

Article

Civil Society Organizations' Participation in the EU and Its Challenges for Democratic Representation

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Submitted: 29 September 2016 | Accepted: 6 December 2016 | Published: 21 December 2016

Abstract

Online consultations and the European Citizens' Initiative (ECI) are tools that have been put into place by the European Union (EU) in order to increase the participation of citizens and Civil Society Organizations (CSO) in its politics and policy making. The current CSO representation at the system level of the EU is claimed to be biased in favor of the interests of economic producers and CSOs coming from old member states. The central question of this article is whether these tools help make participation more representative of the diversity of societal groups within the EU. The concept of 'actor representativeness' as well as 'discourse representativeness' will be applied in order to answer this question.

Keywords

actor representativeness; civil society organization; discourse representativeness; European Citizens' Initiative; European Union; online consultations; participatory democracy

Issue

This article is part of a multidisciplinary issue of *Politics and Governance*, edited by Andrej J. Zwitter (University of Groningen, The Netherlands) and Amelia Hadfield (Canterbury Christ Church University, UK).

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1. Introduction

This article is concerned with Civil Society Organizations (CSO) and the role accorded to these organizations in contributing to citizens' representation within the European Union (EU).¹ At the turn of the century, much attention has been given to CSOs in the context of the EU's democratic deficit. The standard model of representative democracy privileges other forms of political participation,

notably voting in or standing for elections for the European Parliament.² The idea to complement this standard model with CSO participation departs from the assumption that increasing opportunities for citizens to influence EU-level policy would foster engagement with the EU.³

With the above idea in mind, the drafters of the Lisbon Treaty have explicitly acknowledged existing channels as well as having created new channels for participation.⁴ The principle of representative democracy has

¹ CSO refers to "a range of organisations which include: the labour-market players (i.e. trade unions and employers federations—the 'social partners'); organisations representing social and economic players, which are not social partners in the strict sense of the term (for instance, consumer organisations); non-governmental organisations (NGOs), which bring people together in a common cause, such as environmental organisations, human rights organisations, charitable organisations, educational and training organisations, etc.; community-based organisations (CBOs), i.e. organisations set up within society at grassroots level which pursue member-oriented objectives, e.g. youth organisations, family associations and all organisations through which citizens participate in local and municipal life" (European Commission, 2002).

² The standard model of democratic representation works through institutions staffed by elected officials. The elections are important for two reasons: Firstly, because by the 'one person one vote' rule, political equality has been translated institutionally in a manner that gives citizens not only the right to participate in the authorization of the political leaders that represent them but also in their possible dismissal in the next election. The second reason is that political parties in elections compete on the basis of a program that aggregates voters' preferences in such a way that it finds maximum appeal and through this program links voters to (coalitions of) politicians.

³ In addition, non-institutionalized attempts for participation happen in the last years, such as massive protest against the EU–Canada Comprehensive Economic and Trade Agreement (CETA) by means of self-organized online petitions.

⁴ Political participation by citizens refers to the activities of citizens and their associations directed at influencing the policy of governments or international organizations. With respect to the EU such activities can range from 'voting in elections for the European Parliament', 'contributing to a consultation organized by the European Commission' to 'campaign for an ECI'.

been declared to be foundational in article 10 of the Treaty of the European Union. In addition, in article 11 the principle of participatory democracy has been established and is conceptualized as a complement to the system of representative democracy.⁵ The participatory mechanisms described in article 11 are meant to improve the democratic legitimacy of the EU by stimulating direct exchanges between citizens, organizations of the member states, and the EU institutions. Firstly, a constitutional foundation is given to the practice of involving societal groups in the development of EU policies. (Marxsen, 2015, p. 153). Such a practice has existed throughout the process of European integration but has predominantly taken place in the back rooms of Brussels. Only since the late 1990s, has this practice, in addition, taken the form of open consultations by the Commission. Secondly, the article describes mechanisms meant to involve citizens in transnational exchanges regarding the EU's course, especially by stimulating horizontal exchange between citizens and organizations; in other words the EU wants to create a European public and political sphere.

However, increasing CSOs role in the EU policymaking could increase citizens' participation but it may not necessarily help in making the participation of societal groups in the EU more representative. Since the 1980s, many scholars have criticized CSO representation at the system level of the EU for being biased and skewed in favor of economic producer interests.

The central question of this article is whether online consultations and the European Citizens' Initiative (ECI) have been helpful in making CSO participation more balanced and representative.⁶ In order to answer this question, different concepts of representation and representativeness need to be explained. Firstly, this article is concerned with *representativeness of CSOs at the system level* which must be distinguished from *organizational representativeness of CSOs*. Secondly, such *representativeness of CSOs at the system level* can be assessed by looking at *actor representativeness* or *discourse representativeness*. By elaborating on the latter concept, introduced by Dryzek and Niemeyer (2008), this article will explain how it differs from the more conventional criterion of representativeness that focuses on actors; *discourse representativeness* better fits with citizens' fragmented identities.

Section 2 will explain how both indicators of representativeness are relevant for assessing the effects of online consultations and the ECI on the *representativeness of CSOs at the system level*. In addition, I will explain what data and sources have been consulted and analyzed in order to make such an assessment.

Section 3 will explain how CSOs have been assigned a role in solving the EU's democratic deficit. Section 4 ad-

resses the claim that CSO representation at the system level is biased in favor of economic producer interests.

In section 5 and 6, the effects of online consultations and ECIs on representativeness of CSOs at the system level are described. In the conclusion (section 7) the central question of this article will be answered.

2. Central Concepts and Methods

What would democratic representation of CSO at the EU level entail? Recent publications concerning this issue make two conceptual distinctions that are relevant here, firstly, between *organizational representativeness* and *representativeness of CSOs at the system level*. Organizational representativeness refers to the question whether 'the positions defended by individual organizations are a fair reflection of their constituents' views' (Rodekamp, 2014, p. 41). Rodekamp (2014) and Kröger (2016) have researched the extent to which CSOs meet such a criterion of organizational representativeness. This article will focus instead on the representativeness of CSOs at the EU system level. Representativeness of CSOs at the system level concerns the question of whether the various interests existing in society are equally represented at the level of government (or EU) relations with and consultations of CSOs (Rodekamp, 2014, p. 41).

The second conceptual distinction relevant to this research is between *actor representativeness* and *discourse representativeness*. Both concepts of representativeness assume that a certain kind and level of correspondence between interests present in EU-CSO relations and European society at large is required. With 'actor representativeness' the focus is on actors and the question whether the actors involved at the EU system level are in proportion to the number of such actors in society. This option, in which actors are central, is reminiscent of Hanna Pitkin's definition in which representation consists of 'making present of that which is absent' by a representative who resembles the represented, either in the geographic or the demographic sense (Kröger, 2016, p. 12; Pitkin, 1967; Stone, 2013, p. 360).⁷ The explicit or implicit standard of this idea of representation is that the diversity and number of representatives, such as the number of women, minorities or people coming from a specific sub-region, should be proportional to the diversity and number of people living in the areas that they represent. However, as will be elaborated on below, this idea of resemblance between represented and representatives has been declared outdated in political theory.

The concept of *discourse representativeness* is based on the idea that all relevant discourses present in society should also be present in the deliberations at the EU

⁵ According to the principle of representative democracy, citizens of the European Union shall be represented by the European Parliament as well as the governments of their states.

⁶ Notwithstanding the possessive pronoun 'citizens' in the label, the ECI in practice is normally used by organizations and not by individual citizens.

⁷ According to Stone (2013, p. 360), geographic representation prioritizes the link between a representative and the geographical area he or she comes from. Demographic or descriptive representation means that representatives should share important social and economic characteristics with their constituents, such as social class, gender or ethnicity.

system level.⁸ Discourse refers to a way to conceptualize an issue and put it into the narrative framework of a broader perspective, such as the neoliberal discourse does by framing unemployment as an individual responsibility. The idea of representation by discourses is developed by Dryzek and Niemeyer (2008) who, embracing Harré and Gillett's (1994) idea of the self, acknowledge how current identities are complex and multifaceted. Because people's identities are complex, fragmented and fluid, Dryzek and Niemeyer (2008), as well as other scholars, have searched to develop a more dynamic concept of representation. Kröger (2016), for example, with regard to the (individual) organizational representativeness of CSOs, has put forward the *interactive representative relationship* between the represented and the representative.⁹ However, here in this article we engage with CSO representativeness at the EU system level. Dryzek and Niemeyer's (2008) concept of discourse representativeness, in which all relevant discourses on an issue should be represented in the deliberations of the EU policy process concerning it, seems to fit best with the need to acknowledge the complexity, multitude and variability of identities at this system level.¹⁰ These authors claim that people should be represented primarily by discourses, and only secondarily by actors speaking on behalf of such discourses. The authors provide three reasons for this. Firstly, the representation of all relevant discourses offers better guarantees of the rationality of policy. This is because the focus is on whether all discourses are present, and in turn whether all vantage points for criticizing policy are represented, as opposed to having a focus on the proportion to which people subscribe to a particular discourse. Secondly, because we are 'selves that inhabit different discourses', having actors proportionally represented instead of all relevant discourses would only do justice to some of each person's interests, identities, values and would leave others unaddressed. Instead, all discourses have to be represented in order for the individual to be represented in their entirety. A third reason links with the idea that some groups' discourses, such as discourses formulated from women's perspectives, have been historically excluded from the political agenda. Having such groups proportionally represented would lead to unitary framing and the marginalization of what could be relevant differences in interests, for instance between black and white women. Having all relevant discourses represented provides some room for maneuver and makes fluid positions possible instead of fixed roles.

This article will analyze Quittkat's (2013) and Marxsen's (2015) research on the participation of CSOs

in online consultations by the EU. These scholars looked at the geographical origin of the actors participating in online consultations as well as the economic interests they represented. Section 4 will demonstrate how they apply the concept of actor representativeness in assessing representativeness.

Concerning the participation in and subjects addressed by ECIs, this article presents primary data. With regard to geographical origin, data have been gathered on whether the initiators of ECIs are from old or new member states of the EU. Here the concept of actor representativeness has been applied. With regard to economic interests, the concept of discourse representativeness has been applied. The subjects addressed, firstly, have been categorized in terms of policy fields. The policy fields; Consumers, Economy and Monetary Affairs, Employment and Social Affairs, Enterprise and Single Market all belong to the economic sphere (see section 6, table 1, indicated with 'x' in the last column). Secondly, by looking more closely at the nine ECIs belonging to this sphere, the presence of producer interests has been traced.

3. The Role of CSOs with Regard to EU's Democratic Deficit

CSOs have been accorded a role with regard to solving the EU's democratic deficit as compensators for the institutional and social deficiencies of EU politicians and political parties and the absence of an EU *demos*. The deficiencies of EU politicians and political parties in this respect have been highlighted in the view of the deficit as an institutional deficit, in which the deficit is mainly 'a mismatch between policies increasingly operating at the EU level while politics still mainly operates at the national level' (Kröger, 2016, p. 25). The mismatch is most clearly demonstrated by the fact that the elections of the European Parliament (EP) are second-order elections as voters' choices are predominantly determined by how they feel about the political parties in their national governments (Schmitt & Toygür, 2016). CSOs are thought to make up for such weak relations between MEPs and the represented, by not only contributing to effective and efficient problem solving, but also functioning as 'transmission belts' for bringing the values of citizens to the EU.

The view of the democratic deficit of the EU as social deficit regards its social deficiencies, more precisely the absence of a *demos*, as the main problem for EU's democracy. *Demos* refers to the people of a nation forming a political unit including a sense of recognizing each other as members of the same polity (Kröger, 2016, p. 175; Weiler, 1991). The development of a *demos*-equivalent

⁸ Dryzek and Niemeyer understand a discourse as 'a set of categories and concepts embodying specific assumptions, judgements, contentions, dispositions, and capabilities. It enables the mind to process sensory inputs into coherent accounts, which can be shared in intersubjectively meaningful fashion' (2008, p. 481).

⁹ The represented instead of putting his/her trust in resemblance with the representative, nowadays, conceives of the representative as different from himself or herself with respect to political interests, beliefs and goals.

¹⁰ The issue of representativeness at the system level concerns the question whether the various interests existing in society are equally represented at the level of government relations with and consultations of CSOs. For a clear explanation of the distinction with representativeness at the organisational level, see Rodekamp (2014, p. 41).

at the EU level, so being outside the framework of a nation state, is difficult due to the diversity of languages and identities. A pre-requisite for such a development would be the creation of a public sphere for debate that could function as an authoritative channel of representation of viewpoints. CSOs, in addition to political parties and the media could play a role in this and could become a key player because they are expected to foster mutual trust between citizens and to construct common European interests.

The proponents of the thesis that CSOs can solve the EU's democratic deficit by compensating the deficiencies diagnosed above find empirical support for their expectations in existing representative democracies in nation states. Firstly, CSOs already act as alternative mediators of social interests. In European nation states citizens have disengaged from the standard model of representation as demonstrated by statistics concerning electoral turnout, political party membership, etc. (Heywood, 2013, pp. 444–447). Secondly, non-electoral forms of representation in policy making already exist alongside the electoral forms in such democracies, for example in the form of functional representation of organizations of employers and employees. Thirdly, as Kröger (2016, p. 11) contends, in addition to—and within the framework set by—representative institutions, non-electoral representation by CSO has unfolded in such national representative democracies by means of fora and informal political processes that are part and parcel of a functioning public sphere.

In short, CSOs are expected to compensate for the deficiencies mentioned above by two means: Firstly, by creating a public sphere in which CSOs together look for European wide solutions to economic and societal problems, and where they are willing to bargain and make deals resting on compromises for the sake of the public good; secondly, by making EU institutions responsive to the broad range of interests represented by these CSOs as well as the proposed solutions that result from their collective bargaining. However, acknowledging CSOs' function in contributing to EU policy in this manner would also require attention to the question of whether the totality of CSOs involved in such processes would be representative of the interests that are present in society.

The next section will explain how positive expectations with regard to CSOs role in democracies are connected to pluralist's assumptions concerning equal chances of access for interest groups to policy making. However, such assumptions have been criticized and many scholars have pointed at the bias that exists in CSO representation at the EU system level.

4. The Bias in CSO Representation at the EU System Level

Robert Dahl (1961) and Lindblom (1977) have already defended the positive role of groups in politics long ago. In their view, pluralist democracy is a form of democracy that operates through the capacity of organized groups and interests to articulate popular demands and ensure responsive governance (Heywood, 2013, p. 101). Pluralists, such as Dahl and Lindblom, believe democracy fares best in political systems in which a wide variety of interest groups exist.¹¹ Much like the adherents of the institutional deficit approach above, the pluralists do not want to have the input of interest groups to replace that of elected representatives; instead the former would have to complement the latter. Well-balanced political decision making would be served by interest groups operating alongside the standard model of democratic representation.¹²

The pluralists have formulated the following conditions for a healthy pluralist democracy that would produce well balanced decision making: firstly, the political power would have to be widely dispersed amongst the competing groups; secondly, the group leaders would have to expose a high degree of internal responsiveness towards their members; and, thirdly, the governmental machine would have to be neutral and sufficiently fragmented to offer these groups a number of points of access (Heywood, 2013, p. 101). In the case of CSOs' relation with the EU, the third condition seems to be more or less fulfilled, as the EU offers many access points for groups' efforts to influence (Héritier, 2003). The second condition refers to the organizational representativeness and not the representativeness of CSOs at the system level concerned in this article.

This article mainly engages with the first pluralist condition, the dispersal or equal distribution of power over interest groups or CSOs. The pluralists themselves believed that such equality would be possible. In fact their positive expectations regarding CSOs were based on a twofold assumption. Firstly, that all societal interests have an equal chance of being organized and, secondly, that interest groups or CSOs compete on an equal footing for access to policy makers. However with respect to the first assumption, Olson (1965) concluded that the larger the group of individuals that share an interest, the harder it is to mobilize the individuals involved into collective action because of the free-rider-principle.¹³ In addition, Olson claimed that some interests will be forgotten and 'suffer in silence' because they would lack the resources to make themselves heard (Olson, 1965, pp. 165–167; Rodekamp, 2014, pp. 41–42).¹⁴ Therefore, with regard to the second plu-

¹¹ Pluralists consider group politics as 'the very stuff of the democratic process' (Heywood, 2013, p. 248).

¹² Political resources should be more or less equally distributed over such groups. However, as Dahl acknowledged, political resources such as money, time, knowledge and control over jobs, each on its own, are unequally distributed. In his empirical study of the distribution of power in New Haven he concluded that the politically privileged and the economically powerful are more powerful than ordinary citizens but that there was no ruling elite, in the sense of a group that was able to dominate overall and permanently (Dahl, 1961).

¹³ The individual will enjoy the benefit accruing from a collective effort without him or herself actually contributing to the effort.

¹⁴ Kröger points at the historical example of how women longtime have been marginalized and how this has curtailed their possibilities of politically organizing themselves and formulating what would be in women's interests and putting the issues concerned on the political agenda (2016, p. 20).

ralist assumption, Olson predicted that the system which represents groups' interests, instead of being balanced, will be skewed in favor of interest groups who are able to mobilize easily and have a material advantage.

Olson's theoretical prediction has been empirically confirmed within the EU. Streeck and Schmitter (1991, p. 137) demonstrated that associations of business interests registered in Brussels 'vastly outnumber' those of labor and that individual firms and sectoral and sub sectoral trade associations at the EU level primarily defend *producer* interest, such as 'demanding protection and/or (de)regulation of product markets' rather than defend their interests as *employers* (1991, p. 141). Rodekamp concludes that 'various interests are not equally represented' and refers to Berkhout and Lowery (2010), Greenwood (2007), Kohler-Koch (2010) all 'citing a dominance of business over general interest organisations in the EU' (2014, pp. 4, pp. 70–74).

5. Online Consultations

Most of the online consultations are conducted by using the online consultation platform 'Your voice in Europe'.¹⁵ The Commission announces the consultations on its' web portal as well as on the home pages of the Directorates-General (DG). Such posts convey information concerning the issue addressed and allow participants to either answer (semi) standardized questionnaires or to make comments regarding draft documents by e-mail or online. The Commission's purpose in undertaking these consultations is not only to make the EU more democratic by making it more inclusive, but also to make better policy by mobilizing external knowledge. Individual citizens do participate in the Commission's consultations but the greatest level of involvement comes from stakeholders, which are private companies, business associations, public authorities and NGOs.

Marxsen (2015) and Quittkat's (2013) have addressed the question whether online consultations contribute to systemic representativeness of CSO at the EU level. Similar to the scholars above they regard the state of CSO participation in the EU before the implementations of new tools, such as online consultations and the ECI, as *biased*: multinationals and trade organizations are the dominant actors in the semi-formal and informal processes of decision making of the EU.¹⁶ In addition, Quittkat (2013, p. 106) mentions that the interests of CSOs of the core member states tend to be better served in the EU than those of the new member states, located in the periphery of the EU.

Taking into consideration this twofold bias, Kohler-Koch and Quittkat (2013) and Kröger (2016) agree that CSO participation can only be democratically legitimate if a broader, more inclusive, representation of interests at the EU level would evolve from new policy than currently exists. A more inclusive and better balanced deliberation at the input side of EU decision making, according to these authors, is one of the goals to be attained with the introduction of online consultations and the ECI.¹⁷

Therefore, Marxsen (2015) and Quittkat (2013) did research into the pattern of participation in the online consultations by looking at the actors that participated (actor representativeness). Marxsen found that in more than 70% of all consultations in 2011, business formed the largest group of participants (2015, p. 162).¹⁸ This author contends that private companies and business interest groups establish a continuous presence in online consultations, that only a few trade unions and consumer protection organizations can match (Marxsen, 2015, p. 162).

According to Quittkat, in the policy fields of *public health* and in *social affairs*, a quarter and one thirds, respectively, of the participants are private companies, lobbyists and business interest associations. However, in the policy fields of *consumers* and *foods* half of the submissions were made by companies and trade organizations (2013, pp. 103–104).

In addition, Quittkat detected a territorial bias in the online consultations: CSO and public organizations coming from the economically strong northern and western EU member states, such as Germany and Great Britain, are overrepresented at the expense of the representation of those from the southern and eastern member states (Marxsen, 2015; Quittkat, 2013, p. 106).¹⁹

The conclusion of Marxsen (2015) and Quittkat (2013) concerning the pattern of participation in the online consultations is, firstly, that the range of interests involved has not really widened and that 'the field of participants is strongly biased' in favor of economic producer interests (Marxsen, 2015, p. 162; Quittkat, 2013, p. 85).²⁰ Secondly, CSO and public organizations coming from the old member states are 'overrepresented'.

The application of actor representativeness makes sense in the latter case of 'overrepresentation' of CSOs coming from old member states, as here we can decide whether their part is proportional to the part of old member states in the EU. However, this is less clear with regard to producer interests that are claimed to be dominant. What would a 'normal' representation be? What extent of producer interests would be legitimate? Would it be possible to formulate a norm in terms of an accept-

¹⁵ ec.europa.eu/yourvoice/consultations

¹⁶ Also see Rodekamp (2014, p. 70) who bluntly states that the European Commission's consultation relations with civil society groups is controlled by a small number of key players and calls such consultations 'an elite project'.

¹⁷ In addition, the authors point at the need for publicity of results and negotiations and accountability of the actors involved.

¹⁸ The main reason for this most probably lies with the economic resources (finances, man power, organisations) that are needed to establish a continuous presence in consultations, social and cultural interests in contrast with economic producers lack such resources.

¹⁹ The geographical bias, according to Marxsen (2015, p. 162), is to blame on the underdeveloped system of civil society organisation in the new member states.

²⁰ Quittkat's research is based on a large-N quantitative analysis, for more detail concerning the method (Quittkat, 2013, p. 87).

able proportion of economic producer organizations defending such interests? Such a norm is not referred to by the authors, neither would it be easy to formulate this, as the question is how to relate such proportion to the composition of the population: economic producers are not discernible from consumers; people are both producers and consumers at the same time.

Quittkat's and Marxsen's analyses and conclusions concerning the enduring dominance of economic producer interests in online consultations are important. The reason for their dominance is that they have the resources needed, such as money and personnel, to establish a continuous presence. Marxsen explicitly states that 'societal spheres' that represent 'social or cultural interests' are lacking such resources and therefore will lag behind (2015, p. 162). His concern here seems to be that certain policy fields, notably non-economic perspectives tend to become neglected or marginalized.

These authors applied the concept of actor representativeness in their assessment of online consultations whereas their criticism concerning the dominance of economic producer interest rather seems to refer to the absence and marginalization of discourses that are relevant for the issue at stake.

6. The ECI

The ECI is the other participatory mechanism that has been put into place to improve the democratic legitimacy of the EU. With the ECI, citizens can call on the European Commission (EC) to propose legislation on matters where the Commission has the competence to do so.²¹ The initiative is a considerably different instrument to online consultations. The most relevant difference here is that it is up to citizens themselves to propose an issue instead of them having to react to a proposal of one of the EC's Directorates-General. With this instrument citizens have been given the opportunity to put an issue on the political agenda of the EU or at least bring different discourses in the public sphere of the EU.²²

In order to submit an ECI to the EC, the initiators first have to register the proposed initiative.²³ Subsequently,

within a year they have to collect one million eligible signatures coming from at least seven Member States.²⁴ Once submitted the ECI becomes a formal demand to the Commission to propose legislation and the Commission is obliged, within three months, to communicate its legal and political conclusions.

The ECI has been much criticized for not really offering citizens a chance to put their issues of concern on the EU agenda. As the Commission is obliged to react to a submitted ECI but not to put it on the formal agenda, it has kept its monopoly of legislative initiative. In addition, many formal and practical hurdles have to be taken by the initiators even to gather enough signatures for an official submittal (European Parliamentary Research Service, 2015).²⁵

Only three of the initiatives registered by March 2015 (table 1) have gathered enough signatures to be officially submitted to the EC, *Right 2 Water*, *One of Us and Stop Vivisection*.²⁶ However, through the act of registering an ECI regarding an issue and trying to gather sufficient signatures to submit it to the European Commission (EC), public attention is gained and public debate can be aroused. The strongest aspect of this instrument to improve the representativeness of CSO participation in the EU might be the fact that it has a 'bottom up' character: the issue and the angle from which it is addressed, in other words discourse in which to frame it, is decided by (groups of) citizens themselves.

Therefore in the following assessment of representativeness of the ECI, in addition to the concept of actor representativeness, the concept of discourse representativeness has been applied; the former with regard to the question whether the geographic bias observed in the participation of CSO in online consultations also exists with regard to the initiators of ECIs. The term initiators refers to the members of the citizens' committee, a committee of seven EU citizens, each coming from a different member state, which organizes the initiative and manages the procedure through the whole process from initiation to the receipt of a conclusion from the European Commission.²⁷ In the table below, the initiators of each initiative are categorized as coming from old or new member states, or a mix of both.²⁸ From this

²¹ Article 1, Regulation (EU) No 211/2011. The Regulation, containing the rules and procedures governing the ECI, was adopted by the EP and the Council of the EU on 16 February 2011. The Citizen's Initiatives could be launched from 1 April 2012.

²² For the different steps of the ECI procedure see figure A1 in the appendix.

²³ Art. 4(2) of Regulation 211/2011 sets out four conditions that must be satisfied before a campaign is officially registered and can be launched. Firstly, a citizens' committee must be in place; secondly, the proposed initiative should prove to not 'manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purposes of implementing the Treaties'; thirdly, the proposed initiative must 'not be manifestly abusive, frivolous or vexatious'; and fourthly, the proposed initiative must 'not be manifestly contrary to the values of the Union', as set out in Article. The second requirement, Article 4.2 (b), has proven to be a real hurdle for all the proposed initiatives (European Citizen Action Service, 2014).

²⁴ In addition a minimum number of signatures has to come from each member state which equals the member states number of MEP's multiplied by 750.

²⁵ This report of the EPRS is essentially based on the findings and recommendations of five former reports on the implementation and functioning of the ECI: In addition to European Citizen Action Service (2014), these are Policy Department C of the European Parliament (2014). *European Citizens' Initiative—First Lessons of Implementation*; The European Ombudsman's own-initiative enquiry (OI/9/2013/TN) into the functioning of the European Citizens' Initiative (December 2013–November 2014), Organ's (2014), and Berg and Thomson (2014).

²⁶ For the list of initiatives that have been registered since the introduction of this instrument in April 2012 until March 2015, the subjects addressed, dates of registration and initiators, see table A1 in the appendix.

²⁷ These must be EU citizens who have a right to vote and who each live in a different country. The members of such committee must be *natural* persons Article 2(3) of the *Regulation (EU) No 211/2011*.

²⁸ The entrance year 2004 has been set as boundary between old and new in this respect.

categorization it can be concluded that actors from new member states do participate in initiating ECIs (five out of twenty-seven initiatives), mostly in collaboration with actors from old member states. However, their participation is not proportional (yet) to the part of new member states in the total number of the EU member states (thirteen out of twenty eight states).

The concept of discourse representativeness is applied by looking at the list of the registered initiatives and by categorizing the subject of each of these initiatives in terms of the policy fields of the EU in the table below.²⁹

To what extent have the issues addressed in ECIs been presented in discourses that are alternative to those focused on economic producer interests? Nine

²⁹ Based on the list of topics addressed and elaborated on at the official EU website <http://europa.eu>

Table 1. Registered ECIs chronologically ordered (date of first registration).

European Citizens' Initiatives	Initiating actors come from:	Field of policy:	Economy
1. Fraternité 2020	Old MS	Education, Training and Youth	
2. Dairy Cow Welfare	Old MS	Agriculture (Animal Welfare)	
3. Right 2 Water	Old MS	Human Rights	
4. Single Communication Tariff Act	Old MS	Consumers/Single Market	x
5. One of Us	Old MS	Human Rights	
6. Let me Vote	Old MS	EU Citizenship	
7. Stop vivisection	Old MS	Research and Innovation	
8. High Quality European Education for all	Old MS	Education, Training and Youth	
9. Responsible waste incineration	Old MS	Environment	
10. Suspension 2009 EU Climate and Energy Package	Poland and Czech Republic (+ Old MS)	Climate action/ Economic and Monetary Affairs	x
11. Central Online Collection Platform for ECI	Old MS	Justice and Home Affairs	
12. End Ecocide	Old MS (cross border movers) + Estland	Environment	
13. European Initiative for Media Pluralism	Old MS	Audiovisual and Media	
14. 30 km/h-making the streets loveable	Old MS	Environment	
15. End EU–Switzerland Agreement on Free Movement of People	Old MS	Single Market	x
16. Unconditional Basic Income	Old MS	Employment and Social Affairs	x
17. ACT 4 Growth	Balkans (+ Old MS)	Enterprise	x
18. Teach for Youth- Upgrade Erasmus 2.0	Old MS	Education, Training and Youth	
19. Do not count education spending as part of the deficit	Greece, Bulgaria + Old MS	Education, Training and Youth	
20. Weed Like to Talk	Old MS	Health/ Justice and Home Affairs	
21. European Free Vaping initiative	Old MS +USA	Enterprise	x
22. Turn me off!	Old MS	Environment	
23. New Deal 4 Europe	Czech Republic + Old MS	Enterprise/Environment	x
24. MOVEUROPE	Old MS	Culture	
25. An end to front companies	Old MS	Economic and Monetary Affairs*	x
26. For a socially fair Europe!	Old MS	Employment and Social Affairs	x
27. On the Wire	Old MS	Justice and Home Affairs	

* This initiative believes front companies to lead to criminal money laundering and threatening the stability of the financial system and the internal market.

ECIs out of the twenty-seven in the table have been categorized as a policy field that concerns the economic sphere (numbers 4, 10, 15, 16, 17, 21, 23, 25, and 26). The other eighteen initiatives concern *Human Rights, including political rights and rights of defendants, Animal welfare, Education, Environment and Culture*. Of the nine ECIs concerning economic issues, only in one case, number 21 which proposed to take e-cigarettes out of regulation by de-classifying them as tobacco or medicines. (Tobacco Products Directive), the discourse was clearly based on producers' interests.³⁰ In addition, a closer look has been given to the *Suspension of the 2009 EU Climate and Energy Package* (number 10) initiative. By suspending the *Climate and Energy Package* the initiators wanted to prevent member states spending their money for action on these subjects and instead to make fuel and energy cheaper. Because of the latter, one could say producer interests are involved. However, taking into regard the motive expressed by the committee itself the national states' economics and finances seem to be the primary interests involved.

Six of the remaining seven ECIs concerning economic issues, are focused on consumer interests (*The Single Communication Tariff Act*), the prevention of instability on the financial and internal market by preventing criminal money from entering the formal financial system (*An end to front companies*) or the restructuring of the economy from a social justice and/or environmental point of view: *Unconditional Basis Income* wants to strengthen social security arrangements, *Act for Growth* asks for public support for female entrepreneurship, the *New Deal for Europe* asks for investments in the production and financing of European public goods that are sustainable and protective for the environment and cultural heritage, *For a socially fair Europe!* wants to fight social exclusion and poverty in the EU.³¹ The seventh, *End EU–Switzerland Agreement on Free Movement of People*, is a rather peculiar initiative that mainly aims to punish Switzerland, a non EU country, for breaching the agreement concerning *Free Movement of People* with the EU.

Notably, none of the initiatives that concern the economic sphere was successful enough to be submitted to the Commission. In other words the successful initiatives; *Right to Water*, *One of Us*, and *Stop Vivisection* are noneconomic initiatives.

7. Conclusion

The answer to the question whether online consultations and the ECI have improved the representativeness of CSOs at the system level of the EU depends on whether the concept of actor representativeness or discourse representativeness is applied. With regard to online consultations, the former concept has been applied in research concluding the continued existence of a twofold bias, favoring CSOs coming from old member states and

defending economic production interests, respectively. However, regarding the latter, the concept of actor representativeness does not really fit, as to claim an overrepresentation of economic producers cannot be consistent without stating what presence of economic producers would be proportional and legitimate.

Therefore, in tracing the effects of the ECI on representativeness of CSOs at the system level, in addition to actor representativeness, discourse representativeness has been applied. The former has been applied by looking at what member states (old or new) the actors initiating ECIs came from, concluding that those coming from old member states are overrepresented, although actors from new member states are present. Applying discourse representativeness to the ECI leads to a positive conclusion about this tool's effect on representativeness of CSOs at the system level. This is, firstly, because many issues falling outside the economic sphere have been addressed and, secondly, of those falling within this sphere only one out of twenty-seven (e-cigarettes) was conceptualized in a discourse that made people look at the issue from the perspective of economic producer interests.

The ECI would need revision, because as it is, (potential) initiators are confronted with too many obstacles to make registering initiatives a popular option. However, with respect to discourse representativeness and a lively European public debate, the first three years have shown this instrument to be promising.

Acknowledgements

I wish to thank Jilles Hazenberg and Tobias Nowak for their comments on an earlier version of this article. All remaining errors are mine.

Conflict of Interests

The author declares no conflict of interests.

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³⁰ Some of the initiators were connected to an association of e-cigarette manufacturers.

³¹ In addition a fund for creating jobs for young people is included in the proposal.

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About the Author



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Appendix

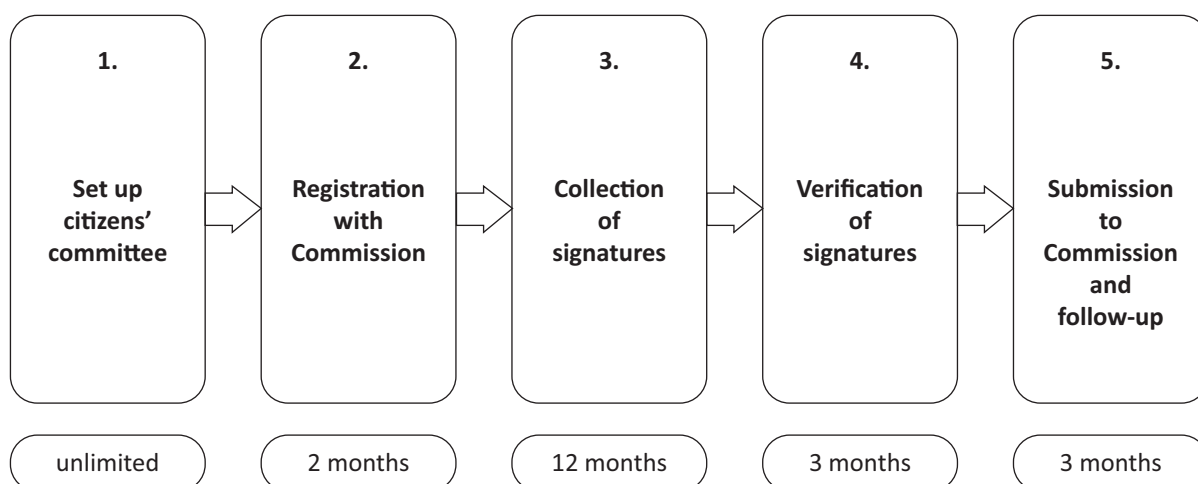


Figure A1. The different steps of the ECI procedure. Source: European Parliamentary Research Service (2015, p. 7).

Table A1. Subjects addressed and registration date per registered ECI until March 2015.

European Citizens' Initiatives	Subject	Registration Date*	Initiating Committee
1. Fraternité 2020	Expand exchange programmes and improve the current ones (Erasmus and European Voluntary Service).	9 May 2012	Luca COPETTI, Simona PRONCKUTÉ, Irina Adela POPESCU, Markus GASTINGER, Alessandra MIRABILE, Agnes Nikoletta DARABOS, Miguel OTERO-IGLESIAS
2. Dairy Cow Welfare	A EU Directive that guarantees improved animal welfare for dairy cows.	10 May 2012	Annamaria PISAPIA, Julie MIDDELKOOP, Ilaria IDA, Romana ŠONKOVÁ, Roger PETERSSON, Olga KIKOU, Leopoldine DE BROSES (NEE CHARBONNEAUX)
3. Right 2 Water	Campaign against water privatization.	10 May 2012	Anne-Marie PERRET, Jan Willem GOUDRIAAN, Frank BSIRSKÉ, Annelie NORDSTRÖM, Ivan KOKALOV, Rosa Maria PAVANELLI, Dave PRENTIS
4. Single Communication Tariff Act	End cross-border roaming charges.	10 May 2012 (Re-registered 3 December 2012)	Vincent CHAUVET, Martin WITTENBERG, Flora LE GOUGUEC, Adriano SHAHBAZ, Aleksandra HEFLICH, Stephanie ALIWELL, Pierre SHEPHERD
5. One of Us	Seeking an end to EU funding of activities involving destruction of human embryo.	11 May 2012	Patrick Gregor PUPPINCK, Filippo VARI, Josephine QUINTAVALLE, Jakub BALTROSZEWICZ, Manfred LIEBNER, Edith FRIVALDSZKY, Alicia LATORRE
6. Let me Vote	Extend voting rights of EU citizens living in other member states.	11 May 2012 (Re-registered 28 January 2013)	Philippe CAYLA, Alain BRUN, Monique VEAUTE, Jürgen VAHLBERG, Reinder RUSTENA, Lydia VAZQUEZ JIMENEZ, Nicolas DELABY

Table A1. Subjects addressed and registration date per registered ECI until March 2015 [cont.].

European Citizens' Initiatives	Subject	Registration Date*	Initiating Committee
7. Stop vivisection	Proposal to end animal experimentation and instead make compulsory the use—in biomedical and toxicological research—of data directly relevant for the human species.	22 June 2012	André MENACHE, Gianni TAMINO, Ingegerd ELVERS, Daniel FLIES, Claude REISS, Nuria QUEROL VIÑAS, Robert MOLENAAR
8. High Quality European Education for all	Establish a stakeholder platform to formulate a European policy on school education.	16 July 2012	Ana GOREY, Caroline HETTERSCHIJT, Christopher WILKINSON, Michèle RETTER, Monika MANGHI, Friedrich PHILIPPS, Johannes THEINER
9. Responsible waste incineration	Pointing at the environmental impact of waste incineration.	16 July 2012	Gaél DRILLION, José DRILLION, Daniel DRILLION, Sylvie DAUBRESSE, Nelly DAUBRESSE, Mariette DAUBRESSE
10. Suspension 2009 EU Climate and Energy Package	Change existing policy in the Climate and Energy area, make fuel and energy cheaper and allow member states to use their own natural energy resources in order.	8 August 2012	Ludwik DORN, Paul OAKDEN, Marin CONDESCU, Miroslav ROMANOVSKI, Robert Alexander STELZL, Alexander OIKONOMOY, Anders Primdahl VISTISEN
11. Central Online Collection Platform for ECI	Improving ICT infrastructure support for ECIs	27 August 2012	Joerg MITZLAFF, Marcin DZIERZAK, Matúš SÁMEL, Karli KUUSKARU, Jakob Frederik ANTHONISEN, Jean-Pierre SCHENGEN, Michael LAMBERT
12. End Ecocide	Adopt legislation to prohibit, prevent and pre-empt Ecocide, the extensive damage, destruction to or loss of ecosystems.	1 October 2012 (Re-registered 21 January 2013)	Prisca MERZ, Viktoria HELLER, Thomas EITZENBERGER, Valerie CABANES, Tania Lúcia ROQUE, Kadri KALLE, Ramón MARTINEZ
13. European Initiative for Media Pluralism	Protecting media pluralism through partial harmonisation of national rules on media ownership and transparency, conflicts of interest with political office and independence of media supervisory bodies	5 October 2012 (19 August 2013)	Ségolène PRUVOT, Cayetana DE ZULUETA, Ioana Adriana AVADANI, Granville WILLIAMS, Esther DURIN, Peter MOLNAR, Asen Petrov VELICHKOV
14. 30 km/h—making the streets liveable	Setting a default speed limit for urban area's	13 November 2012	Heike AGHTE, Martti TULENHEIMO, Janez BERTONCELJ, Jeannot Marie Martin MERSCH, Samuel MARTÍN-SOSA RODRÍGUEZ, Hanns Michael MOSHAMMER, Roderick Arthur Charles KING
15. End EU–Switzerland Agreement on Free Movement of People	Call to terminate the Agreement on freedom of movement (21 June 1999) between the Swiss Confederation, on the one hand, and the European Community and its Member States.	19 November 2012	Michael WANG, Boris STEFFEN, Sandra SEIDL, Andersson MARIA, Leevi VIRTANEN, Adam NOVAK, Martin JANSEN

Table A1. Subjects addressed and registration date per registered ECI until March 2015 [cont.].

European Citizens' Initiatives	Subject	Registration Date*	Initiating Committee
16. Unconditional Basic Income	Encourage EU member states to explore cooperation to improve social security	14 January 2013	Klaus SAMBOR, Ronald BLASCHKE, Sepp KUSSTATSCHER, Olympios RAPTIS, Anne MILLER, Stanislas JOURDAN, Branko GERLIC
17. ACT 4 Growth	Four concrete proposals for policy intervention to develop female entrepreneurship as a strategy for sustainable economic growth in Europe.	10 June 2013	Madi SHARMA, Marta TURK, Dennis Andrew USHER, Henrike VON PLATEN, Katharina CORTOLEZIS-SCHLAGER, Thaima SAMMAN, Piroška SZALAI
18. Teach for Youth—Upgrade Erasmus 2.0	Eliminating educational inequity within the EU by enrolling highly motivated and high-achieving recent EU college graduates and postgraduates to teach for one to two years in urban and rural low-income communities throughout the EU.	10 June 2013	Jean-Sébastien MARRE, Marie CRAMEZ, Moritz ABSENGER, Jack DADSWELL, Miriam TARDELL, Claartje VAN DAM, Delia TOJA DE LA MUELA
19. Do not count education spending as part of the deficit.	Exclude from the calculation of each country's public spending deficit, that part of Government spending for education that is lower than the last 5-year Eurozone average.	6 August 2013	ΠΑΝΑΓΙΩΤΗΣ ΠΑΠΑΔΟΠΟΥΛΟΣ, LIGIA DECA, ΙΑΚΩΒΟΣ ΨΑΛΤΗΣ, Dessislava ANGELOVA DIMITROVA, Marie TRELLU-KANE, Paulo Alexandre DIAS DE VASCONCELOS AFONSO, Ragnar WEILANDT
20. Weed Like to Talk	Legalizing cannabis, making the EU adopt a common policy on the control and regulation of cannabis production, use and sale.	20 November 2013	Pierre BALAS, Bendix FESEFELDT, Delia TOJA DE LA MUELA, Pieter David VERDAM, Gaele VAN BERWAER, Miriam TARDELL, Marta LORIMER
21. European Free Vaping initiative	Classification of electronic cigarettes and related products through legislation as general purpose recreational products, and not as medicinal, tobacco or similar products, regardless of nicotine content.	25 November 2013	Krisztián PIFKÓ, Markus KÄMMERER, Serge POPELÉMON, Monika CALVETTI-FÜRST, Marcin DURAJ, Scott Andrew FITZSIMMONS, Ditta DITEWIG
22. Turn me off!	Prohibit empty offices and shops from leaving their lights switched on	3 February 2014	Katalin JAKUCS, Fabian LADDA, Valeria DRIGO, Magali-Louise LAFEBER, Manuela GALAN, Manuela Petruta GHEOLDUS, Aristidis-Alain THEOFILOU
23. New Deal 4 Europe	A public investment plan to help Europe get out of the crisis through the development of knowledge society and the creation of new jobs especially for youth.	7 March 2014	Fausto DURANTE, Philippe GROSJEAN, Elena RODRIGUEZ ESPINAR, Jean Francis BILLION, Ivo KAPLAN, Giovanni RASTRELLI, Nikos LAMPROPOULOS

Table A1. Subjects addressed and registration date per registered ECI until March 2015 [cont.].

European Citizens' Initiatives	Subject	Registration Date*	Initiating Committee
24. MOVEUROPE	Creation of MOVEUROPE CARD. A card reducing transport and accommodation costs on the weekend of May 9th in order to celebrate the European Union in a European city (on an annual rotating basis).	24 March 2014	Niccolo Ruben PAGANI, Camille ANDRIEU, Louise ANDRIEU, Giselle ANDRIEU, Timea SUTO, Leyre Luisa AZCONA SANZ DE GALEANO, Katalin JAKUCS, Florian Alexander SPATZ, Ana DASKALOVA BOYKOVA
25. An end to front companies	Introduction of a legal instrument in the company law area, of measures to ensure the transparency of legal persons and legal arrangements.	1 October 2014	Chantal Anne Marie CUTAJAR, Benoit Jean François MORISSET, Ana Maria RODRIGUEZ RIVAS, Philipp KASTNER, Kurt KOPROLIN, Chiara MAINARDI CANTONI, Mariapaola CHERCHI
26. For a socially fair Europe!	Encouraging a stronger cooperation between EU Member States to fight poverty in Europe"	19 December 2014	Maxime ORHON, Paula Sánchez DE LA BLANCA DÍAZ-MECO, Yoann DANION, Tanja GOLDBECKER, Karl-Oskar MOGENFELT, Giulia FRAPPORTI, Paul LYONS
27. On the Wire	Strengthening communication privacy between private individuals by law and namely wiretapping of lawyer-client communications. A pre-requisite for the rights of defense.	9 February 2015	Laurent PETTITI, Aldo BULGARELLI, Josep NADAL RUSCA, Hugh MERCER, Yves OSCHINSKY, Stefan VON RAUMER, François MOYSE

* In the first two years of the ECI's existence campaigners experienced many logistics problems caused by unforeseen delays concerning certification of the online collection system and finding appropriate and affordable host servers (European Commission, 2015, p. 9). Four of the ECIs registered in 2012, the first year, have chosen to withdraw and re-register their initiative in order to win back time, the re-registration date is indicated between brackets in this column of the table.