement of Union citizens exercising their right to free movement", five Member States are singled out. In Cyprus, Denmark, Ireland and Malta plus the UK if in this case if you have lived abroad for more than 15 years, you lose the right to vote back home in elections. Despite repeated promises to repeal the 15- year rule and introduce "votes for life" and a "vote home" campaign in Ireland this flagrant case of de jure disenfranchisement remains. And this misses out what is probably a bigger problem of de facto disenfranchisement in other countries as well. 60% of 1.2 million UK citizens resident in the EU have been unable to vote back home in the 2017 and 2019 elections which have influenced the issue of withdrawal from the EU, whereas the numbers who have acquired nationality of another Member State not just to vote where they reside but also to retain their EU citizenship run in only tens of thousands. A stronger response is needed to this ECI than given by the Commission so far if any action at all is to follow.

iv) **Referenda.** Only nationals can participate in referenda but as with regional elections there are exceptions. For example eligibility to vote in the referendum of 18 September 2014 on independence for Scotland, the terms of which were decided jointly by the Scottish and UK legislatures, determined that all persons entitled to vote in local elections and therefore EU citizens, could also vote in the referendum. There is logic in deciding that all those living in a territory should be able to vote in a decision as to where its future allegiance should lie, since the outcome will also influence their own future. On the other hand, there is some logic to the position that only nationals can participate in a referendum which is about choosing an option purely to do with the internal organisation of the State such as a change in the way a government is elected, the reform of national institutions or a change in the constitution of the regions.

The majority of referenda since the Maastricht Treaty do not appear to have been about purely internal national issues. Some have been about moral and religious issues. The majority appear to have concerned Europe, ranging from approval of

accession treaties to the EU in the countries of Central and Eastern Europe , to approval or rejection of EU treaty changes in Denmark, Ireland, France or the Netherlands and finally to the UK referendum of June 2016 which decided on withdrawal from the EU. If all the 3 million EU citizens resident in the UK and the 1.2 million British citizens resident in the EU had been able to vote in the referendum, the result could have gone in favour of remaining in the EU.

Finally in recent elections, Europe has been much more of an issue than in the past and at all levels. Both the media and politicians are paying much more attention to elections in neighbouring countries which are often a precursor to trends within their own. It is high time that voting transnationally caught up and that the democratic blackspots on Europe's political map were painted green.

HOW WILL WE DO IT?

i) General approach to the campaign

There are many different strategic options which will need to be considered by the task force, so this is a preliminary outline only. As already pointed out, the entry into force of a new more user-friendly regulation at the beginning of 2020 should increase interest in ECIs. The *Voters Without Borders* initiative should take advantage of this milestone and be submitted to the Commission around 1 January with the composition of the citizens' committee. The Good Lobby has offered to check the legal formulation. Whilst the Commission is considering the ECI, the main task will be to make sure it is visible. The ECI will need an eye-catching web-platform and social media presence which should be linked to the website of ECIT and partners. The website should explain the ECI, appeal for support by explaining the different ways people can become involved and not just argue the case but back it up with facts, statistics and stories about disenfranchisement and the difficulties of voting across borders. In this preparatory phase, the main aim is to build up support in different forms: a core group of individual and organisation supporters, partnerships with organisations which agree to campaign for signatures particularly in the countries targeted, donations and grants. Once the necessary momentum has been achieved a launch date for signature collection can be agreed with the Commission. This is likely to be one of the most important deadlines in the life-cycle of the ECI.

In order to keep support on board over the 12- month period of signature collection, there should be a monthly newsletter with a watching brief on political rights and European-level democratic reforms. Other tools will be necessary: a background document for those who want to find out more about voting rights across Europe, a campaign video and interviews. It should not be assumed that all signatures should be gathered on- line. Indeed, this is the type of initiative which is more than just a click of the mouse and topical, single issue. It goes to the heart of our democracies, how we see the place of EU citizens and migrants more generally in

society and indeed whether we see a more intergovernmental or federal Europe. The issue of transnational voting rights can be considered at conferences and stands organised at Europe days, association days and at public events in the run-up to elections where signatures are collected. There should be a package about the ECI for organisers of such events and leaflets to give out to members of the public, explaining how to sign the initiative.

ii) [A task force to prepare the ECI and campaign for signatures.](#)

The key to success is the task force of 7 young people which have come together to support the ECI. At the 2019 ECIT summer university on 2-3 September 2019 there was a discussion of the reasons for the increase in turn-out at the May European elections. The average increase of some 8% conceals a far more significant increase among new and first-time voters. There was also a presentation of projects which had been organised to “reach the unreached” touring Europe by caravan, on bikes or on trains and persuade people to vote as well as the activities of volunteers for the European Parliament’s “this time I’m voting” campaign. Concern about Europe and doubts about the future have at least one positive effect: there are more active European citizens who want to continue the experience before the European elections and stay involved. The ECIT foundation is responding to this demand and putting to good use the large co-working space and incubator for start-ups in the area of citizenship and democracy which is called SECO (salon for European civic organisations) near the European Parliament in Brussels.

The following sketch of possible tasks for the task force is simply a starting point and unlikely to be the endpoint, which can only be reached by team discussion:

- [Campaign management.](#) The manager (who might also be the lead representative of the citizens’ committee) should be responsible both for internal team building and at a formal level for external contacts-i.e. the interlocutor of the Commission and the person who signs agreements with partners. The manager should take advice from ECIT founder and director and rely on the legal structure and support of the foundation. The manager should be responsible for planning ahead and keeping to deadlines.

- [Building support and networking.](#) This is the key to successful signature collection. It will involve finding a caucus of key supporters i.e. using the ECIT database of researchers, policy makers and civil society activists. Partners should be asked to use their own databases. Use of e-mails to individuals, social media and newsletters with updates of the campaign to keep people on board will be necessary. This function should also involve drawing up and implementing more structured agreements with partner organisations in countries targeted for signature collection as well as European platforms.

- [Research and fact-finding.](#) Although the right to vote is basic, comparative research on elections and referenda leaves gaps so it is difficult to assess across Europe how existing European political rights are being implemented let alone what would be the impact of their extension. A source is the [Globcit](#) website of the European University Institute (EUI) in Florence.

Disenfranchisement in national elections is documented (because of a previous ECI “Let me vote”) but there is only scattered information about the participation of EU citizens in regional elections and referenda. Statistics on the impact of freedom of movement at regional level are also hard to come by. To support the ECI we need to fill some gaps with migration statistics, stories about voting or standing in one’s country of residence and make links to campaigns for migrants’ voting rights. Have in mind that this research should serve a dual purpose: a. background for our activities, strategy etc. and b. provide engaging storytelling to support our case in the campaign.

- **Communication** . In the preparatory phase, the [ECIT website](#) may be used but once the ECI is under way *a special website should be set up* with the results of the research and fact-finding. The website is the visiting card of the campaign and will need to be easily accessible to the general public, using different languages, videos, strong design and visual elements. As the guidance notes of the ECI forum suggest, a multi-media approach to communication is desirable with use of social media, a campaign pack and other tools both online and on paper. A further challenge is that the communication effort should both address the general public and be a resource for organisations and partners.

- **Fundraising**. A comprehensive approach is recommended by the forum: crowdfunding, sponsorships, sale of gadgets, grant applications to foundations- i.e. fundraising in the round. In early 2020 we should build a core group of supporters / contributors and if this is successful it would greatly increase the chances of attracting grants and in-kind support by partners. Some funders may be more interested in migration and political rights, others more in a new generation working as a team and taking on the ECI. A [call for proposals](#) under Erasmus is open until February 2020. Additionally, ECIT has mapped potential funders and has the detailed list in its files which is continuously updated.

iii) Campaign strategy

Once the ECI is open for signature 12 months is available to collect 1 million signatures from a minimum of 7 countries for each of which a target is set. Which countries to go for depends on weighing up how much support there is there on the ground together with an overall assessment of the feasibility of getting to and beyond the threshold. As a working hypothesis we could start by: Belgium, Ireland, Italy, Germany, the Netherlands, Portugal and Romania as the 7 and a reserve list of Finland, Poland and Spain. There has been more activity on existing and new voting rights in the UK than elsewhere in Europe. Either the UK could be included if there is still no Brexit, or encouraged to launch an ECI “off”.

The “seeding website” mentioned above should be further developed, so the campaign has a strong common message, stories of EU citizens and their experience of voting or being denied the right to vote, campaigns for voting rights and probably pages on the existing rights, regional, national elections and referenda. The structure should be layered so that the website would

have short items for general public consumption with links to more specialised material for stakeholders and potential partners.

The Commission clearly intends to use early 2020 as the opportunity to relaunch ECIs with a new regulation and a revamped web-platform. All organisers have opportunities to promote their initiative, so the task force can expect a number of speaking engagements. It is often difficult to know in advance how useful particular events are, but generally conference organisers are willing to make material available or to give a slot to an interesting proposal.

In the first half of 2020, there is the Croatian Presidency of the EU and in the second there is the German Presidency with non-institutional meetings posted on their websites. The weekly [EU Events](#) is a useful source for European level conferences. This scratches the surface because possibly more useful will be local student union meetings, gatherings such as a [European Youth Event](#) in Strasbourg on 29-30 May, association days, university summer schools, academic workshops and events linked to freedom of movement, migration, youth... This is where partners come in.

[A full schedule of activity will take time to draw up, but some “targets” are already known:](#)

-In early 2020 the Commission should launch a public consultation leading to a new triannual report on Union citizenship under Article 25 TFEU-the task force should encourage significant input on political rights;

-An action plan on democracy and a 2-year conference with citizens on the future of Europe will be launched by the Commission with a mandate to explore transnational lists and other reforms for the elections to the European Parliament;

-Every year the “ECI community” gathers for an event in Brussels in April organised by the European Economic and Social Committee (EESC) - the so-called ECI Day - which is a chance to talk to other ECI organisers, policy makers and potential partners/ multipliers;

-Developing support for the ECI means supporting others by joining forces with petitions, court cases and campaigns on voting rights;

-The dates for the Summer University on European Citizenship -the ECIT annual event- still have to be fixed to take account of the opportunity for partnership with a major event in Berlin in the autumn organised by [NECE](#) (Networking for European citizenship education).

In conclusion, it is evident that the volume of work involved in launching the ECI “Voters without borders” is challenging. We could do with not just one task force but at least one for each of the five work packages defined above! Everything depends on the preparatory phase of building up momentum and positioning the initiative to strike a chord with people. In that way the task force becomes high profile and can “go with the flow” rather than face a constant uphill struggle.