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## **Taking stock of the European Citizens Initiative: Current dynamics and possible institutional trajectories**

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## Table of Contents

EXECUTIVE SUMMARY .....	4
1. INTRODUCTION .....	5
2. FRAMEWORK FOR ANALYSIS.....	6
3. BENCHMARKING THE ECI: A COMPARATIVE ANALYSIS.....	10
4. TAKING STOCK OF THE ECI .....	15
5 ECI, <i>QUO VADIS?</i> .....	27
REFERENCES .....	30
APPENDIX: CODEBOOK .....	33

## **EXECUTIVE SUMMARY**

In this report we take stock of the EU's most recent democratic innovation, the European Citizens Initiative (ECI). In doing so we adopt a threefold strategy. First, we unpack the institutional features of the ECI to situate it within a broader universe of relatively well understood mechanisms of direct democracy. Second, on the basis of an inventory of all ECI initiatives to date, we present some general trends regarding its use and functioning. The third, more speculative, analysis looks at possible institutional trajectories for the ECI based on our largely comparative analysis. Our findings suggest that the ECI is far from being unique and that some of the problems that surround its functioning are common to other systems. In addition, despite its novelty, we can already detect some general patterns as well as indirect effects on member states. Whether the instrument could ever fulfill its democratic potential remains very much an open question however. The evidence thus far presents a mixed picture.

## 1. INTRODUCTION

This report takes stock of the EU's most recent democratic innovation: the European Citizens Initiative (ECI). Legally provided for by the Lisbon Treaty and barely operational for more than three years, the ECI is already attracting attention among EU scholars as to its relative merits or demerits (Warleigh 2007; Conrad 2011; Dougan 2011; Monaghan 2012; Organ 2014; Boussaguet 2015). A core speculation animating much commentary is how this new institution is likely to evolve and with what impact (if any) on the EU's well-known democratic shortfalls. The potential for enhancing democratic legitimacy had long been recognised by EU scholars in anticipation of the ECI's actual implementation (Warleigh, 2007). For Monaghan (2012) the ECI has the potential to bring the political system of the EU closer to a participatory model of democracy and marks a change from an approach that has traditionally favoured the involvement of civil society organisations to one that focusses on individual citizen's participation (Monaghan 2012: 295-296). While for Conrad (2011) the ECI could contribute to "the transnationalization of citizen participation."<sup>1</sup> Yet, there have also been critical voices regarding the regulatory limitations placed on the ECI (Dougan 2011) and, more recently, of the Commission's overly formalistic and selective approach that could throttle the instrument's potential impact (Organ 2014). For some, the participatory turn that is widely claimed is but an illusion -tools such as the ECI are hardly going to be used, especially by ordinary citizens, and at best will be captured by the Brussels-based civil society elite (Boussaguet 2015). Which route the ECI takes and whether it fulfills its democratic expectations or decays into irrelevance is an open empirical question. In exploring this problematique we adopt a three-fold strategy.

First, we situate the ECI within a broader universe of relatively well understood mechanisms of direct democracy. Since the ECI is not unique and similar agenda setting initiatives exist in other polities too, we adopt a comparative perspective with respect to the functioning of this type of instrument. More specifically, our comparative design explores similarities and differences with regard to the functioning of instruments of direct democracy in multi-tiered polities with the aim of shedding light on the EU's ECI experience. Second, we take stock of all ECI proposals to date. Although the ECI is very novel, it has already generated a relatively large number of submissions --more than 50 to date. In this regard, there is already notable variation in terms of policy topics, actor mobilisation, lobbying style and the relative success of initiatives (from refused registration through to successfully concluded ones). The third level of analysis, takes on the forward looking question of where the ECI may be heading. In doing so we draw on the comparative insights from our institutional benchmarking exercise and empirical analysis of our inventory of ECI proposals. These insights, we argue, could shed light on whether the ECI evolves as a self-reinforcing instrument of direct democracy or whether self-undermining dynamics emerge as has been the case in other political systems.

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<sup>1</sup> A similar argument has also been made by Kaufmann (2012).

**2. FRAMEWORK FOR ANALYSIS**

We begin by attempting to situate the ECI within a broader range of possible democratic innovations that have a decidedly bottom-up dynamic in terms of putting policy issues on agenda. In this respect, it is possible to distinguish between three types of bottom up initiatives whereby citizens can put issues on the policy agenda (Jacobs 2014). Ranging from the weakest to the strongest, these instruments include petitions and two forms of citizens initiatives, the agenda initiative and citizen initiated referendum. It is important to clarify the analytical distinctions between them. Petitions are rather common and provided for in the constitutions of most member states of the EU as well as federations such as Australia, Germany and the United States (Preuss, 2012). However, petitions typically involve few formal requirements and are very non-committal in terms of obligations and actions required from political elites (Jacobs 2014). In other words, political elites enjoy very high discretion in dealing with petitions. As such, the scope for enhancing legitimacy of a petition is rather limited.

The next two categories have in many cases been bundled together under the label of *citizens initiatives* although there are important differences between them. Citizen initiatives, unlike petitions, generally have a distinct set of rules and require a certain signature threshold to be passed before an initiative is deemed valid. Drawing on Schiller and Setala's (2012) definition, citizens' initiatives are understood as procedures that allow citizens to bring new issues to the political agenda through a collective action process that involves the collection of a certain number of signatures in support of a policy proposal. In a subsequent stage, if a citizens initiative has satisfied the relevant procedural criteria, the policy proposal contained in an initiative can either be submitted to a popular vote (a referendum) or be dealt with in the parliament or another representative body. This brings us to a neat distinction regarding this form of bottom-up direct democracy. With an agenda initiative if the process has been deemed valid, the successful proposal is mediated by a representative body, such as a parliament or the executive, that decides whether or not to implement a new law. Minimally, an authoritative body at least discusses the issue. In what Schiller and Setala (2012) call a 'full-scale initiative', the successful signature gathering process is followed by a ballot vote. This second type of initiative can be best thought of as a citizen initiated referendum in which the citizenry directly decide on whether to adopt the proposal. This type of initiative is clearly the most far-reaching as it is more difficult for the legislator to ignore the outcome of a referendum.

**Table 1: Forms of bottom--up democratic innovation**

Instrument	Procedural requirements	Elite discretion	Policy impact
Petition	Loose	High	Very low
Agenda initiative	Regulated	Medium-high	Typically low
Citizen-initiated referendum	Regulated	Absent	Potentially high

Table 1 outlines some of the distinctions between the three instruments, which also shows why they should not be lumped together as similar categories (Jacobs 2014). A petition is at best a low investment tool that is typically rather loosely regulated. In terms of the political obligation to take any action on the basis of a submitted petition, the discretion enjoyed by political elites is very high. As a consequence, the potential to influence policy outcomes is correspondingly low. By contrast, with the citizen-initiated referendum the political discretion enjoyed by elites is absent since they are by-passed by the 'people' as the main decision-making body. With this un-mediated form of decision-making the scope for influencing policy outcomes is correspondingly high. As a result, this type of citizen initiative is regulated with stricter procedural requirements involving a host of eligibility criteria.

The agenda initiative is somewhat of a half-way house between the two, and can best be thought of as a mediated institution. Generally some official and grounded response from political bodies is required. In some cases, there could be a direct policy impact if political elites decide to take up the policy proposal contained in an initiative. What is somewhat paradoxical is that the agenda initiative's procedural requirements can be as strictly regulated as the more far-reaching citizen initiated referendum instrument as shown in Table 1. Indeed, it is arguably the case that the weaker agenda initiative is in some contexts more tightly regulated than the full scale variant.<sup>2</sup> As we shall see below, this tension is at the root of various critiques of the ECI.

### **The ECI as a form of democratic innovation**

In terms of democratic innovations, which drawing on Smith (2009) could be thought of as institutions that have been specifically designed to increase and deepen citizen participation with regard to decision-making, there seems to have been little experimentation with the citizen initiated referendum from a global perspective. Apart from Switzerland and Liechtenstein, which are clear outliers, only a handful of countries appear to have utilised the tool at the national level (e.g. the Baltic states, New Zealand, Slovakia and Uruguay).<sup>3</sup> This is hardly surprising since the introduction of new forms of citizen participation can face opposition, especially when they could potentially impose significant constraints on political elites as is the case with the citizen initiated referendum. Given its weaker form, the agenda initiative is much more amenable to political control than the full scale initiative. As a result it is more likely to be acceptable to politicians that are sceptical of the referendum device and prefer the parliamentary model as the most appropriate route to bring about enlightened decisions. As Schiller and Setälä (2012) point out, the agenda initiative neither challenges the idea of parliamentary sovereignty nor does it necessarily entail any change to the distribution of institutional power in representative democracies. It represents a compromise between promoters and opponents of direct democracy, and for this reason has become a viable option for democratic experimentation. Already widespread in many parts of Europe, the agenda initiative is used in some of the US states that do have provisions for the citizen initiated referendum (Cronin, 1989).

As noted already, there has been a fair share of experimentation in many democratic settings over the past couple of decades aimed at introducing innovations that foster increased citizen participation (Smith 2009). No doubt influenced by some of the broader normative theories aired by the academic community, the EU has not been immune to such practices. Indeed, there have been notable experiments in participatory and deliberative democracy that have involved citizens' conferences, deliberative polls and consultations of citizens during public policy-making --to name but a few forms. In a recent review Boussaguet (2015) has found such EU-level experiments wanting in terms of living up to their participatory or deliberative expectations. Unlike some of the aforementioned democratic innovations, which are characterised by more of an ad-hoc and experimental nature, the ECI is of a very different order. It represents the most significant attempt to open new institutionalised channels of citizen participation on EU affairs since direct elections were introduced to elect the European Parliament in 1979. Furthermore, as with the direct elections to the European Parliament, the ECI innovation is firmly locked within the Treaty structure. Unlike many of the looser forms of EU democratic experimentation that can be revoked at will, the ECI is here to stay. To be sure, it could be reformed through secondary legislation but abandoning the ECI would require a Treaty change. This raises an intriguing perspective. If the ECI is here to stay, then the critical question must be whether this democratic innovation is likely to become a 'self-reinforcing institution' or, alternatively, whether it could become 'self-undermining institution'. Thus framed, the onus is on specifying potential conditions that could lead to one or the other outcomes (see discussion below).

### **Evaluation framework and research design**

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<sup>2</sup> On the procedural regulation of the ECI see in particular Organ (2014).

<sup>3</sup> Supporting evidence for this point can be found from a simple query in the c2d database for a list of most recent citizen initiatives.

In their comparison of the functioning of direct democracy in federal systems, Mendez et al (2014) provide examples of what could be considered self-reinforcement or self-undermining institutional dynamics in the use of direct democracy. The case of Switzerland is used as an example of the former whereas Australia is shown to exhibit trends of a potentially self-undermining institutional processes related to the use of federal level direct democracy. Both cases started off with a similar foundational constitutional set-up that included provisions for mandatory federal level referendums for implementing constitutional changes. In one case, Switzerland, direct democracy has become institutionalised both in terms of its use and scope whereas in Australia after some initial success most attempts at constitutional change fail, around 80 per cent compared to nearly 75 per cent success rate for Switzerland for non-citizen initiated constitutional change (Mendez et al 2014). Given the extremely high failure rate (no successful federal referendum since the 1970s), alternative by-passing strategies have been sought, for instance, through the courts. Under such conditions an institution can become self-undermining.

Although not framed in such terms by Mendez et al (2014), the concepts of self-reinforcing and self-undermining institutional processes are drawn from new institutional theory. More specifically, they are defined by Greif and Laitan as such: in terms of self-reinforcing dynamics, an institution is reinforcing itself as more individuals in more situations would find it best to adhere to the behaviour associated with it (Greif and Laitan, 2004: 634). On the other hand, institutions can be self-undermining and the behaviours that they entail can cultivate the seeds of their own demise. Such processes of institutional change occur endogenously and only when the self-undermining process reaches a critical level (Greif and Laitan, 2004: 634).

The examples mentioned above relate to institutional dynamics that are played out over long drawn out historical processes. Furthermore, there is no necessary linear path towards one or other scenario. One could envisage a scenario whereby self-undermining dynamics set in and an institution languishes in a dormant state only to be revitalised at a later stage and vice versa. Such 'critical junctures' have also been studied from a new institutional perspective. As Greif and Laitan (2012: 639) note, a condition for self-undermining dynamics to set in is that the institution's implications constantly undermine the associated behaviour. On the other hand, a necessary condition for an institution to prevail over time is that the range of situations in which the associated behaviour is self-enforcing does not decrease over time.

The new institutional theory operates at a rather high level of abstraction. Therefore, we need to flesh out some of the domain specific conditions that could be used to evaluate these guiding hypotheses. Jacobs (2014) has highlighted some useful criteria for evaluating the ECI in terms of the degree to which it fills some of the legitimacy gaps it was designed to address. Drawing on the literature he suggest three dimensions of legitimacy, what is known as input, throughput and output legitimacy. Scharpf (1999) famously applied the concepts of input and output legitimacy to the EU. Input legitimacy refers to the participatory quality of the process leading to public policy-making, whereas output legitimacy focusses instead on the problem-solving quality of the laws and rules. Schmidt (2013) has argued that it is also necessary to analyse what occurs inside the 'black box' of EU governance. Throughput legitimacy concentrates on the space between the political input and the policy output by focusing on the quality and transparency of the governance processes.

Drawing on our domain specific theory related to dimensions of legitimacy, we can now specify some putative conditions under which the ECI could develop that would favour one or other of the two framing hypotheses.

- *Self-reinforcing hypothesis*: a self-reinforcing dynamic sets in whereby (1) 'Input legitimacy' is strengthened as a result of citizens being increasingly 'aware' of both the ECI's existence and the knowledge that citizens and civil society were involved in the process. The latter will play a critical role in mobilising support. (2) 'Throughput legitimacy' increases as over time the procedures are perceived as transparent and fair. Furthermore, mutually reinforcing institutional adaptation on the part of initiators and authorities occurs as the Commission provides consistent reasons for accepting or rejecting similarly framed proposals (3) 'Output legitimacy' is boosted as the ECI is perceived as



opening new channels of effective and responsive policy. Successful agenda initiatives are on the whole acted upon and the outcomes of the process are generally perceived as fair and not biased towards groups, such as the participation elite of highly educated citizens who always participate, special interests such as the Brussels lobby groups or even biased towards certain countries.

- *Self-undermining hypothesis*: a self-undermining dynamic sets in whereby (1) 'Input legitimacy is diminished by the fact that EU citizens are not aware of the institution or, if they are, do not trust it reflects the interests of ordinary citizens. (2) 'Throughput legitimacy' is questioned as the procedures are increasingly perceived as un-transparent and inconsistent. The procedure itself becomes increasingly inefficient, with bottlenecks in the signature gathering phases and glitches in verification process across the member states. (3) 'Output legitimacy' fails to materialise as the Commission either fails to react in terms of policy initiation, or if it does, the policy proposals gets diluted or abandoned as a result of the complexities of the EU's ordinary decision-making process, fueling further frustration. At the same time, to the extent that any initiative manages to pass the threshold, it is the usual suspects of educated, cosmopolitan elites and insider Brussels NGOs that participate.

In specifying some identifiable conditions and measurable outcomes that would lend evidence towards one of the two hypotheses we are provided with a tentative matrix for evaluating the ECI. However, one of the first problems that emerge is an obvious one: the ECI has been in existence for little more than three years. Given its novelty, it may be inappropriate to use benchmarks that are better suited to much longer drawn historical processes. While this may be true, the ECI has already generated a burst of activity that is revealing of certain initial trends. Furthermore, it is always possible to draw comparative lessons from other experiences. After all, the agenda setting initiative is not unique to the EU. Similar institutions have been implemented in other polities that have multi-tiered territorial structure. To this end, we pursue two research strategies that entail different comparative designs to address the question of where the ECI may be heading in terms of our framing hypotheses. The first seeks to draw comparative lessons by adopting a comparative federalism approach to assess similarities and differences in the availability of direct democracy mechanisms in federal systems. The second approach is centred on a within case comparison. Specifically, we analyse the evolution of the ECI and build a dataset that contains all proposal submitted to date. In addition to existing documentation and secondary sources, we create a number of additional theory guided variables. The two empirical analyses sections are presented next while the concluding section revisits our framing hypotheses with a view to shedding some tentative light on the question of where the ECI may be heading on the basis of our comparative analyses.

### 3. BENCHMARKING THE ECI: A COMPARATIVE ANALYSIS

Applying comparative federalism approach to various dimensions of EU politics has been a common research strategy among analysts of the EU (e.g. Kelemen 2005; Fabbrini 2004; McKay 2001, Mendez et al 2014). The rationale is straightforward: in terms of its political system the EU most closely resembles a special form of political organisation: a federal system. Depending on the specific research objectives, a comparative federalism approach can be revealing of the dynamics of EU politics. Drawing on this logic, we begin by examining the federal universe in relation to the availability and functioning of direct democracy mechanisms, especially bottom up forms of the latter. The aim is to use an initial mapping exercise as a basis for subsequent case selection for more detailed comparative analysis. Table 2 provides a synoptic overview of the availability and use of direct democracy instruments in federations. It is organised in terms of three federal groupings based on how 'free' a country is according to Freedom House scores (since 2000). The first two groups can be considered free democracies and include some of the classic federations, i.e. Australia, Canada, Germany, Switzerland and the United States, as well some newly federalising countries such as Spain and Belgium. Most of these cases, apart from Argentina, Brazil, India and South Africa, are also wealthy advanced democracies that belong to the OECD. The third group of federations, typically authoritarian regimes, are coded as either 'partly free' or 'not free' by Freedom House.<sup>4</sup> In terms of our mapping exercise, and comparative lesson drawing for the EU, there is little to learn from these cases.

Let us begin by taking a glimpse at the frequency of federal referendums in column two. The referendum count gives us an idea of the frequency of federal level referendums in federations. Out of the 20 federations, and leaving aside the outlier case of Switzerland, only four countries (Austria, Brazil, Spain and Venezuela) have held one or more referendums since 2000. In these four cases the number of referendums has been very low -- not more than four referendums. The message is quite clear, the use of the most studied instrument of direct democracy, the referendum, is rather rare in federations at the federal level. In some cases, such as Germany or the US, the dearth of federal level direct democracy is not surprising since there are no provisions for federal level referendums. On the other hand, in virtually all federations, especially among the advanced democracies, there is ample evidence of direct democracy practice at the subnational level (with the exception of India and Belgium). The cases of both the US and Germany are illustrative of this general dynamic in which there is evidence of vibrant direct democratic activity at the subnational level --especially in some of the constituent units-- but no mechanism for direct democracy at the federal level.

The last two columns in Table 2 examine the availability of bottom-up instruments of direct democracy. Among the advanced democratic federations, only Switzerland has managed to implement what Schiller and Setala (2012) call the full-scale initiative --i.e. a signature gathering decision promoting instrument that triggers a referendum on the proposed policy. This is an extremely rare institution in multi-tiered polities. A more common variant, though still notable by its relative infrequency among federations, is the agenda initiative. This is the same instrument as the EU's ECI. Among all federations we were able to identify four cases with provisions for such an instrument: two Latin American cases, Argentina and Brazil, and two European cases, Austria and Spain. In short, among the cluster of advanced democratic federations, the use of bottom-up direct democracy mechanisms is rather rare at the federal level. Furthermore, across the universe of federal cases the two forms of bottom-up direct democracy appear to be mutually exclusive, either provisions exist for a citizens initiated referendum or they take the form of an agenda initiative. No federal instance has both instruments.

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4 The Freedom House compilation uses a trichotomous variable: free, partly free, and not free. We have converted this to a binary variable, i.e., defined as free: Yes/No.

**Table 2: Instruments of direct democracy in federations**

Country	Rated as 'free'	Referendums since 2000	Subnational DD	Citizens Initiative	Agenda Initiative
Argentina	Yes	0	Yes	No	Yes
Austria	Yes	2	Yes	No	Yes
Brazil	Yes	4	Yes	No	Yes
Spain	Yes	1	Yes	No	Yes
Switzerland	Yes	>50*	Yes	Yes	No
Australia	Yes	0	Yes	No	No
Belgium	Yes	NA	No	No	No
Canada	Yes	0	Yes	No	No
United States	Yes	NA	Yes	No	No
Germany	Yes	NA	Yes	No	No
India	Yes	NA	No	No	No
South Africa	Yes	0	Yes	No	No
Russia	No	0	Yes	Yes	No
Venezuela	No	4	Yes	Yes	No
Ethiopia	No	0	Yes	No	No
Malaysia	No	NA	No	No	No
Mexico	No	0	Yes	No	No
Nigeria	No	0	Yes	No	No
Pakistan	No	1	No	No	No
United Arab Emirates	No	0	No	No	No

\* Switzerland has over 50 cases whether only mandatory referendums or citizen initiated referendums are included.

\*\* NA (not applicable) in the third column refers to the non-provision for federal level referendums.

Sources: Freedom House; IDEA Direct democracy database, and the c2d database.

For a more structured analysis, we can now narrow our comparative focus to those instances where the agenda initiative exists in a multi-tiered polity. Table 3 provides a synoptic summary of some of the main features of the four cases. Apart from Austria, we see that the agenda initiatives are introduced in the context of the third wave of democratization and a transition from authoritarian rule in the respective cases. As with the EU's agenda initiative, the two large polities (Argentina and Brazil) have thresholds in terms of signatures gathered from the various constituent units, whereas this is not the case for Spain. The number of valid agenda

initiatives varies.<sup>5</sup> With the exception of Brazil, agenda initiatives very rarely have any direct policy impact. We look at some of the features of each polity in turn.

**Table 3: Agenda initiatives in four federal systems**

Country	Year introduced	Territorial threshold	N valid AI's	AI's impact on legislation
Argentina	1994	Yes	2 (1994-?)	Both AI's were presented during the Argentine default crisis in 2001. One appears to have had an indirect legislative impact.
Brazil	1998	Yes	5 (1988-2012)	Five AI's have had at least an indirect impact on actual legislation
Austria	1931	Partly	31 (1964-2011)	Many launched by opposition parties. None has led to direct legislation. Four AI's have had a notable indirect impact.
Spain	1984	No	9 (1984-2007)	Eight have been debated in parliament, with 1 AI having an indirect legislative impact.

*Sources:* Herve 2010; Cuesta-Lopez 2012; Giese 2012; Rauschebach 2012.

### **BRAZIL**

In Brazil the agenda initiative was introduced in the constitution of 1988, which signalled the transition towards a democratic regime. Signatures must amount to at least 1 per cent of the electorate from a minimum of five states, each of which must provide signatures from at least 0.3 per cent of its electorate. Interestingly, an initiative cannot be rejected by the legislature for formal reasons. Since 1988 there have been five rather high profile agenda initiative (Coelho, 2014). Two of them related to corruption have resulted in direct legislation. Another two were related to tougher criminal laws and resulted in direct legislation. And, lastly, an initiative on social policy has also resulted in a concrete policy and the creation of new social fund. The success of the five policy initiatives all of which have had a direct legislative impact is quite an achievement. It demonstrates that even under quite restrictive signature gathering criteria, successful political mobilisation is possible. Furthermore, some of same groups are involved in proposals to reform the political system which involve, among other things, the simplification of the agenda initiative and strengthening mechanisms of direct democracy (Rauschebach 2012).

### **ARGENTINA**

The regulatory law implementing the agenda initiative states that at least 1.5 per cent of registered voters must sign the initiative from at least 6 electoral districts. Unlike the Brazilian variant, there are restrictions to the nature of an agenda initiative. For instance, an agenda initiative cannot relate to constitutional amendments, criminal laws, international treaties, or taxes and public expenditure. According to the analysis provided by Hevia (2010) until 2010 there was evidence of 13 agenda initiatives that were registered in Argentina. However, only two of these managed to managed to fulfil the criteria --i.e. signature gathering threshold-- to be presented to the legislative chamber. The reason for their 'relative' success is due to the take-up by major media players in the context of a political rupture that followed Argentina's financial crisis and debt default in 2001. Among some of the major impediments to the institutionalisation of the agenda initiative

<sup>5</sup> In the two cases of Brazil and Argentina it is difficult to obtain reliable figures on the total number of agenda initiatives that have been submitted.

is the general lack of awareness of the tool among the citizenry, the lack of media support and attention, and the financial hurdles that need to be overcome for launching a successful initiative.<sup>6</sup>

### **AUSTRIA**

First introduced in the 1930s, the agenda initiative has undergone various transformations the most recent of which was in 2007 when the voting age, and thus eligibility criteria for signature gathering, was reduced to 16. A major reform was implemented in 1963 and since then 34 agenda initiatives have been submitted at the federal level (Giesi 2012). According to Giesi the agenda initiative has been amended 15 times since then. An important driver of reform has been the replication of the agenda initiative at the state level which has prompted various reforms of the federal agenda initiative -typically involving a loosening of the criteria. The Austrian agenda initiative is very broad in its scope, even issues that fall under the scope of the states can be introduced at the federal level --not to mention constitutional amendments. Compared to other forms of direct democracy, such as the referendum, the agenda initiative has been used frequently. One of the characteristics of the Austrian experience is the use of the agenda initiative as a tool by political parties, especially opposition parties. This has important consequences since the issues are more likely to be politicised and picked up by the media, all of which can lead to significant country-wide support of over 20 per cent of the electorate for some issues. Nonetheless, as Giesi (2012) argues, the policy outcomes have been very poor with no direct implementation of a policy proposal to date. There have been indirect effects however, with issue politicisation and downstream electoral consequences for governing parties. Furthermore, there have been repeated calls for bolstering the instrument by submitting proposals that have received support from more than 15 per cent of the electorate to a binding referendum if parliament fails to react.

### **SPAIN**

Introduced in 1984 during the transition to democracy, the Spanish agenda initiative was characterised by some significant restrictions that include: a high signature threshold (half million); a number of issues that are excluded; and a relatively short time horizon for the signature gathering process. A recent reform in 2006 has since reduced the time restrictions, introduced the possibility for electronic signatures, removed some of the restrictions on the admissibility of policy issues while also allowing the use of regional languages. One indirect consequence has been the mimicking of the national agenda initiative model by the regions at the subnational level. Cuesta-Lopez has calculated the average number of initiatives submitted per year at the national level to be just under two in the period 1984-2007, while at the sub-national level it is nearly 6 per year for the same period. Most crucially, the average number is progressively increasing at the sub-national level as more issues are submitted, especially in the autonomous regions of Catalonia and Galicia, while at the national level it has remained flat for more or less the entire period. Most of the proposals relate to labour market issues and are promoted by well-organised groups, the trade unions. Of the 40 proposals identified over the period until 2007, only 9 were deemed valid. Of these 9 valid proposals only one of these proposals has been taken into consideration when drawing up new legislation, albeit with significant amendments during the legislative process (Cuesta-Lopez 2012). This is in stark contrast with developments at the subnational level.

Our four vignettes point to a fairly distinctive set of paired outcomes in relation to the introduction of an agenda initiative and its institutional trajectory over time. In the case of Austria and Brazil we find evidence of self-reinforcing institutional dynamics. A rather different evolution appears to be taking hold with the other pair, Argentina and Spain, where we can detect the onset of self-undermining processes, albeit of a different nature.

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<sup>6</sup> It is perhaps revealing of the lack of knowledge regarding the agenda initiative that other sources reviewing the state of direct democracy in Latin America, such as Zovatto (2006) or a UN compilation report (2004) while acknowledging the existence of the agenda initiative institution, do not report any instances of its use.

In the case of Austria there is certainly widespread knowledge of the institution and there is ample evidence of its capacity to mobilise citizen participation. Over time, throughput legitimacy seems to have been enhanced by making the tool more accessible and easing some of its procedures. While output legitimacy may be low in terms of the implementation of direct policy initiatives, there have been notable indirect effects. There have also been mimetic effects as the institution is transposed to other levels. Most crucially of all, there are significant calls to expand the scope of the institution by introducing a binding referendum under certain conditions -a classic example of institutional re-inforcement over time should it happen. Similarly too, in Brazil one could talk of an institutional re-inforcement. The agenda initiative is known, as is its capacity to mobilise citizens -though this is heavily conditioned by the attention devoted to the proposal by the media. The rules are relatively transparent and efficient. In terms of output legitimacy too, Brazil offers the only example among our case selection where there has been a repeated, direct policy impact.

When turning our attention to Argentina, there is a clear problem with citizens' awareness of the tool and its potential to mobilise outside one very specific juncture -the debt default crisis of 2001. In addition there are many problems with its procedural regulation, which for many is too stringent. In terms of a direct impact on policy this has occurred once and for the moment appears unlikely to be repeated unless the institution is revitalised. In Spain the picture is somewhat more mixed. There is some degree of awareness, especially when the tool is appropriated by organisations with significant institutional resources, such as trade unions. One repeated complaint is that the procedural requirements are too onerous, which is also reflected in the small number of initiatives that complete the process. In terms of policy outcomes effects the balance is rather poor, with only one identifiable impact on policy. One interesting development is the use of the tool at the subnational level -in this arena the institution seems to be evolving progressively.

We will return to the question of lesson drawing for the ECI on the basis of our comparative analysis in Section 5 of this paper.

#### 4. TAKING STOCK OF THE ECI

Despite the relative novelty of the ECI a scholarly literature has already begun to assess its evolution and impact. Regarding the latter, the introduction of the ECI has already had an impact on the member states as the instrument is replicated in some cases at the national level (Schiller and Setälä 2012). The most notable example is Finland, which introduced the a citizens agenda initiative as part of a constitutional reform in 2012 that was directly influenced by the concurrent implementation of the ECI (Christensen et al., 2015). Assessments of the ECI impact on participation and legitimacy, on the other hand, have been rather negative. Boussguet (2015) on the first three years of the ECI, holds a pessimistic view regarding the "participatory turn" associated with the ECI. Comparing the ECI to other democratic innovation experiments she contends that the ECI has been a rhetorical phrase without concrete implications and that the participatory turn mentioned in several official documents of the EU remains an illusion. The involvement of ordinary citizens could not have been accomplished because their voice is 'captured' by organized civil society" (Boussguet 2015: 13). The requirement of establishing a citizens committee sets an obstacle to direct citizen's participation. It can be hypothesized that only privileged citizens (Quittkat 2012: 70) or citizens backed by civil society organisations with a high degree of professionalization (Greenwood 2012: 325) can establish such a transnational citizen committee.

This leads us to the discussions about the role of NGOs and civil society organisations in the ECI. A lot of knowledge, resources and capabilities are already needed for the preliminary stage of elaborating and registering a request, let alone the signature gathering phase. To organize an ECI is a big undertaking that for ordinary citizens without organisational ties will be very hard (Organ 2014: 440-441; Hrbek 2012: 45). This implies the process will be dominated by the well-connected Brussels-based organisations, which would have the greatest chances of launching a successful ECI. However, if organisations from outside of the "Brussels circuit" are mobilised this could have a positive effect (De Clerck-Sachsse 2012: 307-308). Greenwood (2012) has argued that the ECI will improve the link between EU institutions and civil society anyway. Two different arguments are put forward. First, Brussels-based NGOs with their main focus on lobbying activities are given an incentive to improve the links to the persons they are actually advocating. Second, new NGOs from outside of the European centre will be introduced to European politics thereby opening up the Brussels bubble to the wider European public (Greenwood 2012: 333). Another aspect to take into consideration is the type of policies put forward. Traditional EU NGOs have a strong tendency towards initiating consensual policy concerns while new organisations are more likely to challenge the EU's and its work (Bouza Garcia and Greenwood 2014: 264-265). To address some of these questions we turn to our inventory of ECI initiatives.

#### Towards an inventory of the ECI

For conducting the empirical analysis we collected data for each ECI request that was submitted to the Commission between the period May 2012 and May 2015. The main data source has been the official ECI-homepage,<sup>7</sup> which contains some detailed general information about the request. Specifically, we gathered data on the official title, the subject matter, the web page of initiatives, several relevant dates (registered, refused, end and start point of the signature gathering, date of withdrawal, submission and reaction by the EC), the number of signatures, the financial support, the language of registration and languages in which the ECI has been available, as well as the names of citizen's committees members are listed. Additional sources were also used including official documentation describing the reason for refusal (letter of refusal) and the response of the Commission to successful initiatives. A very useful supplementary data source has been the publication *An ECI that works!* by Berg and Thomson (2014). This has been useful for collecting information on the (unofficial) unverified number of signatures (per country) for certain initiatives, as well as the share of signatures collected via paper compared to online methods.

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<sup>7</sup> See <http://ec.europa.eu/citizensinitiative/public/welcome?!g=en>

Information on supporting organizations, the country or countries that were at the 'epicentre' of an initiative, and descriptions of the initiators are adapted from Bouza Garcia and Greenwood (2014) and extended to new cases. The variable epicentre refers to the country of origin of the organizers of an initiative, whether individual persons, organizations or companies. By organizers of an initiative we mean those individuals and/or organizations initially starting an initiative and not those who join in the course of a campaign or support the campaign later on. This is a better measure of the type of people behind an initiative than the formal requirements for a citizens committee (7 members from 7 different member countries), which might be somewhat of a façade and hide the 'true' initiators. Nonetheless, we also investigate the citizens' committee (usually all 7 members) and their educational background. We examine initiator's web pages (if available) as well as conducting further web searches to garner information on educational attainment. This variable is deemed important for checking whether the ECI tool is mainly initiated by educated elites.

Another new variable we create is the policy category. To be fair, various compilations already include policy themes. We found these rather ad-hoc and a-theoretical generalisations that simply list policy themes of the Commission website. A much better approach is to derive theoretically informed categories which could be used to generate further hypotheses about associations. To this end, we draw on the comparative public policy literature and, in particular Lowi's well-known policy typology to create our policy theme variable. Building on Lowi's (1972) policy typology, the literature distinguishes between four policy types: *distributive* (public goods which are distributed across a population, e.g. education or defence policy), *regulatory* (policies aiming to affect the behaviour of individual/organisations such as animal rights or privacy laws), *redistributive* (policies that confer benefits, often economic, to narrow segments of society such as agricultural or regional policy), and *constituent* policies (policies dealing with procedural laws such as setting up a new agency or changes to public administration). One of Lowi's major insights was that the type of policy largely determines the kind of politics that surrounds that particular policy. For instance, redistributive policies tend to be the most conflictual since it involves a transfer of resources from one group to another. On the other hand, constituent policy tends to be a top-down process of policymaking dominated by elected officials and administrative agencies. Insofar as the specific policy scope of the ECI is concerned, we would expect the majority of proposal -at least successful ones- to be of the regulatory type. The EU, as Majone (1996) famously argued is best conceived of as a 'regulatory state'. Although the EU also engages in distributive type policies, such as monetary policy, its policy remit is severely circumscribed in relation to purely redistributive policies (with the exception of cohesion policy) and constituent policies (with the exception of its own agencies or internal procedures). We would expect this to be reflected in the distribution of policy themes, that is we expect to see more regulatory and distributive type policy proposals being registered.

The data from these various sources has been used to build our ECI database. The variables and the coding rules are described briefly in the Appendix. It is important to note that there are a number of variables for which the data gathering process is still ongoing, such as media role. In the following subsections we present some of our initial findings.

We begin by noting the status of agenda initiatives for the three year period covered. Table 4 shows the distribution of initiatives by their status. A first distinction is between those requests for an ECI that were accepted and thereby registered by the Commission, 60 per cent, and the 40 per cent that were refused. This first distinction will structure the presentation of the results of the empirical analysis in the subsequent subsections, which will be based on the status groups.<sup>8</sup> The distinction is important because data on the refused requests is very sparse and therefore must be treated with caution. For instance, there is usually no web page associated with the initiative and the composition of citizens' committees is unknown. The only data that can be obtained stems from the document in which the Commission explains the reason for refusal. The

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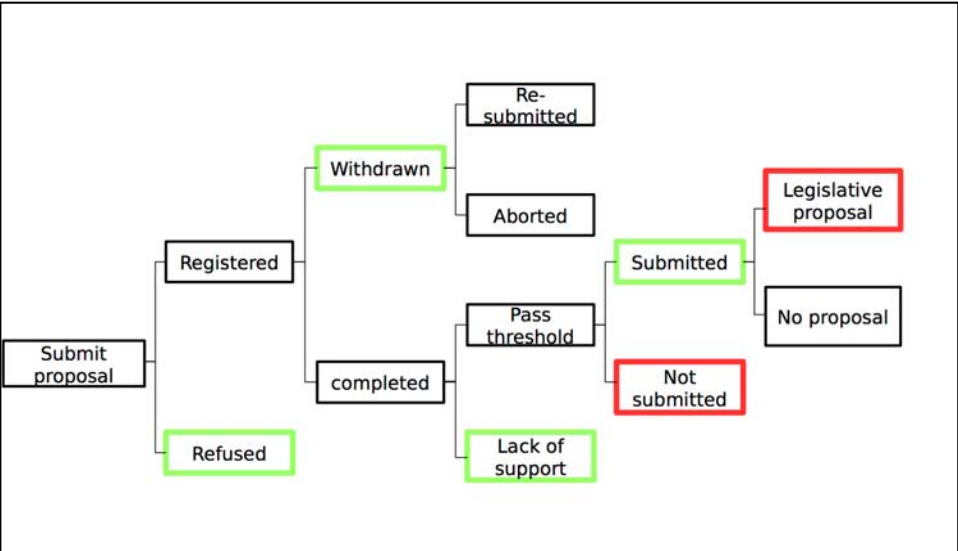
8 We exclude the three ongoing initiatives from the analysis.



two categories, refused requests and registered initiatives, cannot be compared on many key variables and are best analysed separately. Of the 31 initiatives that were actually registered by the Commission there are various different categories as shown in Table 4. Three ECI have completed the process and received a formal answer from the Commission while 15 had a lack of support and did not satisfy the signature threshold. A significant proportion were withdrawn in the process, 10 altogether, while three are still ongoing.

**Table 4: ECI's by status (May 2012--May 2015)**

Status	Frequency	Percent
Refused requests	20	39.2
Registered	31	60.8
Completed and answered	3	5.9
Collection ongoing	3	5.9
Insufficient support*	15	29.4
Withdrawn	10	19.6
Total	51	100

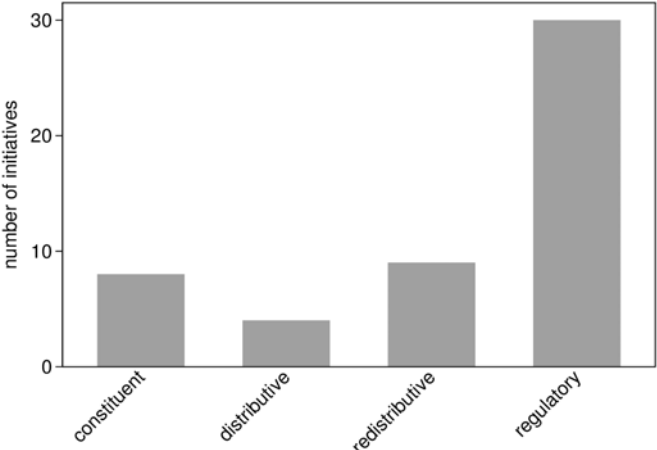


**Figure 1:** Decision tree of possible ECI outcomes. A red box indicates that there are no empirical instances of such an outcome. A green box indicates the general categories that are covered in the empirical analysis.

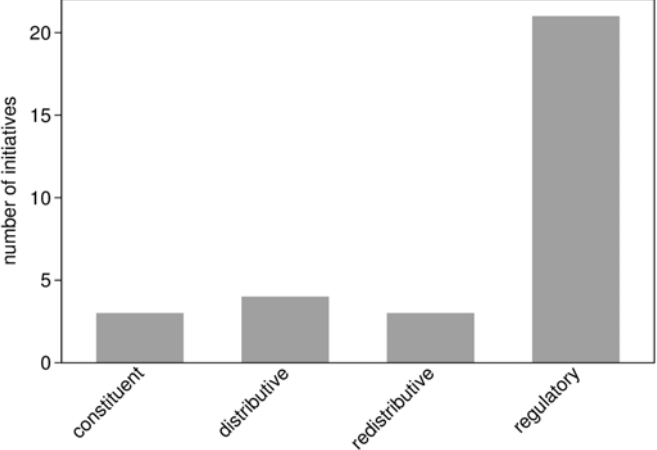
Figure 1 illustrates the process from request to completed ECIs in the form of a decision tree. In the first stage, a request is submitted to the European Commission, which has the discretion to decide on the legal admissibility of a proposal. If the request is refused, the whole process can end here. Alternatively, if a request is registered then the 12 month signature gathering process starts right away. During this one year period, initiators have either the possibility to withdraw their initiative or wait until these 12 months are over and the signature gathering process is formally completed. For withdrawn initiatives, initiators have the choice

between aborting the issue or, in some cases as we have discovered, re-submitting the proposal at a later stage. Once the one year period has passed, the question is whether the proposal crossed the one million signature threshold from seven different countries and their respective quorums, or whether the proposal has received insufficient support. If the threshold is passed the next stage is the submission of the valid initiative to the Commission. A formal reply must be provided within the three months, which can be positive (if legislative proposals are subsequently initiated) or lead to no further action. The green boxes in Figure 1 cover the principal pathways of the process that will be discussed in the following analysis.

**Figure 2: Distribution of all initiatives that were submitted by policy theme (Lowi typology)**



**Figure 3: Distribution of initiatives that were registered by policy theme (Lowi typology)**



In terms of some of the general trends we begin by looking at some of the policy types that are most popular among the submissions. It is not surprising to find that these are of the regulatory type according to the Lowi policy typology. Nine belong to the redistributive type and eight to the constituent type, while four can be placed within the distributive type. This, as we shall see below, masks some notable variation when we disaggregate by whether an initiative was refused or registered (see Figures 2 and 3). Regarding the type of initiator in Figure 4 we can only draw on information for the 31 registered proposals.<sup>9</sup> Student groups are involved in most of the ECI while the second largest group is NGOs and activists. Only two initiatives can be

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<sup>9</sup> Of the 31 registered proposals information on the type of initiator is missing for two ECIs.

Figure 4: Initiator type based on configuration of different groups

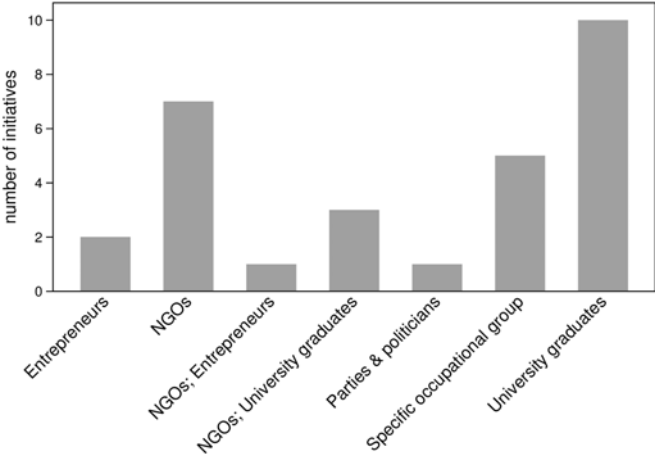


Figure 5: Overall number of signatures collected by Country

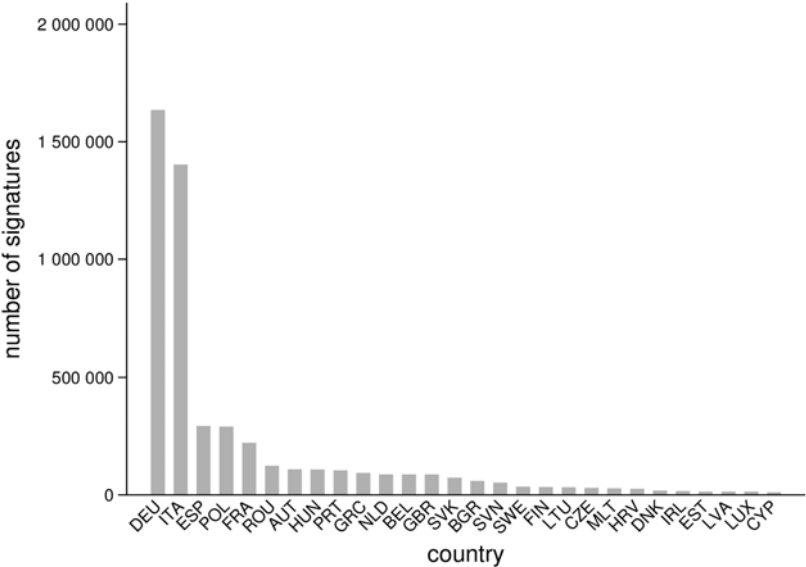
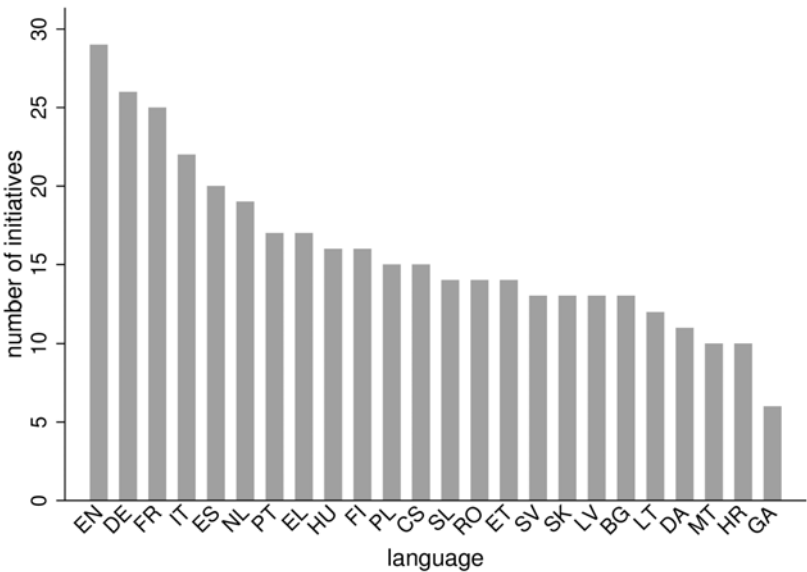


Figure 6: Number of initiatives per language



classified as stemming mostly from entrepreneurs while one other exclusive group has been an initiative originating from a party group (see Figure 4).

Overall we also see a preponderance of certain countries insofar as the number of registered signatures are concerned. These include the relatively large member states of Germany and Italy (which are outliers in this respect), that are followed by quite a margin by another group of relatively large countries including Spain, Poland and France (see Figure 5). Conspicuous by its absence among the main sources of signatures, is the UK. However, in relation to the languages used in all initiatives to date, there is a dominance of English -though German and French are very close behind (see Figure 6). To get a better handle on the dynamics, we shall need to disaggregate the summaries by some more meaningful categories.

### **Refused requests**

We begin by examining the refused requests all of which have been rejected for the same reason. That is the topic "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" according to the Commission.<sup>10</sup> In an analysis of the rejection letters conducted by the European Citizen Action Service (ECAS), refused requests are grouped into three categories. Category one are those initiatives which actually fall outside of the Commission's competences. Examples include constituent type policies regarding the right to self-determination of regions within member states and abolishing the European Parliament. In the second category, requests also fall outside of the Commission's competences but they fall into a policy area which is dealt with in the Treaties (examples include animal welfare). In the third category, which encompasses about one quarter of requests, the requests probably lying within the scope of the Commission's competences (examples include social protection). It has been argued that the Commission's rejection can be seen as too strict or arbitrary (ECAS 2014: 12-15; see also Organ 2014).

As mentioned above, in terms of the data on refused requests much of it is sparse and hard to come by. Since in most cases the document contains the names of the initiators, it has been possible to track them and assign a category to the initiators. The distribution of initiators in the group of refused requests is as follows: 14 can be summarized under the label of 'NGOs Activists' and 5 are assigned to other types. For one request, the type of initiator is unknown.

Interestingly, the epicentre for 80 per cent of requests (16 in total) is from a single country, although the specific country will vary depending on the initiative. For 3 of the refused initiatives the epicentre is in more than one country and for the remaining request we could not find any information. Overall, most of the requests originate in Germany and cover various policy themes while only two originate from Brussels-based NGOs. This data on the epicentre of the refused requests suggest that they are mainly initiated by NGOs from outside the Brussels network. It can be hypothesized that the unfamiliarity of "outsider NGOs" with the EU's policy process may be one reason for the refusal. According to Bouza Garcia and Greenwood (2014: 252), in addition to falling outside the scope of the EU Treaties as argued by the Commission, many of the refused proposals appear to challenge the EU and its work (examples include demanding a referendum on the EU's governance or the abolition of one of its main institutions).

A look at the date of refusal does not reveal any significant pattern. From the 20 requests that were refused, 7 were from 2012, 8 from 2013 and 5 from 2014. In 2015, there are no refused requests so far. However, the ratio of refused requests to registered ECIs by year does exhibit some patterns: while less than a third (30 percent) of the requests were refused in 2012, this increases to 47 percent in 2013 and to 50 percent in 2014. It should be noted that in one case the request *For a socially fair Europe!* was refused in August 2014 and

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<sup>10</sup> See <http://ec.europa.eu/citizens-initiative/public/initiatives/non-registered> for a list with all refused requests and the letter on the reason for refusal.

successfully resubmitted in December 2014.<sup>11</sup> From these overall refusal numbers one could argue that it has become more difficult to get a request registered over time as a proportion of successfully registered initiatives. Such evidence stands in contrast to Organ (2014: 434) who argues that there has been a more supportive role from the Commission over time regarding the registration of ECIs. This is true in absolute but not relative terms.

**Table 5: Distribution of refused initiatives according to Lowi typology**

Policy type	Frequency	Percent
Constituent	5	25
Redistributive	6	30
Regulatory	9	45
Total	20	100

A revealing picture also emerges when we look at the specific policy areas that were the subject of the refused proposals. We find that more than half were related to precisely the two Lowi policy domains that one would expect to fall outside the competencies of the EU, i.e., redistributive and constituent policies. We found no example of the distributive type policy among the refused requests.

Lastly, in terms of the languages used, most requests were submitted in English (13), three in French, two in Spanish, one in German and another in Italian. The dominance of the English language stands in contrast to the origin of the request given that none of the requests for an ECI stems from an English-speaking country.

**Withdrawn ECIs**

We now look at ECI that were registered by the Commission but were, for some reason, withdrawn by the initiators. We begin by looking at the type of initiator, which reveals that only two out of 10 (the *EU Directive on Dairy Cow* and *New Deal 4 Europe*) were launched by NGOs or activists. Six were launched by a group of students or university graduates and the other two were launched by groups associated with specific professions. Why students and university graduates dominate in this group is still an open question. One potential explanation could be that they realized during the signature gathering process that they did not have enough resources to successfully complete the process and therefore withdraw their ECI.

The initiator groups (8) consisted predominantly of highly educated individuals. This is perhaps not too surprising given the university origins of many of the withdrawn ECI's. What is more interesting no doubt is that the epicentre for half of all withdrawn initiatives (5) was France. In only one case did the epicentre include more than one country. Narrowing our focus on these five initiatives, we find that 4 of them were launched by French student groups. More specifically, two of them<sup>12</sup> were initiated by students from SciencesPo. Given their comparatively high mobility in combination with the possibility of undertaking exchange semesters, they form a naturally receptive group to use of the ECI. This would be consistent with Kentmen-Cin's (2014: 312) findings of a positive relationship between years of education and willingness of using the ECI increases.

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<sup>11</sup> The signature collection for this proposal is still ongoing until the end of 2015.

<sup>12</sup> Moveurope and Teach for Youth (Upgrade to Erasmus 2.0).

No distinctive patterns emerges with regard to the stage at which the ECI is withdrawn with the average number of days after which a request has been withdrawn being 191 days. This masks a great variability however. In some cases (4) the withdrawal occurs in less than 100 days, although in others (3) it took more than 300 days. For the rest (3) it is in between. The minimum of number of days was 71 (*EU Directive on Dairy Cow Welfare*) and the maximum was 363 (*Teach for Youth - Upgrade to Erasmus 2.0*), which was withdrawn just two days before it would have failed to pass the threshold. This suggests strategic behaviour on the part of certain initiators.

A dominance of the English language can also be discovered among the initiatives in this group. Most of these ECIs were registered in English (8), with one in German and one in French. The latter result is particularly surprising since France was the epicentre for half of the withdrawn initiatives. Half of the initiatives were available in more than 10 languages, while the overall average for the availability of languages was eight.

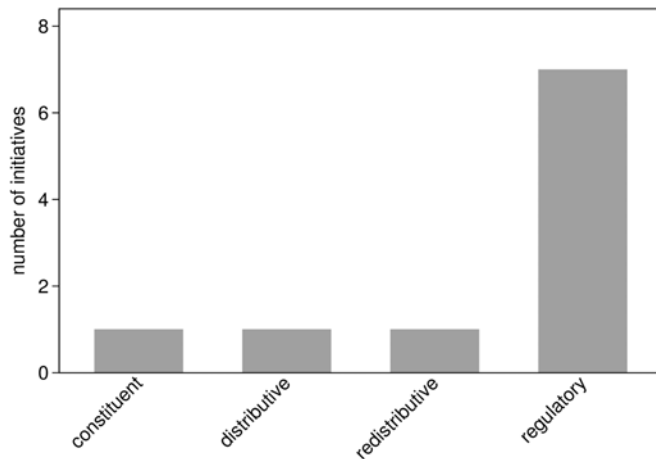
A more thorough investigation of the withdrawn requests reveals an intriguing picture. No less than 40 per cent of withdrawn initiatives were resubmitted as shown in Table 6. For instance, the reason for withdrawal in the case of *End Ecocide in Europe* was due to limited time span between registration and the actual start of the signature collection. According to Prisca Merz, the campaign leader and representative member of the citizens' committee, the withdrawal and re-registration of the initiative one year later was a strategic decision of the initiators, which was taken in order to have more time for the preparation of the signature collection phase (see Berg and Thomson 2014: 39). The same was true for the remaining initiatives in Table 6, which were all withdrawn and resubmitted about one year later in order to have enough time to prepare the signature gathering period (CEU 2015; EPSR 2015: 8).

**Table 6: ECIs that were withdrawn by the initiators**

Title of ECI	Submitted twice in (chronological order)
<i>End Ecocide in Europe</i>	Withdrawn (January 2013) Insufficient support (January 2014)
<i>European Initiative for Media Pluralism</i>	Withdrawn (August 2013) Collection closed (August 2014)
<i>Let me vote</i>	Withdrawn (January 2013) Insufficient support (January 2015)
<i>Single Communication Tariff Act</i>	Withdrawn (December 2012) Insufficient support (December 2013)

Regarding the policy domain a very different picture emerges to the refused categories. Since these are initiatives that have passed the Commission's registration test, the distribution is more or less what one would expect: that is a preponderance of regulatory and distributive policies, 80 percent of all initiatives compared to 20 percent for redistributive or constituent policies (see Figure 7).

**Figure 7: Distribution of withdrawn initiatives according to Lowi policy typology**



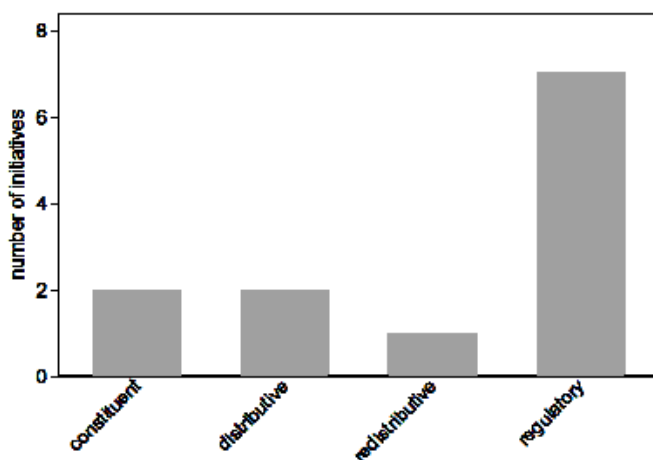
For this category we also have data on financial support, albeit for only five of the cases. The figures range from 2,000 Euros for the End Ecocide in Europe to nearly 346,000 Euros for the *EU Directive on Dairy Cow Welfare*, which it turns out was substantially supported by the company Ben Jerry. Indeed, of all the cases in our dataset this was easily the ECI initiative that has received the most financial support thus far.

#### ECIs with insufficient support

Turning now to the ECIs that failed to pass the signature threshold, we find a more heterogeneous composition of initiator groups than with all other categories. Among the initiators were Journalists, Entrepreneurs, Eurosceptic politicians, NGOs and students. In half the cases we detected an NGO presence. However, for two of the ECIs no information on the type of initiator could be found. Half of the ECIs appeared to originate in more than one country, three in one country and for three ECIs, no information is available on its epicentre. ECIs launched by NGOs originate from different countries such as France, Italy, Germany, Austria or Greece.

Regarding the education of initiators we found that most were composed of highly educated groups, for 8 of the 12 cases. The dominance of highly educated people among the initiators confirms some of the concerns of various scholars: that the ECI contains the potential of being an elite instrument not used by "ordinary" citizens, but by an already Europe-affine educational elite (see e.g. Quittkat 2012; Knaut 2013; Boussaguet 2015).

Figure 8: Distribution of initiatives with insufficient support according to the Lowi policy typology



The linguistic dimension of this category of initiatives with insufficient support presents the following picture: As in the withdrawn category, English is the language most often used for registration 9 of the 12 initiatives.

However, there is large variability within this group, the range being between initiatives available in one language through to all 24 languages. The degree of financial support is somewhat revealing (certainly when compared to the previously mentioned *Directive on Dairy Cow Welfare* and the ECI that passed have passed the signature threshold). On the whole it appears rather low, the range is from a minimum of 2,000 Euros to a maximum declared financial support of 17,000 Euros.

Regarding the policy type, as expected we see a dominance of ECIs that belong to the regulatory category (7). Two belong to the constituent type, two are classified as distributive and one as redistributive (see Figure 8). In this last group, we find the interesting case of the *Unconditional Basic Income* initiative. The first request for registration had been refused in September 2012. A couple of months later, in January 2013, the revised request was successfully re-submitted and then registered. For Stanislas Jourdan, a member of the citizen's committee, drafting an acceptable text was tricky because the subject matter related to social policy -an issue which clearly fell under the member states' competencies (see Berg and Thomson 2014: 42-43). In the second rephrased version the scope of the initiative was narrowed down from a legal act on an unconditional basic income, an act outside of EU competences, to a call for "exploring a pathway towards emancipatory welfare conditions in the EU" (see EPSR 2015: 15).

Another interesting aspect of this group of initiatives with insufficient support is that more than half of them have their origin in more than one European country. Of the 9 initiatives in this group for which we have data, six stem from more than one country and, in addition, the availability of languages is generally high. These cases warrant further scrutiny to see why they did not pass the threshold.

#### **ECIs that passed the threshold**

We now turn to the last category, those three ECIs that have successfully reached the required signature threshold and the quorum in seven member states. All of them were registered in May or June 2012. Due to a number of IT-related problems, the deadline for the signature gathering process was extended to all three initiative until 1 November 2013 (see Susha and Gronlund 2014).<sup>13</sup> Despite this common deadline, the date of the formal submission varies largely. The first ECI ever submitted to the EC was the *Water and sanitation are a human right* (hereafter *Right2Water*) in December 2013. The ECI *One of us* was submitted in February 2014 and *Stop vivisection* was submitted only recently (on 3 March 2015). Hence, the number of days that have passed between the end of signature gathering and the actual submission of the ECI to the Commission varies between 49 days for the *Right2Water* initiative and well over a year (487 days) for the *Stop Vivisection*. The reason for these differences is due the lack of a concrete regulatory base since the regulation "does not foresee a time-limit for organisers to submit their initiative to the Commission once their statements of support have been verified by the competent national authorities" (EC 2015: 12).

Two of the three initiatives share some characteristics with each other, while the third one differs quite clearly. The *Right2Water* campaign was launched and backed by trade unions from all over Europe. It was centred around the European Federation of Public Service Unions (EPSU) based in Brussels. The campaign was very successful with a high number of officially valid signatures (1.6 million). The ECI *One of us* was initiated by catholic organizations and right to life associations, predominantly from Italy and France. It was the most successful ECI in terms of signature collection with a total of 1.7 million valid statements of support. In terms of organizational structures, the *Stop vivisection* initiative differs because it was a campaign initiated and led by volunteers from the animal welfare domain mostly from Italy (Berg and Thomson 2014: 16). Despite its looser organizational structure, the promoters still managed to collect 1.1 million valid signatures.

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<sup>13</sup> See also <http://www.citizens-initiative.eu/eci/stats/>



From the three successful initiatives, two were available in all 24 official languages of the EU and one in 23 languages. Compared to all other status-categories the total number of languages available is much higher. It can be hypothesized that this was one of the main factors for the success of these initiatives. Furthermore, the financial support for successful initiatives is higher than for ECIs in other categories. It ranges from 23,651 (*Stop vivisection*), 140,000 (*Right2water*) through to 159,219 (*One of us*) Euros. Taken together, we can see that successful initiatives generally have greater resources that can be used for sustaining a campaign as well as the translation effort. Evidently, one has to be cautious about making any general claims given the small number of cases we possess.

According to our coding, two ECIs fall within the regulatory and one belongs to the distributive policy type. Again, these are precisely the two areas that are most likely to fall within the competencies of the Commission according to the Lowi policy typology.

One dimension of the process worthy of further scrutiny is the method of signature collection. The ratio of signatures collected on paper compared to those collected online is shown in Table 7. The picture is rather mixed. The best funded initiative *One of us*, which was church sponsored, acquired by far most of its signatures on paper.<sup>14</sup> The least well-funded initiative *Stop Vivisection* gathered 60% of its signatures via the web while the *Right2Water* ECI, which was well funded, had a predominantly online presence and campaign with 80% of signatures acquired online.<sup>15</sup> What all three initiatives do have in common, however, is that a significant amount of signatures has been collected relatively late. This can be attributed to the IT-related problems which took place at the beginning of the ECI's launch (Berg and Thomson 2014: 15).

**Table 7: Ratio of signature collection by method (paper collection versus online collection)**

Initiative	Paper signatures (%)	Online signatures (%)
<i>Right2Water</i>	20	80
<i>One of us</i>	70	30
<i>Stop Vivisection</i>	40	60

Once an initiative has satisfied all the criteria and has been formally submitted, the Commission is obliged to formally respond within three months. This does not mean the Commission has to take any concrete policy actions. Of the three successful initiative, the reaction of the Commission has been most favourable to the *Right2Water*. In its statement,<sup>16</sup> the Commission gives an overview of existing policies within the area of water regulation, identifies existing gaps and describes some areas of action. Although the EC recognizes the importance of the issue of guaranteeing every human being access to safe drinking water, no concrete legal initiative has been launched (see EPRS 2015: 9).

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<sup>14</sup> It is important to note that in some countries such as the Czech Republic and Finland the signatures were gathered exclusively online (Berg and Thomson 2014: 28).  
<sup>15</sup> More detailed information on the ratio between online and paper signatures by country can be found in the publication by Berg and Thomson (2014).  
<sup>16</sup> See COM(2014) 177 final: Communication from the Commission on the European Citizens' Initiative "Water and sanitation are a human right! Water is a public good, not a commodity!".

For the other two initiatives, the Commission's reaction has been more negative. In the case of *Stop Vivisection*, an initiative aimed at phasing out animal experiments within the EU, the Commission saw no necessity to propose the adoption of a new legislative framework and the initiators' demand for abrogation of a European directive in this area has been denied by the Commission. The only concrete action has been the organisation of a scientific conference scheduled for the end of 2016 in which alternatives to animal experimentation will be discussed.<sup>17</sup>

The third successful initiative, *One of us*, an initiative with the goal of banning and ending financial support to all activities "which presuppose the destruction of human embryos, in particular in the areas of research, development aid and public health"<sup>18</sup> has also received a negative answer from the Commission. The Commission sees no need to terminate the funding of research and states that the existing legal basis regarding research with embryos complies "with the highest ethical standards."<sup>19</sup> Revealingly, the initiators' disagreement with the reaction of the Commission has prompted them to file a legal challenge before the ECJ requesting an annulment of the Commission's official response" (EPRS 2015: 9).<sup>20</sup>

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<sup>17</sup> See COM(2015) 3773 final: Communication from the Commission on the European Citizens' Initiative "Stop Vivisection".

<sup>18</sup> See <http://ec.europa.eu/citizens-initiative/public/initiatives/finalised/details/2012/000005>.

<sup>19</sup> See COM(2014) 355 final: Communication from the Commission on the European Citizens' Initiative "One of us".

<sup>20</sup> See <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62014TN0561> for more details of the lawsuit.

**5 ECI, QUO VADIS?**

In this last section we draw on the results of the empirical analyses to address the forward looking question of where the ECI may be heading. We start by revisiting the framing hypotheses guiding the research as formulated in Section 2. Drawing on new institutional theory and conceptualisations of democratic legitimacy, the hypotheses posit two rival institutional trajectories for the ECI. Table 8 summarises some of the core elements of our evaluation matrix in terms of putative effects on three distinct dimensions of democratic legitimation, which can either be strengthened or eroded as the ECI evolves. Taken at face value, our initial results are not positive. If one were to tick cells in Table 8 on the basis of our analysis of the ECI's current evolution, on balance the ticks would all be in the third row. This would give credence to the self-undermining hypothesis. Evidently, one would have to qualify this by noting that our time span is very limited and there is still ample time for self-reinforcing dynamics to set in. For now, we shall draw on the results of our two comparative analyses to further explore ECI dynamics across the three dimensions of democratic legitimacy at the core of our evaluation.

**Table 8: Framing hypotheses regarding institutional trajectories and impact on democratic legitimation**

Framing hypotheses	Input legitimacy	Throughput legitimacy	Output legitimacy
ECI as self reinforcing	Awareness and mobilisation	Fair procedures	Non-biased policy responsiveness
ECI as self undermining	Lack of awareness	Inconsistent procedures	Lack of policy responsiveness and/or biased utilisation

- Input legitimacy:* First, we should note that to have introduced an agenda initiative is, from comparative perspective, quite a major undertaking. This particular institution is rarely available at the highest tier in most of the federal systems analysed. That the EU has implemented such an instrument is no small achievement -to this end, we can speak of a democratic innovation. In terms of outcomes that would suggest a strengthening of input legitimacy it should also be taken into consideration that there has been a surprising burst of activity in the number of requests to register an ECI, 51 in total in just three years. Again, from comparative perspective this is no insignificant result. The numbers, three successful agenda initiatives in three years, are significantly higher than in any other case we analysed. However, it is too early to tell if this is the result of a 'novelty' effect that could be eroded in the absence of reinforcing dynamics. In terms of awareness and mobilisation potential we find a mixed picture. A recent qualitative study from Eurobarometer on familiarity with the ECI conducted in Denmark, Finland, Germany, Italy, Poland and Portugal is revealing. It noted that with the exception of Germany, where approximately half the respondents had heard of the ECI, in all other cases there was high unfamiliarity with the ECI. This is consistent with the experience of organizers, who point to low levels of awareness among not only the citizenry but also among media professionals (EPRS 2015: 10).<sup>21</sup> The importance of citizen awareness, as well as a supportive role of the media, was also shown to be important in the comparative analysis. This was especially true in Argentina (for the two unique events that worked) and most crucially in Brazil too. Given the more institutionalised form it takes in Austria, there is much higher widespread knowledge of

<sup>21</sup> This has led to the recommendation for a Europe-wide communication campaign to raise the ECI's awareness.

the agenda initiative. Whereas in Spain, it was important to have well organised groups promoting the initiative.

- *Throughput legitimacy*: In relation to the procedures regulating the ECI and whether these are perceived as fair and transparent the picture has been initially rather negative. Organ (2014) offers a compelling critique of the Commission's overly formalistic and bureaucratic approach. Other groups have questioned the Commission's grounds for refusing certain categories of initiative that do appear to fall within the competencies of the Commission (ECAS 2014). The result is a perception that the Commission has been too strict or arbitrary. There have been other problems too, from technical glitches, to potentially more serious structural issues regarding the decentralised implementation where rules governing, say verification, differ from one member state to another. The Commission in its own report admits that there is frustration among organisers and signatories concerning variability in rules, where some member states require lots of detailed personal data that could deter citizens from providing their support (COM 2015). Yet, none of this is unique to the ECI. Our comparative analysis has revealed that problems related to throughput legitimacy are very common across all the cases we analysed. Frustration with agenda initiatives is quite common (e.g. Spain) and there are frequently calls to strengthen the scope of agenda initiatives or loosen the procedural thresholds after their introduction. To that end, in the cases of Austria and Spain, there have been some reforms aimed at making the process less burdensome. In the latter case, there is still some way to go while in Argentina the process is perceived as very rigid. This would suggest that over time there will be scope to propose reforms -and there is evidence of this already happening with the ECI.
- *Output legitimacy*: This dimension of legitimacy is strengthened to the extent that the ECI opens up a new channel for influencing the policy agenda that enhance responsiveness and ultimately leads to better policy outcomes that are in tune with the preferences of citizens. For any of this to happen, there must be some reaction to successful agenda proposals. In this respect, the outlook must appear rather bleak on the basis of first experiences. Three initiatives have been successfully concluded and submitted to the Commission. Apart from its formal response, there has been no policy reaction. Indeed, one party has already filed a complaint with the Courts. Again, it is still too early to tell how mutual learning on the part of initiators and authorities will play out over time. After all, the agenda initiative instrument is by structural design a weak form of direct democracy. Our comparative analysis revealed that, with the exception of Brazil where there have been five instances of a direct policy impact, it is extremely rare for an agenda initiative to initiate a new policy. This was even the case for the most institutionalised setting, Austria, although in this case there have been indirect political consequences from the agenda initiative. The results in Spain and Argentina have been especially poor in relation to any tangible policy outcome. Another aspect of this dimension is whether an initiative that is successfully concluded reflects the policy preferences of ordinary citizens or whether it is biased towards certain groups or countries. Here, the evidence to date points in the opposite direction. An analysis of the citizen committees revealed that they are typically composed of individuals with a high educational attainment. The ECI's design makes it unlikely that 'ordinary citizens' could successfully mount an initiative. Yet, this ought not to be too much of a cause for concern since this is more of an ideal than the real world practice. Intermediary organisations, such as civil society organisations or political parties, are the only types of organisations with the resource capacity to mobilise on such a scale. This is not unique to the EU, but would also apply to the four countries analysed in our comparative analysis. But the question of potential bias could be a problem for the EU. The evidence to date suggest that the overwhelming majority of ECI signatures stem from two member states, Germany and Italy. Furthermore, initiatives from Brussels-based networks figure quite prominently among the initiatives that were registered, whereas those from 'outside' appear more likely to be refused.

All in all, the evidence to date presents a mixed picture. We have found compelling evidence of the potential for self-undermining processes to take shape. But this is far from being a foregone conclusion. Some of the

problems, for instance those related to throughput legitimacy, could be resolved. They may be more symptomatic of 'teething' problems rather than structural deficiencies that are immune to reform. Furthermore, given the embryonic nature of the instrument there is still ample scope for awareness of the instrument to increase, not only amongst citizens but also among groups traditionally outside the so-called Brussels bubble and the broader media. We found that oppositional parties and groups outside the Brussels network have indeed made use of the instrument, albeit with differing degrees of success. To the extent that this could reinforce issue politicisation, it would attract more visibility to the instrument as well as media attention. And last but not least, one other dimension that should not be neglected is the indirect effects of the ECI. As was the case with some of our federal cases, replication dynamics can also take effect as an institution introduced at one territorial level is mimicked at lower levels. We have evidence of this taking already taking shape, most prominently in Finland but also in other cases such as Latvia. Such replication dynamics could, over time, be mutually reinforcing benefit the further institutionalization of the ECI.

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**APPENDIX: CODEBOOK**

## Codebook

Variable	Description
id	Unique case identifier
officialTitle	Official title of the initiative/ the request in English
webLink	the webpage of the initiators
subjectMatter	Qualitative description of content based on official ECI webpage: <a href="http://ec.europa.eu/citizens-initiative/public/welcome?lg=en">http://ec.europa.eu/citizens-initiative/public/welcome?lg=en</a>
policytLowi	<p>Policy typology based on Lowi (1972 &amp; 2010):</p> <ul style="list-style-type: none"> <li>• <u>Distributive</u>: distribution of goods and services or their costs amongst different groups; not at cost of others (e.g. monetary policies and Foreign policy)</li> <li>• <u>Regulatory</u>: limiting the discretion and control the behaviour of persons, groups etc. (e.g. Animal Welfare, Environment)</li> <li>• <u>Redistributive</u>: taxation, finance and trade fall within this area; redistributive aspect is central (who wins at whose expense);</li> <li>• <u>Constituent</u>: they create executive power entities, or can deal with laws; describe meta-policies and rule-making; (e.g. participation and self-determination)</li> </ul> <p>For coding, we asked ourselves the following question: What type of Lowi policy category would it be if the proposal were fully implemented?</p>
dateRegistered	official date registered with Commission
dateEnd	Date of the end of signature gathering period. The process can be ended by withdrawal or completion. If the collection is ongoing, <i>dateEnd</i> stands for the deadline of signature gathering (see variable <i>status</i> )
dateRefused	Date of refusal of request
dateSubmitted	Date of submission to EC (only available for successful initiatives)
supportingOrg	Organisations supporting an initiative. It is a qualitative listing of organisations without a typology, drawing on Bouza Garcia/ Greenwood (2014)
initiatorType	<p>Initiators are assigned to one of these categories (inductive typology). Initiators are not only the citizen committee, but the group of people or organisations surrounding it.</p> <ul style="list-style-type: none"> <li>• <u>Parties &amp; Politicians</u>: parties and politicians including eurosceptical parties and politicians</li> <li>• <u>NGOs, Activists</u>: including church-affiliated organisations and trade unions</li> <li>• <u>Specific occupational group</u>: e.g. lawyers, journalists etc.</li> <li>• <u>Students and/or University graduates</u>: initiators will be assigned to this category if no other information on their origin is available and being student/ graduate is their common denominator</li> <li>• <u>Entrepreneurs</u></li> </ul>

epicentre	Country the initiators (people and/or organisations) mainly stem from drawing on Bouza Garcia and Greenwood (2014) complemented with additional information from the campaigns homepages. <u>Measurement:</u> <ul style="list-style-type: none"> <li>• If people/organisations from 1 country clearly dominate, that country is epicentre</li> <li>• If people/organisers from more than 1 country are important, these countries are epicentres</li> <li>• If people/organisers are from all over Europe → Europe as epicentre</li> <li>• For refused requests, coding is based on information about applicants (usually 1 or 2 persons)</li> </ul>
epicentre_d	Dummy variable indicating whether initiators are from one country or more than one country. 0=initiators from one country or region 1=initiators from more than one country
educQual	Qualitative description of educational status based on information about the people on initiators' webpage and a google search of CVs of members of the citizens' committee
educ_d	Dummy variable concerning the education of members of citizens's committee (usually 7 members). It is coded in the following way: 0=no dominance of highly educated persons (possessing at least a BA degree or being student) 1=dominance of highly educated persons
financingSupport	Total amount of support and funding (in €); see <a href="http://ec.europa.eu/citizens-initiative/public/welcome?lg=en">http://ec.europa.eu/citizens-initiative/public/welcome?lg=en</a>
status	<ul style="list-style-type: none"> <li>• Submitted</li> <li>• Answered</li> <li>• Collection ongoing</li> <li>• Collection closed</li> <li>• Withdrawn</li> <li>• Insufficient support</li> <li>• Registration refused</li> </ul>
signaturesTotaloff	N of verified signatures. Data is from the official ECI webpage. Only signatures at the time of submission are counted.
signaturesTotalunoff	N of unofficial signatures. Data is from the report <i>An ECI That Works!</i> (2014) and from campaign webpages.
signatures[Country]	N of signature for each country [Alpha-3 country code, e.g. FRA]; signatures received after time of submission were not counted; only available for successful initiatives; for the three successful initiatives, data is from the official ECI-webpage (verified signatures); for the others, data is from the campaign webpage or from the report <i>An ECI that works</i> (2014) (unverified number of signatures)
languageReg	Registration language of initiative (alpha-2 country code used)
languageRequ	Language of the request (only available if request was refused; alpha-2 country code used)

langAvail[country]	Dummy variable indicating whether the initiative was/is available in language[country]. Here we used the alpha-2 country code for each official language of the EU. 0=not available in this language 1=available in this language
ccCharacterisation	Characterisation citizen committee; qualitative; based on Bouza Garcia/ Greenwood (2014) and complemented if possible