

TOWARDS INCREASED CITIZEN PARTICIPATION IN EUROPE: IMPACT OF CURRENT DEVELOPMENTS ON POLITICAL DECISION MAKING AND DEMOCRACY

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At the moment we witness an interesting trend in Europe. New elements of direct democracy have been introduced at the national level in the nation states and at the EU level since the 1990's.¹ At the national level the new direct democracy elements include an increased number of national referenda, introductions of citizens' initiatives and a generally increased involvement of the People in formulating constitutional revisions. Many reasons can be provided for this development for instance an economic and political crisis²; reestablishment of democracies in East and Central Europe³; a reaction to EU integration⁴; direct democracy as a tool and strategy for upholding the nation state in EU integration⁵; the EU searching for more democratic legitimacy; and competition between the EU and the nation states for democratic legitimacy⁶.

At the EU level an EU citizens' initiative has been introduced with the Lisbon Treaty. This can be seen as an attempt to make the EU decision-making process more democratic.

It has also been put forward that the development at the national level and at the EU level viewed together could be seen as a

¹ See BRUNO KAUFMANN AND M. DANE WATERS (eds.), DIRECT DEMOCRACY IN EUROPE. A COMPREHENSIVE REFERENCE GUIDE TO THE INITIATIVE AND REFERENDUM PROCESS IN EUROPE, Carolina Academic Press, 2004.

² See XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, forthcoming June 2016.

³ See XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, forthcoming June 2016, and Paul Blokker, *New Democracies in Crisis*, Routledge 2014.

⁴ See Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, forthcoming June 2016.

⁵ See Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, forthcoming June 2016.

⁶ See Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, forthcoming June 2016.

competition for democratic legitimacy between the member states and the EU.⁷ The development towards more direct democracy elements at all levels seems to indicate an increased democratisation of the European decision-making processes. However, whether this is really true naturally depends on the impact of the new initiatives. In this paper we analyse the impact of the introduction of one kind of direct democracy instrument namely citizens' initiatives. We analyse the impact of citizens' initiatives in a number of European nation states and the impact of the EU citizens' initiative. Accordingly, we show synergies between the national level and the EU level. The impact will primarily be measured as the success rate of the citizens' initiatives meaning the amount of initiatives brought to the national parliaments subsequently becoming a legislative act as a result of the initiative procedure. The reason for this is mainly that it is easy to measure such an effect and that the data is generally accessible. However, as we shall return to, citizens' initiatives can have other kinds of impact than concrete legislation.

§ 1 – IMPACT OF NATIONAL CITIZENS' INITIATIVE

Descriptions of the development towards direct democracy in relation to citizens' initiatives tend to focus on recent formal introductions or reforms of initiatives across Europe. One could argue that the mere existence of such initiatives would underline said development. However, such a focus might lose track of the concrete impact thereby lacking an understanding of any substantial developments towards direct democracy. In the following we shall examine the impact of citizens' initiatives that have been introduced, reintroduced or significantly strengthened since the early 1990's. The analysis is limited to positive legislative initiatives. This means that we will not be looking at forms of citizens' initiatives that work as an incorporated part of a wider right of petition, as the case is in Slovakia for an example. As of datasets we will focus on initiatives that are successfully passed to the parliament and the ones that are actually enacted as laws. These limitations narrow the field of observable citizens' initiatives down to the ones of Latvia, Spain, Poland, Portugal and Lithuania. Bulgaria and Slovenia are also mentioned in the paper. In the following we will examine briefly the citizens' initiatives of the abovementioned countries – that is both the legal framework and the practical application and impact of the initiatives. Drawing from these insights we will try to compare the impact of the national citizens' initiatives and come up with general perspectives of the national citizens' initiatives.

⁷ See Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADIS AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, forthcoming June 2016.

In a few European states the citizens are empowered with a full-scale legislative competence through a citizens' initiative. In these countries the citizens are able to propose new legislation to their respective parliaments who then have to put it to a vote. Should the parliament reject parts of or the entire proposal it is put to a binding referendum. These countries are Switzerland, Liechtenstein and Latvia. The first two countries have been practicing such a model of citizens' initiatives since late 19th century and early 20th century respectively. Latvia on the other hand reinstated the citizens' initiative along with the old constitution from 1922 in 1991 following the Soviet collapse.⁸ The original constitution of 1922 is said to be very much inspired by the Swiss Constitution and the Constitution of the Weimar Republic. The Latvian model of citizens' initiatives is quite interesting in relation to the aforementioned direct democracy development in Europe because the reinstatement and later amendments to the citizens' initiative in Latvia naturally forms part of this development.

The citizens' initiative enables the people of Latvia to propose new legislation and constitutional amendments and to enact these by referendum in the case of political opposition in the Parliament. To enact legislation through the citizens' initiative the proposal firstly needs to attract 10,000 signatures in support of the proposed legislation and pass the legal test of the Central Election Commission. This phase does not involve any legal or economic aid from Latvian officials. Secondly, the proposal needs signatures from at least one tenth of the electorate.⁹ The Central Election Commission administrates this phase and it is limited to 20 days. Thirdly if the Parliament chooses to reject or alter the draft law it has to pass a nationwide referendum with a quorum consisting of at least half of the electorate from the last parliamentary election. Since the reinstatement of the 1922 Constitution of Latvia the people has tried on numerous occasions to propose legislation through the citizens' initiative. Only five proposals passed the legal test and were able to attract 10,000 signatures. Among these, four proposals were able to collect signatures of 10 % of the electorate. One of the proposals passed the parliamentary vote and was adopted as law, two proposals failed to attract the minimum quorum at the following referenda and one did not meet a majority at the referendum.¹⁰

It has been pointed out that the reason for the lack of concrete impact of the initiatives is a combination of high procedural thresholds both during the collection of signatures and (if the

⁸ See The Constitution of Latvia, article 78: "Electors, in number comprising not less than one tenth of the electorate, have the right to submit a fully elaborated draft of an amendment to the Constitution or of a law to the President, who shall present it to the Saeima. If the Saeima does not adopt it without change as to its content, it shall then be submitted to national referendum."

⁹ The registered voters of the Parliamentary election of 2014 was 1 552 235 citizens making the current threshold of this phase 155 224 signatures.

¹⁰ See Daunis Auers, *An Electoral Tactic? Citizens' Initiatives in POST-SOVIET LATVIA*, 58-59 and Central Election Commission, <https://www.cvk.lv/pub/public/27592.html> accessed 2 May 2016.

initiative ever gets this far) at the following referendum.¹¹ The lacking impact has made the whole system of citizens' initiatives vulnerable to political misuse. Thus Daunis Auers points to an unwanted tendency for the politicians and interest organisations to use the citizens' initiative for policy promotions rather than as an instrument encouraging the people of Latvia to engage in the political decision-making.¹²

In Spain the citizens' initiative was introduced as a part of the 1978 Constitution. The citizens' initiative is based on article 87(3) stating that "An organic act shall lay down the manner and the requirements of the popular initiative for submission of non-governmental bills. In any case, no less than 500,000 authenticated signatures shall be required. This initiative shall not be allowed on matters concerning organic acts, taxation, international affairs or the prerogative of pardon." The procedure of the citizens' initiative starts with the initiators forming a promotion committee. The next step is a legal control facilitated by parliamentary boards. This control oversees whether the subject matter restrictions and procedural demands are met. If the initiative passes this test the promotion committee gets nine months to collect 500,00 signatures (1.44 % of the electorate¹³) in support of the draft law. This period can be extended by three months if it is required by special circumstances.¹⁴ When the promotion period ends the committee forwards the collected signatures to the Central Election Committee, who then validates the signatures and counts the total amount of valid signatures. If the promotion committee managed to collect 500,000 valid signatures the draft law is forwarded to the Spanish parliament and is processed through the framework of the regular legislative procedure.¹⁵ During the early years of the constitution the initiative was restricted by significant limitations on the subject matter of the initiatives and procedural restrictions making the impacts rather insignificant.¹⁶ In 2006 the Spanish government passed a constitutional law amending the procedure of the citizens' initiatives easing up on a number of the previous restrictions. These changes included an extension of the time limit for collecting signatures, enabling electronic signatures, a repeal of some causes of non-admissibility, allowing for the usage of other official languages of the local autonomies, earlier

¹¹ See Daunis Auers, *An Electoral Tactic? Citizens' Initiatives* in POST-SOVIET LATVIA, 56-58 and BRUNO KAUFMANN AND M. DANE WATERS (eds.), *DIRECT DEMOCRACY IN EUROPE*, 77.

¹² See Daunis Auers, *An Electoral Tactic? Citizens' Initiatives* in POST-SOVIET LATVIA, 65-66.

¹³ The calculations of the current electorate throughout the article is based on numbers from the International Institute for Democracy and Electoral Assistance (IDEA) from latest elections, <http://www.idea.int/index.cfm>, accessed 2 may 2016

¹⁴ Víctor Cuesta-López, *The Spanish Agenda Initiative and the Reform of Its Legal Regime: A New Chance for Participatory Democracy?*, in MAIJA SETÄLÄ AND THEO SCHILLER (eds.), *Citizens' Initiatives in Europe, Procedures and Consequences of Agenda-Setting by Citizens*, Palgrave Macmillan 2012, 199-200.

¹⁵ Víctor Cuesta-López, *The Spanish Agenda Initiative and the Reform of Its Legal Regime: A New Chance for Participatory Democracy?*, 202.

¹⁶ Víctor Cuesta-López, *The Spanish Agenda Initiative and the Reform of Its Legal Regime: A New Chance for Participatory Democracy?*, 193 and 209

interventions by a promoting committee and an update of the economic compensations for the gathering of signatures.¹⁷

The reform caused a remarkable increase in the usage of popular initiatives from a total of 45 initiatives in the period of 1982-2008 to 66 launches since 2008 alone (18 are still in progress).¹⁸ The impact, however, doesn't seem to have increased correspondingly. The amount of initiatives passing the preliminary proceedings and getting forwarded to the Spanish parliament is significantly lower. Before 2008 only nine initiatives went to the parliament while only three managed to pass the preliminary proceedings since 2008. The table below shows the different outcomes of the share of the launched initiatives both before and after the 2006 reform.

Congress	Launched initiatives ¹⁹			Percentage		Total
	II-VIII	IX -X	Total	II-VIII	IX-X	
Legal control failed	15	22	37	37,50	45,83	42,05
Expired	15	19	34	37,50	39,58	38,64
Withdrawn	1	4	5	2,50	8,33	5,68
Political rejection	8	2	10	20,00	4,17	11,36
Enacted as law	1	1	2	2,50	2,08	2,27
Total	40	48	88	100	100	100

Even though the amount of proposed initiatives increased dramatically (see the chart above), there has not been any noteworthy increase in the number of politically processed initiatives. The amount of initiatives failing the legal control, however, seems to have increased correspondingly with the increase in initiative launches. This could come as a surprise since the reform explicitly repealed some of the grounds for inadmissibility. The amount of expired initiatives is almost unchanged before and after the reform. It would seem then that the reform has not produced a direct effect on the political decision-making and direct democracy in Spain. The growing usage of popular initiatives might though develop a more active society thereby enhancing the democratic values of the country.

¹⁷ See Ley Orgánica 4/2006 of 26 May 2006 and Cuesta-Lopéz 194.

¹⁸ It has not been possible to make a specific distinction based on the enactment of the 2006 reform. Instead the table is structured around congressional periods. In this case the division is made with the change from the VIII to the IX congress meaning 1 January 2008. This is done because of the way the data is presented on the webpage of the Congress.

See <http://www.congreso.es/portal/page/portal/Congreso/Congreso/Iniciativas>, accessed 2 May 2016.

¹⁹ The 18 initiatives that are still in progress are left out of the table.

Poland went through similar democratisation process as many other Eastern European countries following the collapse of the Soviet Union. In this process Poland introduced a citizens' initiative in article 118, paragraph 2, of the 1997 Constitution. Unlike many other forms of citizens' initiatives, the Polish variant is not as restricted by explicit preliminary subject matter limitations. The only material limitations follow from other constitutional provisions such as Article 235 reserving the right to initiate constitutional amendments exclusively to the President, the Senate and one fifth of the statutory number of deputies or Article 112 securing the autonomy of the Parliament. The specifics of the procedure of the citizens' initiative were laid out in the law on the exercise of legislative initiatives by citizens of 24 June 1999.²⁰ The procedure is in some ways similar to the one of Latvia, however operating with generally lower thresholds compared to the size of the population. Firstly, a group of at least 15 Polish citizens must form a committee, draft the proposed legislation and get 1,000 signatures in support of the draft bill. Secondly, the draft proposal is sent to the Marshal of the Parliament (Sejm) for a preliminary legal examination of the draft bill. If the Marshal accepts the draft bill, then it may be promoted and explained through a public campaign aiming to attract 100,000 signatures within three months (0.33 % of the electorate). If successful in this stage the draft bill will be forwarded to the Parliament and then be treated in the framework of the regular legislative procedure. The Parliament in this capacity may reject the draft bill upon first reading or pass the draft bill through the three mandatory readings and eventually enact the bill as law.

The Polish citizens' initiative is seemingly one of the more popular initiatives as it has been brought to use extensively since the enactment of the Law on the exercise of legislative initiatives by citizens'. Between 1999 and 2009 the Polish citizens initiated 79 draft bills out of which 24 were passed to the Sejm. Of these 3 were rejected by the Parliament, 10 were delayed and 7 bills were eventually enacted as law by the Sejm.²¹ Since 2009 the successful initiatives significantly rose in numbers with a total of 49 submissions to the Sejm and 3 enacted bills in 2011, 2014 and 2015.²² Many of these submissions are still being discussed in the Sejm. In total 10 out of 73 submissions to the Parliament were enacted as law.

Portugal has one of the younger popular initiatives in Europe. The 1976 Constitution of Portugal gives the right of legislative initiative to at least 35,000 Portuguese citizens (0.36 % of the electorate).

²⁰ See <http://www.sejm.gov.pl/prawo/inicjat.htm> accessed 2 May 2016.

²¹ See for an overview of the Citizens' initiatives from 1999-2009: Anna Rytel-Warzocho, *Popular Initiatives in Poland: Citizens' Empowerment or Keeping Up Appearances?* in MAIJA SETÄLÄ AND THEO SCHILLER (eds.), *Citizens' Initiatives in Europe, Procedures and Consequences of Agenda-Setting by Citizens*, Palgrave Macmillan 2012, 221.

²² See the electronical archives of the Sejm.

VIII term: <http://www.sejm.gov.pl/Sejm8.nsf/druki.xsp?view=2&WSK=Obywatele>,

VII term: <http://www.sejm.gov.pl/sejm7.nsf/proces.xsp?view=S>,

and VI term: <http://orka.sejm.gov.pl/proc6.nsf> all accessed 2 May 2016.

The details of the subject matter and procedural limits are laid out in Law 17/2003 of 4 June 2003 as amended by Law 26/2012 of 24 July 2012.²³ This legislation lays out a number of restrictions on the subject matter of the initiative in Article 3, such as constitutional amendments (litra a), subjects that are constitutionally reserved to the Government (litra b), subjects that are reserved to the local autonomies the Azores and Madeira (litra c), and what concerns budgetary, fiscal and financial matters (litra f). Furthermore, Article 4 litra c of the law limits the right to initiate legislation, which will entail higher expenses or lower revenues for the ongoing financial year of the proposal.

According to the Parliamentary database on the legislative procedures²⁴ five drafts succeeded in collecting the 35,000 signatures and passing the tests of subject matter and procedural demands. Among them one is still ongoing²⁵, one was rejected politically²⁶ and three were enacted as law.²⁷ In terms of success rate of legally enacted citizens' initiatives this is rather impressive. However, the success rate must be seen in relation to the generally low amount of successful initiatives and the fact that the first initiative to be presented to the Parliament was launched as late as in 2005 (Law 31/2009). The following four were then launched in 2012 (Law 63/2013), 2013 (rejected) and 2015 (Law 136/2015 and ongoing). In other words, long periods of inactivity have passed since 1999. It would appear that there has been a rise in recent years in the frequency of successful initiatives resulting in a comparatively high amount of citizen-initiated legislation.

During the first half of the 20th century Lithuania practiced a legislative citizens' initiative in accordance with article 20 of the 1922 Constitution. Hereby it was made possible for 25,000 citizens to propose draft proposals to the Parliament.²⁸ The citizens' initiative was reintroduced as article 68 of the 1992 Constitution of the Post-Soviet new Lithuanian democracy. Besides the President, the Parliament and the Government, 50,000 citizens (1.95 % of the electorate) can propose legislative drafts.²⁹ To launch a legislative initiative the initiators must form a group consisting of at least 10

²³ See

https://www.parlamento.pt/Legislacao/Documents/Legislacao_Anotada/IniciativaLegislativaCidadaos_Simples.pdf accessed 2 May 2016.

²⁴ See

<https://www.parlamento.pt/ActividadeParlamentar/Paginas/IniciativasLegislativas.aspx>, accessed 2 May 2016.

²⁵ See

<https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalleIniciativa.aspx?BID=39568>, accessed 2 May 2016.

²⁶ See

<https://www.parlamento.pt/ActividadeParlamentar/Paginas/DetalleIniciativa.aspx?BID=37559>, accessed 2 May 2016.

²⁷ See Law 31/2009, Law 63/2013 and Law 136/2015.

²⁸ See Algis Krupavičius, *Citizens' Initiatives in Lithuania: Initiative Institutions and Their Political Impact in a New Democracy*, in MAIJA SETÄLÄ AND THEO SCHILLER (eds.), *Citizens' Initiatives in Europe, Procedures and Consequences of Agenda-Setting by Citizens*, Palgrave Macmillan 2012, 138.

²⁹ The amount of signatures is 300,000 when the proposed amendments concerns the constitution.

voters. When registered as a group they have two months to collect 50.000 signatures in support of the draft proposal. If successful in this phase the draft will be presented by the initiators to the Parliament where a consideration in a committee will take place. Afterwards the proposal will be forwarded to a plenary sitting in the Parliament where it will be evaluated and rejected or adopted in its entirety or in parts.³⁰ The procedure is more specifically detailed in the Law on Citizens' Legislative Initiatives of 22 December 1998.³¹

Since the law on the citizens' initiative in 1998 was enacted, the Central Election Commission has registered 21 initiatives, and another one is still on going.³² Eight initiatives succeeded in collecting the required amount of valid signatures and one of them has been adopted into law. Hence, despite a comparatively high frequency of initiatives getting registered the impact is rather low. The low success rate has been explained with a lack of civil society combined with high signature thresholds.³³

This has been held further to impact on the practical usage of the initiatives. There are some tendencies showing that the citizens' initiative has become an instrument of political promotions and thereby, as was the case in Latvia, not to the same extent a means of public influence on the political decision making processes. Thus, members of an established political party already having seats in the Parliament launched the only successful initiative.³⁴ In practice the Latvian initiative thus can be said to play an important role in terms of voter mobilization on issues already on the political agenda.³⁵

The 1991 Constitution of Romania includes a citizens' initiative in Article 74: "(1) A legislative initiative shall lie, as the case may be, with the Government, Deputies, Senators, or a number of at least 100,000 citizens entitled to vote. The citizens who exercise their right to a legislative initiative must belong to at least one quarter of the country's counties, while, in each of those counties or the Municipality of Bucharest, at least 5,000 signatures should be registered in support of such initiative. (2) A legislative initiative of the citizens may not touch on matters concerning taxation, international affairs, amnesty or pardon." The initiative has, however, seemingly not been brought to use in a way that will make it reasonable to evaluate its impact on political decision-making.³⁶

³⁰ See Algis Krupavičius, *Citizens' Initiatives in Lithuania: Initiative Institutions and Their Political Impact in a New Democracy*, 138.

³¹ See Law VIII-1003, Lietuvos Respublikos piliečių įstatymų leidybos iniciatyvos įstatymas.

³² See <http://www.vrk.lt/ankstesnes2> and http://www.vrk.lt/documents/10180/432567/2341_istatymuleidybosiniciatyvos2012-06.pdf/a5b387c6-5d57-41c8-afaa-3cdfaf8552e, both accessed 2 May 2016 and Algis Krupavičius, *Citizens' Initiatives in Lithuania: Initiative Institutions and Their Political Impact in a New Democracy*, 145-146.

³³ See Algis Krupavičius, *Citizens' Initiatives in Lithuania: Initiative Institutions and Their Political Impact in a New Democracy*, 146.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ A search for popular initiated legislation at the legislative database of the Senate gives no results. See <http://www.senat.ro/legis/lista.aspx#> and for the Chamber of Deputies see http://www.cdep.ro/pls/proiecte/upl_pck.home?cam=2, both accessed 2 May 2016.

The same situation seems to be the case of Slovenia. In article 88 of the Constitution of Slovenia from 1991 following legislative initiative is defined: “Laws may be proposed by the Government or by any deputy. Laws may also be proposed by at least five thousand voters.” Again, however, there does not seem to be enough practice to discuss the concrete impact of the citizens’ initiative though it is remarkable that the signature threshold is so significantly low compared to other variants.³⁷

In sum it seems difficult to construe a general evaluation of the impact of the national citizens’ initiatives measured in initiatives eventually being enacted as law. This is due to the fact that the national citizens’ initiatives partly are too different in structure and partly because there is not enough empirical data to support such conclusions. This can be exemplified by the fact that both Latvia and Lithuania have only implemented one citizens’ initiative each since the introductions of the citizens’ initiatives. This would constitute a too fragile foundation for comparative calculations based on other factors than the amount of implemented initiatives alone.

The collected data may, however, give rise to some considerations as to if and how the impact of the citizens’ initiatives is connected to national legal and political contexts. In this regard it seems relevant to consider whether there can be established any links between high signature thresholds and the number of initiatives getting forwarded to the parliaments. The signature threshold has been held to constitute a key obstacle for the impact in different states.³⁸

In this regard it can be pointed out that the states that has forwarded most initiatives to their respective parliaments, Poland (73 initiatives), also holds the lowest threshold for the required amount of signatures (0.33 % of the electorate). Furthermore the states holding the highest thresholds for the required amount of signatures are also among the least active in the group – Spain (12 initiatives), Lithuania (8 initiatives) and Latvia (4 initiatives). However, Portugal holds a low threshold as well (0.36 % of the electorate) without having demonstrated the same frequency of usage as Poland in terms of initiatives sent to the parliament. The link does not seem to be unequivocal.

It has to be said that multiple factors are left out of the equation, namely the amount of active years of the initiatives and sizes of the populations. It seems natural that a large population would be able to present more initiatives in plain numbers than smaller populations. Similarly, one could argue that the longer a citizens’ initiative has been in place, the more initiatives could cumulatively be forwarded to the parliament. In the table below the collected datasets are compared. The table also shows calculations taking the age of the initiatives and the population sizes into account.

³⁷ See the legal database at <http://www.dz-rs.si/wps/portal/Home>, accessed 2 May 2016

³⁸ See Daunis Auers, *An Electoral Tactic? Citizens’ Initiatives*, POST-SOVIET LATVIA, 65-66 and Algis Krupavičius, *Citizens’ Initiatives in Lithuania: Initiative Institutions and Their Political Impact in a New Democracy*, 146.

	Latvia	Spain	Poland	Portugal	Lithuania
Signature threshold	155.224	500.000	100.000	35.000	50.000
Latest electorate	1.552.235	34.631.086	30.709.281	9.732.123	2.559.398
Threshold in percentage of latest electorate	10.00 %	1.44 %	0.33 %	0.36 %	1.95 %
Active years	25	38	19	19	24
Initiatives passed to parliament	4	12	73	5	8
Initiatives enacted as law	1	2	10	3	1
Initiatives passed to Parliament pr. year	0.16	0.32	3.84	0.26	0.33
Initiatives passed to parliament pr. 10.000.000 voters pr. year	1.03	0.09	1.25	0.27	1.30

When one takes into account the age of the citizens' initiatives and the relative sizes of the populations another image of the correlations between citizens' initiatives across Europe occurs. The last row of the table shows each country's average application of the citizens' initiatives per year per 10,000,000 voters. By virtue of these numbers it is clear that compared to the relative sizes of populations and the age of the initiatives Poland does not in fact hold the most used citizens' initiatives measured by the amount of initiatives making it to the parliaments. On the contrary the data show that Lithuania receiving 1.30 initiatives per year per 10,000,000 voters is the most active country in the survey. Nonetheless, Lithuania holds relatively high threshold of required signatures amounting to 1.95 % of the electorate making it the second highest of the survey. However, the difference between Poland (1.25) and Lithuania (1.30) is not significant. What is interesting in this context is that the third most active country in this regard is Latvia even though the signature thresholds of their citizens' initiative amounts to a fixed 10 % of the electorate making it the strictest requirement of the survey. If this is compared with the aforementioned descriptions of the Lithuanian and Latvian citizens' initiatives being ineffective and subject to political opportunism,³⁹ the results of the table become very interesting. They can give the impression that any concrete, measurable impact on the political decision-making processes does not necessarily correspond with a perception of success in relation to direct democracy promotion. On this note Spain holding the least effective citizens' initiative managed to get the population to actively use the citizens' initiative to a whole new degree after 2006, which would seem like a success to some extent, even though the legislative outcomes are practically none-existent.

³⁹ See Daunis Auers, *An Electoral Tactic? Citizens' Initiatives in POST-SOVIET LATVIA*, 65-66 and Algis Krupavičius, *Citizens' Initiatives in Lithuania: Initiative Institutions and Their Political Impact in a New Democracy*, 146.

Hence it is seemingly not possible to establish any direct link between thresholds for signatures and the amount of citizens' initiatives passed to the parliaments. The possible causes for the differing impacts on the political decision-making may have to be found elsewhere. Among such possible causes could be subject-matter restrictions and/or regulations on procedural and legal control of the citizens' initiatives. The impact of the subject-matter restrictions – and the concerned procedural and legal tests – is not easily assessed by the data at hand. This is because the chosen data only concern the initiatives that passed any such legal or procedural tests and subject-matter restrictions. Thus the data is not fit to describe tendencies and correlations between such factors. The Polish and Spanish data provides us with limited insights in terms of rejected initiatives but not to a degree that any generalizations can be made. Another potentially important element briefly touched upon earlier is the general democratic culture of the populations. What a citizens' initiative might lack in political decision-making impact it may have in democratic enhancements with the populations. This can be expressed through a slowly increasing usage of the national citizens' initiative as in Spain or by a general broader popular participation in other direct democracy elements such as the EU citizens' initiative. It was pointed out that the Lithuanian citizens' initiative lacked a fundamental backing of civil society and that the Latvian citizens' initiative were likewise being used primarily by political parties promoting their specific goals.⁴⁰ The Spanish citizens' initiative might on the other hand be able to ablaze a democratic movement with the new wave of citizens initiatives since 2006 regardless of the fact that the concrete impact measured in legislative outcomes from the initiative procedures are limited. On the same lines the development of the Portuguese citizens' initiative seems promising in terms of effectiveness and it would be interesting to follow in the coming years.

Any conclusions based on the calculations in the table are, however, still attached with some uncertainty because of the generally low amount of empirical data. A small rise in initiatives in a given period would undoubtedly change the general picture significantly for some countries making observations and unambiguous conclusions on the impact of the initiatives rather unreliable. As an example of this uncertainty one could mention the significant rise in numbers of initiatives passed to the Spanish Parliament following the reform of 2006, as well as the Portuguese citizens' initiative that until 2012 only passed one initiative to the parliament. Whether the following four Portuguese initiatives can be said to form a tendency or just a statistical anomaly is yet to be determined.

§ 2 – IMPACT OF THE EU CITIZENS' INITIATIVE

⁴⁰ See Daunis Auers, *An Electoral Tactic? Citizens' Initiatives in POST-SOVIET LATVIA*, 65-66 and Algis Krupavičius, *Citizens' Initiatives in Lithuania: Initiative Institutions and Their Political Impact in a New Democracy*, 146

Having studied the impact of the introduction of new citizens' initiatives at the national level we now turn towards the EU level. The EU citizens' initiative is one of the clearest examples of an introduction of a direct democracy element into the EU legal setting.⁴¹ First, we look at the legal basis of the citizens' initiative. Second, we will discuss its background, third its purpose and finally its impact.

The legal basis can be found in Article 11, part 4, of the Treaty of the European Union:

“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 Treaties.

The procedures and conditions required for such citizens' initiative shall be determined in accordance with the first paragraph of Article 24 of the Treaty on the Functioning of the European Union.”

Furthermore, the citizens' initiative is regulated in Regulation No 211/2011 of The European Parliament and the Council of 16 February 2011.

The citizens' initiative stems from the European Convention.⁴² Interest groups played an important role in introducing the citizens' initiative into the Convention.⁴³ However, as pointed out elsewhere:⁴⁴

“...it is also important to emphasize the purpose of the Laeken Declaration. The Laeken Declaration had a strong focus on democracy, how the European institutions could be brought closer to the citizens and the wishes of the European citizens for a democratic Europe. Obviously, the citizen's initiative was coherent with the values and aims expressed in the Laeken Declaration though the Declaration did not mention a citizen's initiative.”

Furthermore, a citizens' initiative had at an earlier point been discussed at the Amsterdam governmental conference with backing from the European Parliament. What was then the purpose of the introduction of the citizens' initiative? It has been

⁴¹ See also Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, 2016.

⁴² See Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, 2016.

⁴³ See <http://www.citizens-initiative.eu/how-the-convention-got-convinced/>, accessed 2 May 2016

⁴⁴ See Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, 2016.

argued elsewhere that the EU's interest in new democratic initiatives such as the citizens' initiative is driven by two purposes:⁴⁵

“[...] According to the Laeken Declaration the Union therefore needs to become more democratic, more transparent and more efficient. On the one side of the coin the aim is to meet the expectations of the citizens. On the other side of the coin this will accordingly strengthen the democratic legitimacy of the European Union and the latter is probably the real pay-off for the Union: “The European Union derives its legitimacy from the democratic values it projects, the aims it pursues and the powers and instruments it possesses. However, the European project also derives its legitimacy from democratic, transparent and efficient institutions. The national parliaments also contribute towards the legitimacy of the European project [...] The first question is thus how we can increase the democratic legitimacy and transparency of the present institutions, a question which is valid for the three institutions...A second question, which also relates to democratic legitimacy, involves the role of national parliaments [...]”

Bearing the background and purpose of the citizens' initiative in mind it is interesting to analyze which impact the EU citizens' initiative has in reality had on democratic participation of EU citizens in EU legislation.

At the moment 6 open citizens' initiatives appear on the European Commission's official register of citizens initiatives.⁴⁶ The list of open initiatives covers initiatives which are currently open for collection of statements of support and those for which the collection is closed but for which the Commission does not yet have any information about whether the organizers managed or failed to collect the required number of statements of support. 3 initiatives appear on the list which covers the initiatives that have successfully reached the required number of statements of support: Stop vivisection. 22/06/2012, ECI (2012)000007.

One of us. 11/05/2012, ECI (2012)000005.

Water and sanitation are a human right! Water is a public good, not a commodity! 10/05/2012, ECI (2012)000003.

Furthermore, an archive is available at the homepage. This archive contains a list of initiatives withdrawn by the organizers figuring 16 initiatives and a list of 11 initiatives that did not gather the required number of statements of support within the 1-year time limit. There is a small overlap between the two lists consisting of one initiative ('Let me vote'). These numbers show that out of the total

⁴⁵ See Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADIS AND ALKEMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION Ashgate, 2016, and the Laeken Declaration on the future of the European Union, Paragraph II A on 'More democracy, transparency and efficiency in the European Union'.

⁴⁶ See <http://ec.europa.eu/citizens-initiative/public/welcome?lg=en>, accessed 2 May 2016

registered citizens' initiatives which are not open anymore (all together 30) app. 53 % of the initiatives were withdrawn by the organizers and app. 37 % did not reach the required support within the 1-year time limit.

A list of refused requests is also available. This list figures 20 proposals for citizens' initiatives. These initiatives have not fulfilled the formal criteria as set out in Article 4 (2) of Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative which reads:

“2. Within two months from the receipt of the information set out in Annex II, the Commission shall register a proposed citizens' initiative under a unique registration number and send a confirmation to the organizers, provided that the following conditions are fulfilled:

- (a) the citizens' committee has been formed and the contact persons have been designated in accordance with Article 3(2);
- (b) the proposed citizens' initiative does not manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties;
- (c) the proposed citizens' initiative is not manifestly abusive, frivolous or vexatious; and
- (d) the proposed citizens' initiative is not manifestly contrary to the values of the Union as set out in Article 2 TEU.”

In all 20 cases the reason for refusal is the following:

“The proposed citizens' initiative falls manifestly outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties.”

Thus the reason for refusal is in all cases Article 4, part 2 (b) of the Regulation. This seems to reflect that it requires an extensive knowledge of EU law even to have a proposed citizens' initiative registered. One might put forward that this gives preference to the elite in society (well educated people and people who can afford to buy legal assistance) and more established interest groups and organizations in exercising the rights connected to the citizens' initiative. It is interesting that all the 20 proposals which have been refused apparently fulfill the more 'practical' requirements in Article 3(2). Another interesting perspective on the Commission's reason for refusal in the 20 cases is that there seems to be a wish across European borders among at least some EU citizens for EU regulation in many fields which currently falls outside the competence of the Commission to submit new legislative proposals within. Altogether, the proposed citizens' initiatives at this point add up to 54 different initiatives (if all stages of the process are added together) of which 20 initiatives did not even make it to be registered (37 %).

Another possible hindrance could be the need to translate an EU citizens' initiative into other languages than one's mother tongue in order to gain the required 1 million signatures in 1/4 of the

member states.⁴⁷ The need for translation of the EU citizens' initiative into other languages might not be a problem for well-educated and/or rich EU citizens but some groups in society might have difficulties in this respect. Furthermore, the requirement of collecting support in 1/4 of the member states seems to put EU citizens in member states with world spoken languages such as English, French and German in a better position in exercising their democratic rights since they might not even have to translate their EU citizens' initiative into other languages.

However, the data from the homepage of the European Commission tell us more about the impact of the citizens' initiative. As mentioned 3 citizens' initiatives reached the required number of statements of support. This is a success rate of 5.6 % if all the proposed initiatives (both registered and not registered) but excluded the currently still open initiatives (which we do not yet know the future of) are counted in. If we only look at the registered (and not still open) initiatives the success rate is 10 %.

What happened to the 3 citizens' initiatives that reached the required number of statements of support? The precise steps taken in the three cases can be studied at the before mentioned home page of the European Commission.⁴⁸ None of the three citizens' initiatives led to new EU legislation. AS regards the citizens' initiative on "Water and sanitation are a human right! Water is a public good, not a commodity!" some new initiatives were taken within existing EU legislation. This does of course not necessarily mean that the three citizens' initiatives have not had any impact. They have brought the Commission's and other political actors' attention to the areas in question, they can initiate new actions based on existing EU legislation, they could even affect the interpretation of existing EU legislation and they have created a supranational discourse in an EU public space. Hence, they might have some kind of less measurable impact on a more long-term perspective. Never the less, it must be concluded that if the goal is for new EU legislation to be initiated by initiatives from the EU citizens then the success rate has been 0 % since the introduction of the EU citizens' initiative.

At this point altogether 54 citizens' initiatives have been proposed, 36 have been registered (of which 6 are still open) and no initiatives have actually initiated new legislation by the Commission. This must be seen in relation to a population of app. 500 million in the EU.

Another possible impact of the introduction of the EU initiative, which has been mentioned in the literature, is to create more transnational public debate and "construct supranational discourses in an emerging European public space".⁴⁹ Based on the

⁴⁷ Uta Biskup presented this useful comment to our paper at the conference at Sorbonne on 8 March 2016, which this book is based on.

⁴⁸ See http://ec.europa.eu/dgs/secretariat_general/followup_actions/citizens_initiative_en.htm, accessed 2 May 2016.

⁴⁹ See Victor Cuesta-Lopez, *A Comparative Approach to the Regulation on the European Citizens' Initiative*, PERSPECTIVES ON EUROPEAN POLITICS AND SOCIETY, Vol. 13, No. 3, 2012, 258, and Bruno Kaufmann, *Prospects for Transnational Direct Democracy – Exploring the New European Approach to Citizens' Power beyond the Nation-State*, in ZOLTÁN TIBOR PÁLLINGER,

data from the home page of the European Commission one could argue that such an impact has to a certain extent been accomplished. If we view the three citizen's initiatives that have successfully reached the required number of statements of support, we see that support has been reached in a very large number of member states.

Stop vivisection. 22/06/2012, ECI (2012)000007: Support in 26 member states (of which threshold is reached in 9 member states). Total support: 1.173.130 EU citizens.

One of us. 11/05/2012, ECI (2012)000005: Support in 28 member states (of which threshold is reached in 18 member states). Total support: 1.721.626 EU citizens.

Water and sanitation are a human right! Water is a public good, not a commodity! 10/05/2012, ECI (2012)000003: Support in 25 member states and in another two after submission (of which threshold reached in 13 member states). Total support: 1.659.543 EU citizens.

These numbers of member states involved indicate that public debate has been created across the borders of the EU on topics that seem to have a common interest among European citizens. Hence, the citizens' initiative seems to have had a certain impact as regards 'creating a more transnational public debate and constructing supranational discourses in an emerging European public space'. However, also in this case it must be taken into consideration that the EU has app. 500 million citizens and that the citizens involved in the three initiatives, which made it to the Commission, are only 4.554.299 EU citizens (app. 1 %). A time perspective could be taken into account. Registration of citizens' initiatives has only been open since 1 April 2012, which is a rather short time period. Maybe more EU citizens will learn about their right to pose citizens' initiatives as time goes by. However, this we cannot know for certain.

An interesting aspect of citizens' initiatives is whether the national political culture in the field of citizens' initiatives has an impact on the use of the EU citizens' initiative. For instance, a long and strong tradition in this field could mean that the national citizens are already familiar with citizens' initiatives and are therefore active also as regards the EU citizens' initiative. Another possibility is that member states without a citizens' initiative (and maybe a weak tradition in the field of direct democratic elements in general) find the EU citizens' initiative particularly attractive as a new possibility of influencing legislative initiatives. Information on the composition of the citizens' commissions meaning the organizers of the respective initiatives is available for the 3 successful citizens' initiatives:

"Stop vivisection" citizens' commission: The United Kingdom, Italy, Belgium, France, the Netherlands, Spain and Sweden.

"One of us" citizens' commission: France, Italy, the United Kingdom, Hungary, Poland, Spain, and Germany.

BRUNO KAUFMANN AND WILFRIED MARKER, THEO SCHILLER (ed.), DIRECT DEMOCRACY IN EUROPE, 2007, 156 and 159.

“Water and sanitation are a human right! Water is a public good, not a commodity!” citizens’ commission: France, Belgium, Germany, Sweden, Bulgaria, Italy and the United Kingdom. If we count how many of the three initiatives each member state has been involved in we end up with the following grouping:

Member State	UK	Italy	France	Belgium	Spain	Sweden	Germany	Netherlands	Hungary	Poland	Bulgaria
Times of participation in citizens’ committees	3	3	3	2	2	2	2	1	1	1	1

The data are obviously very few and it will be easier to conclude when more data is available in the future. However, based on the available data so far we can come up with some tentative theses which can be tested and verified or de-verified when more data exist. A first observation is that other factors such as the size of a member state, the topic of the specific initiative etc. could possibly play in on numbers in the table. Some of the largest member states (UK, Italy, France, Spain, Germany and Poland) appear on the list and among them UK, Italy and France each score 3. However, the larger member states are not necessarily the member states that are represented with the highest score hence Germany and Poland only appear with a score of respectively 2 and 1. Smaller member states such as Belgium and Sweden are both active with a score of 2. A second, observation is that all parts of Europe are represented in the table: Northern Europe, Southern Europe and Central and Eastern Europe. Even more interesting for each of the three citizens’ initiatives, most parts of Europe are represented in the citizens’ commissions regardless of topic. One might have expected that some topics would have more interest in certain parts of Europe than in others. Third, only 11 member states out of all the member states in the EU appear in the table. Even though some of the member states are among the largest in the EU and therefore could be expected to have a high representation in the table as mentioned many small member states such as Belgium, Sweden, the Netherlands and Bulgaria also appear in the table meaning that compared to their size they have been quite active in taking initiative to propose new EU legislation.

If we study the political culture in the 11 member states in which citizens have taken EU citizens’ initiative, we see that Italy has a long tradition for citizens’ initiatives at the national level dating back to 1947. Spain introduced a citizens’ initiative in 1978 and has as mentioned earlier in this article recently tried to strengthen its citizens’ initiative. Germany has had a quite strong tradition for citizens’ initiatives at the regional level since the reunification in 1990.⁵⁰ It is also interesting that the German members of the

⁵⁰ See BRUNO KAUFMANN AND M. DANE WATERS (EDS.), *Direct Democracy in Europe. A Comprehensive Reference Guide to the Initiative and Referendum Process in Europe*, Carolina Academic Press 2004, 63.

European Convent played an active role in promoting the introduction of an EU citizens' initiative.⁵¹ The Netherlands do not have a citizens' initiative, however, they have just introduced a facultative referendum system.⁵² Hungary introduced a citizens' initiative in 1947; however, it was effectively abandoned in 2012 with the new Constitution. Poland introduced a citizens' initiative in 1997. Bulgaria introduced a modified petition right making the citizens able to propose new legislation in 2009. France and Belgium, on the other hand, do not have a citizens' initiative. Nor do the United Kingdom and Sweden and both countries in general have a rather weak tradition as regards elements of direct democracy. The member states, which have initiated the successful EU citizens' initiatives, include both member states with a political culture as regards citizens' initiatives and countries with no such political culture. This is true both for the most active member states and for the less active member states in the table. Belgium, Sweden and the Netherlands are especially interesting since they are small member states and have no political culture in the field of citizens' initiative. These countries could be said to represent member states which do not have a tradition for citizens' initiatives at the national level and therefore see the EU citizens' initiative as a new interesting possibility to influence legislation.

Further studies can be made. It could be interesting to study the variation on member states as regards the support of the three citizens' initiatives involved in this study. Even though the citizens' committees most directly represent the *initiative* to propose new EU legislation, the support for the initiatives in the different member states indicate something about the impact of the EU initiatives and the political culture in this field in the member states. If we broaden the study of the three citizens' initiatives to examine the national support for each initiative with special focus on the countries in which the threshold has been reached (these are the most interesting member states to study because the size is already factored in) we come up with the following table:

Member state	Stop vivisection	One of us	Water and sanitation are a human right! Water is a public good, not a commodity!	Total for each member state
Austria		X	X	2
Belgium			X	1
Croatia		X		1
Cyprus		X		1
Finland	X		X	2
France	X	X		2

⁵¹ See Helle Krunke, *Sovereignty, constitutional identity, direct democracy? Direct democracy as a national strategy for upholding the nation state in EU integration*, in XENOPHON CONTIADES AND ALKMENE FOTIADOU (eds.) PARTICIPATORY CONSTITUTIONAL CHANGE: THE PEOPLE AS AMENDERS OF THE CONSTITUTION, Ashgate, 2016.

⁵² See for instance <https://www.democracy-international.org/dutch-national-referendum-law-approved> accessed 2 May 2016

Germany	X	X	X	3
Greece		X	X	2
Hungary	X	X	X	3
Italy	X	X	X	3
Latvia		X		1
Lithuania		X	X	2
Luxembourg		X	X	2
Malta		X		1
Netherlands		X	X	2
Poland	X	X		2
Portugal		X		1
Romania		X		1
Slovakia	X	X	X	3
Slovenia	X		X	2
Spain	X	X	X	3

The table shows that the most active member states when it comes to citizens' involvement in supporting already initiated initiatives are: Germany, Hungary, Italy, Slovakia and Spain (sufficient support for all three initiatives)

Other active member states are: Austria, Finland, France, Greece, Lithuania, Luxembourg, Poland and Slovenia (sufficient support for two initiatives)

Less active member states are: Belgium, Croatia, Cyprus, Latvia, Malta, Portugal and Romania (sufficient support for one initiative)

In the following member states there has not been sufficient support for any of initiatives: Bulgaria, Czech Republic, Denmark, Estonia, Ireland, United Kingdom and Sweden

However, there has been some support, though not sufficient, for some of the three initiatives in all these seven member states. As regards Denmark and France sufficient support was even reached in the following weeks after the initiative on "Water and sanitation are a human right! Water is a public good, not a commodity!" was submitted to the Commission.

The data on the interest in supporting the three already launched initiatives provide us with some interesting insight. First, all the member states have to some extent been involved in one or more of the initiatives. This supports that there has been an impact as regards "creating a more transnational public debate and constructing supranational discourses in an emerging European public space". This is also supported by the fact that if we count in member states that reached sufficient support for two or three of the initiatives we see that all parts of Europe are represented. Second, the most active member states in launching an EU citizens' initiative are not necessarily the same member states, which have been the most active in supporting initiatives. Whereas the UK took part in initiating all the three citizens' initiatives sufficient support could not be found for any of them in the UK. France and especially Italy are strong on both parameters, though. Third, whereas only 11 member states were active in initiating the three initiatives all the member states were active in voting on the initiatives and among them respectively 9, 18 and 13 member states reached the threshold. Are the most active countries in supporting proposed citizens' initiatives the ones which also have a national

tradition in the field of citizens' initiatives? The most active countries are Germany, Hungary, Italy, Slovakia and Spain. As mentioned, Italy has a long tradition dating back to 1947. Spain has had a citizens' initiative since 1978 and has recently introduced reforms in this field. A citizens' initiative was introduced in Hungary already in 1949. It was abolished in with the constitutional change in 2011 with effect from 1 January 2012. Germany has had a strong tradition at the local level since 1990 and was active in promoting the citizens' initiative in the European Convent. Slovakia has a long tradition for citizens' initiatives in the sense that it inherited an agenda initiative from the communist era in Czechoslovakia that was transferred to the 1992-Constitution.⁵³ This means that the most active member states in voting for proposed initiatives all have a political culture in the field of citizens' initiatives. We then turn to the member states in which there has not been sufficient support for any of the proposed initiatives namely Bulgaria, Czech Republic, Denmark, Estonia, Ireland, United Kingdom and Sweden. Denmark,⁵⁴ Estonia, Ireland, United Kingdom and Sweden have no citizens' initiatives. Bulgaria has a modified petition right. This means that a clear majority of the member states, which have supported the proposed initiatives the least, have no political culture in the field of citizens' initiatives.

Finally, it should be noted that only successful citizens' initiatives are studied in this article (since data on these citizens' commissions are easily available). It could have been interesting to study the data on rejected initiatives and initiatives which did not succeed in gathering a significant amount of support in 1 year.

Where does the analysis of the EU citizens' initiative take us? A number of trends seem to appear. First, if we view impact as proposed legislation that is actually adopted the impact factor is 0 %. As mentioned this does not mean that there is not also a more long-term impact of the proposals that did not result in new legislation. Other actions than legislation might be taken and less measurable affects might appear. As regards the creation of a more transnational public debate and construction of a supranational European public space there has been a certain impact. However, again it only involves app. 1 % of the population in the EU. An interesting perspective is how existing political cultures at the national level in the field of citizens' initiatives impact which countries are the most active in using the citizens' initiative. Here it seems that we need to distinguish between member states in which the initiative was originally taken and member states in which citizens' have supported already proposed initiatives. As

⁵³ See Erik Lástic, *IF IT WORKS, FINE, IF NOT, SO WHAT? INITIATIVES IN SLOVAKIA, IN CITIZENS' INITIATIVES IN EUROPE, PROCEDURES AND CONSEQUENCES OF AGENDA-SETTING BY CITIZENS*, Palgrave Macmillan 2012, 156.

⁵⁴ As mentioned the threshold was reached in Denmark after the initiative on 'Water and sanitation are a human right! Water is a public good, not a commodity!' was handed in to the Commission.

regards the first category, both some countries which already have a political culture and tradition in the field of citizens' initiatives and some countries which do not have a citizens' initiative have initiated citizens' initiatives. This might indicate that a political culture and tradition in this field might support citizens organizing EU citizens' initiative while also citizens' in some countries with no such tradition might see the EU citizens' initiative as a new possibility of influencing legislation. There seems to be a clearer tendency as regards the first category. All the member states which have been the most active in voting for proposed initiatives all have a political culture in the field of citizens' initiatives while all the member states which have supported the proposed initiatives least have no political culture in the field of citizens' initiatives. This seems to show that the political culture and tradition in the field of citizens' initiatives can influence the public support for proposed EU citizens' initiatives. This way the impact of introducing an EU citizens' initiative might be said to be higher in member states that already have a tradition in this field.

As mentioned the purpose of the introduction of the EU citizens' initiative has probably been two-fold viewed with the eyes of the EU: First, to meet the expectations of the EU citizens as regards making the EU more democratic and second, to strengthen the democratic legitimacy of the European Union. Has this been fulfilled with the EU citizens' initiative? The EU citizens' initiative does provide the EU citizens with the possibility of proposing legislative initiative to the Commission and thereby influencing EU legislation. However, as shown there is a success rate of 0 % and the reasons given by the Commission for proposals not being registered seem to show that it is primarily the elite in society which will be able to get a proposal registered. Whether this meets the expectations of the EU citizens' as regards a more democratic EU is questionable but it might be seen as a first step. Does the EU citizens' initiative provide the EU with more democratic legitimacy? It must be seen as an important step that the EU has started to think in vertical democratic arrangements that involve the citizens more directly in the decision-making processes and independently of the national political actors. The EU citizens' initiative is not the only new vertical democratic initiative introduced with the Lisbon Treaty. It must be seen as part of a new way of thinking democracy in the EU, which also includes the Early Warning system that involves the national Parliaments more directly in the decision-making processes. The UK has recently managed to strengthen the position of the national Parliaments in the Early Warning system as part of the negotiations of a possible British exit from the EU. Together, these initiatives set out a new trend of including new national actors such as citizens' and national Parliaments directly in the decision-making processes of the EU. This of course provides the EU with more democratic legitimacy. However, obviously as long as the actual impact of such initiatives – in this case the citizens' initiative

– are limited so is the democratic legitimacy.⁵⁵ It is a step forward in the right direction, though.

One might ask how the impact of the EU citizens' initiative could be strengthened. Could we look towards the national level for inspiration? To some extent every member state has a unique political context. However, at the same time there seems to be some coherence between the national political culture as regards citizens' initiatives and the willingness and ability to use the EU citizens' initiative. Member states such as Spain are interesting. As shown, Spain has amended its citizens' initiative process lifting a number of the previous restrictions and thereby increasing the usage of citizens' initiatives. Maybe the EU could copy this for instance by introducing an extension of the time limit for signature collection. As the data showed 11 proposed EU citizens' initiatives did not reach the required number of signatures within the 1-year time limit. Furthermore, the initiative on "Water and sanitation are a human right! Water is a public good, not a commodity!" reached the threshold in two more member states after the initiative was handed in to the Commission. These data might suggest that an extension the time limit could have an impact on the number of citizens' initiatives that pass the first step of the process. However, based on the Spanish experiences it is far from given that such reforms would have any impact on the legislative outcomes. Lowering the threshold could of course be another possibility even though no direct link between national impact and lower thresholds could be established. In relation to the EU citizens' initiative it can be said that by lowering the thresholds, EU could obtain more democratic legitimacy (input legitimacy) by enabling more initiatives to reach the Commission making new EU legislation possible to a higher extent. Then we have the hindrance of EU citizens not being able to fulfill the registration criteria on:

"The proposed citizens' initiative falls manifestly outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties." In relation to this it could be considered whether it would be possible to offer more legal support to the formulation of citizens' initiatives since it seems that the EU legal area appears complex to EU citizens. Furthermore, it could be made easier for citizens' to propose ideas to the Commission which did not necessarily have to be presented as a proposal for new legislation - this way, maybe copying petition initiatives at the national level.⁵⁶ As regards the

⁵⁵ See in this context Fritz W. Scharpf, *Governing in Europe: Effective and Democratic?*, Oxford University Press 1999 and Vivien A. Schmidt, *Democracy and Legitimacy in the European Union Revisited: Input, Output and Throughput*, *Political Studies* 2013, vol. 61, 2-22, on the legitimacy of EU. The authors define the legitimacy issue as a matter of input-, output-, and 'throughput'-legitimacy (the latter is an addition by Schmidt). The output legitimacy is the concrete effects of EU policies, input-legitimacy is the openness of the EU towards popular influence and the 'throughput'-legitimacy is the EU's ability to establish decision-making processes that encourages participation and respects diversity of the populations during discussions and negotiations. See Schmidt, 10 ff.

⁵⁶ There exist a petition right to the European Parliament, Article 227 in the Treaty on the Functioning of Europe. This petition rights must be seen in connection with Article

final step of the procedure where the Commission considers whether a citizens' initiatives should be turned into new legislation an effective amendment could of course be to make it at least in some cases legally binding on the Commission to propose the legislative proposal – this could for instance be based on an especially high threshold. In member States such as Poland national citizens' initiatives must, when having been preliminary legally examined and backed by 100.000 signatures, be debated in Parliament as ordinary bills. The success rate in Poland is 13.70 %. Interestingly, the regulation on the EU citizens' initiative requires a law-review every third year and thereby the possibility of upgrading the system exists.⁵⁷ Never-the-less, none of the just mentioned ideas for improvement has yet been introduced in order to strengthen the impact of the EU citizens' initiative.

However, as mentioned earlier we only have quite few data at this point. Hence, the tentative conclusions we have presented must be seen in this light and may be viewed as theses that might be tested further at a later point when more data exist.

CONCLUSION

Though, the introduction of citizens' initiatives across Europe since the 1990's at both the national level and the EU level (and in some cases even at the local level) have provided the European citizens with new possibilities of affecting the legislative initiatives the actual impact is rather limited. The success rate at the national level is varying but generally low measured in legislative implementations. At the EU level it is 0 %. This can be due to a number of factors such as threshold, time limits for collecting support and other procedural requirement. Political culture and tradition can be added to this list and as shown there seems to be a certain synergy between the political culture and tradition at the national level and at the EU level. However, we also saw a trend of countries with little tradition for direct democracy elements that were active in initiating EU citizens' initiatives maybe as a reaction to the new possibility presented to them.

In conclusion, there is no doubt that we see a new trend of direct democracy elements at all levels and that the involvement of citizens' has increased. However, at least at this point the introductions of citizens' initiatives have had varying effects. Thus some of the new initiatives might be characterized as having more a symbolic character than a real democratic impact. This is not to say that the symbolic character is not important. Other initiatives such as the Polish or potentially the Portuguese might prove to become important direct democratic tools nationally spilling over at a transnational level to eventually enhance the EU citizens'

225 according to which the European Parliament by a majority can request the Commission to initiate new legislation.

⁵⁷ See Bruno Kaufmann, *Transnational 'Babystep': The European Citizens' initiative* in MAIJA SETÄLÄ AND THEO SCHILLER (eds.), *Citizens' Initiatives in Europe, Procedures and Consequences of Agenda-Setting by Citizens*, Palgrave Macmillan 2012, 240.

initiative. Furthermore, as mentioned in the paper we might gain a broader perspective if we do not solely focus on whether legislation is adopted. The attention of the political actors will in many cases have been drawn towards the new ideas and even though legislation is not immediately adopted there might be a long-term impact, which is more difficult to measure. New action based on existing EU legislation might be taken, there could be an effect on the interpretation of existing EU legislation and a supranational discourse in an EU public space. Finally, the trend we are witnessing might be the start of a longer process of giving the citizens and EU citizens more influence on political decision making and stimulating the democratic culture. Otherwise, one might (at least in some cases) fear that the developments end up mainly as a way for national and EU political actors to gain a sham democratic legitimacy.