

# Report on academic seminar: “EU Citizens’ Initiative Universal Basic Income – Creating social rights?”

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## Executive Summary

This seminar was organised by the Jean Monnet Centre of Excellence for European Integration and Citizens' Rights (JMCE EUIR). It is the second event of Work Package 2 that explores the connection between citizens of the Union through rights and considers how this fails or succeeds in generating legitimacy. The seminar presented an interdisciplinary study of the experiences of the European Citizens Initiative (ECI) of the Universal Basic Income (UBI) with a view to investigating the practice and impact of the ECI as a mechanism of participatory democracy that has the potential to foster transnational European political participation. The seminar was convened by Professor Dagmar Schiek and chaired by Dr Theresa Reidy. The seminar hosted a member of the ECI UBI board, Dr Ulrich Schachtschneider, a legal scholar, Dr Anastasia Karatzia and a political scientist, Dr Sergiu Gherghina.

### Panel contributors



Dr Ulrich Schachtschneider is an energy consultant, lecturer at University of Magdeburg and freelance social scientist. He is a member of the Universal Basic Income Europe (UBIE) board.

His research focuses on social-ecological transformation, societal roads out of ecological crisis, and degrowth.

Dr Anastasia Karatzia is a senior Lecturer at Essex School of Law. Her research relates to citizens participation in European law and decision-making with a focus on the European Citizens' Initiative and financial/ banking law.

She also has worked in consulting projects for the European Parliament, and she has presented her work on the European Citizens' Initiative at the offices of the European Ombudsman





Dr Sergiu Gherghina is senior lecturer in Comparative Politics at the University of Glasgow. His research interests lie in the fields of political participation, direct democracy and deliberative democracy.

## Context and Opening of the Seminar

### Link to JMCE EUICR – Professor Dagmar Schiek

Professor Schiek introduced the seminar in the wider context of the JMCE EUICR. After a series of EU crises, the centre investigates how EU-derived rights can contribute to the EU's legitimacy while adopting a citizen's perspective. She stressed that it revolves around three fundamental concepts: rights, activation and legitimacy. Furthermore, the centre focuses on an original range of geographical areas and looks at rights not only in the EU but also in the EU's western and eastern neighbourhoods and globally.

Professor Schiek stressed that the seminar is the sixth event of the JMCE EUICR and presented the remaining [events of the project](#).

### Introduction of the event – Dr Theresa Reidy

Dr Theresa Reidy opened the seminar by recalling that the ECI was first discussed as a tool to address the “great democratic deficit” of the EU. It provided citizens with the possibility to be part of decision-making and influence policymaking within the EU.

Under Article 11 TEU, the ECI allows no less than one million citizens of a significant number of Member States to invite the European Commission (EC), within the framework of its powers, to submit an appropriate proposal for a legal act of the Union. However, due to a high threshold, very few initiatives have been successful. While the ECI mechanisms were reviewed in 2014 and some barriers have been reduced, significant challenges remain. Lastly, Dr Reidy argued that the ECI can be understood rather than a citizen's initiative, as an agenda initiative.

## Academic Discussion

### Contribution of Dr Ulrich Schachtschneider

Dr Ulrich Schachtschneider started his contribution by presenting the structure of the UBIE. It is composed of four hundred members and ten to thirty activists around Europe. UBIE's overall aim is to gain acceptance for the Unconditional Basis Income as a political strategy in the EU and its Member States. The European Citizens' Initiative was pursued in order to enhance visibility of the idea, which seems to enjoy popular support according to polls, while such support is lacking in political institutions both at EU and national levels. With their first application, they requested the EC to “actively support

all member states in introducing an unconditional basic income that ensures every person material existence and opportunity to participate in society". They followed the objective to eliminate "poverty, combat racism, social exclusion and discrimination".

The first attempt to register an ECI for the Universal Basic Income was rejected by the EU Commission, because the legal basis (Article 153 (2) (a) in conjunction with Article 153 (1) (j) TFEU) would only allow a recommendation in relation to workers or unemployed persons. While this position is questionable, the initiative changed their strategy, and altered the title of the ECI to "UBI throughout the EU", while also relating to economic aims such as reducing regional cohesion and regional disparities, with a potential basis in Article 175 TFEU. Subsequently, the ECI was registered.

The result was not as high as they had hoped with almost 300,000 signatures. When analysing the result, Dr Ulrich Schachtschneider stressed that certain countries had very few signatures, especially when considering the level of mobilisation for other UBI-related projects. That was the case of Germany, while they reached the threshold with 70,000 signatures, another UBI project related to COVID-19 had reached 500,000 signatures. Thus, he questioned, why did they not succeed.

Dr Schachtschneider analysed two factors of their lack of success. They encountered organisational problems, especially for the campaign at the European level. He stressed that the campaign at the European level was relying entirely on volunteers. Furthermore, language barriers and political and cultural divergences also impacted the campaign. For instance, he illustrated that older volunteers tend to use the strategy of "street conferences" while younger volunteers preferred "web dynamic". Dr Schachtschneider stressed that they also encountered issues due to the technology and the Official EU online Collection Software. He stressed the lack of interactivity of the software.

Dr Schachtschneider further argued that due to the EU's weak competences in the social policy field, they refrained from demanding the UBI directly. He also emphasised the lack of a European public sphere, and how the EU feels too far away for many. Most people are not familiar with the EU competencies, the structure of the EU and legal acts in general. Finally, he argued that they also had issues in finding alliances with organisations in the field of social policies, especially at the EU level. When we look at successful ECI most of them are "against" initiatives (Ex: Stop Glyphosate, stop animal testing etc) and in the field of ecology. They were successful with the help of many environmental EU-level organisations.

#### Q&A

Asked why there was no broader appeal of the UBI ECI among political organisations, Dr Schachtschneider elaborated on the support sought from political parties represented in the European Parliament, and mentioned how it was difficult to achieve explicit support by MEPs, though some were supportive off the record.

Surprised by the lack of the support of the UBI initiative, Nico Lorenzutti remarked that certain parts of the population could be receptive to this project, for example students, trade unions etc. Thus, he wondered, *are they no ways to reach these people?*

Dr Schachtschneider conceded that, according to opinion polls, about 50 percent of Europeans support an unconditional basic income. However, the difficulties to transform poll results into signatures were related to the difficulty in reaching individuals through European initiatives in the

absence of a European public sphere and difficulties to establish collaboration with other organisations.

Dr Stephen Coutts asked a third question to Dr Schachtschneider. He recalled that the EC has the responsibility to help people with initiatives in order to make them more successful. Thus, he wondered *how did the UBI organisation find the help of the EC?*

Dr Schachtschneider stressed the formality of the procedure. The EC helped in two ways, he believes, by motivating their decision and by giving them a second chance. By giving the reasons behind refusing to register their initiative, they helped the organisation to understand better their train of thought. However, he stressed that UBIE did not receive direct help from the EC.

A member of the public closed the Q&A by asking Dr Schachtschneider *what the best way is to be involved with a UBI initiative from Ireland*. Dr Reidy wondered *what is next for UBIE*.

Dr Schachtschneider related that UBIE is now focusing on influencing the election campaign for the next EP elections in 2024 and gaining support of candidates for the UBI instead of planning a 3rd campaign. Dr Schachtschneider emphasised that his strategy to reach UBI is to take small steps. As an example, he mentioned the option to share the revenue from the Co2 trading system among citizens to put into practice the idea of sharing wealth.

### [Contribution of Dr Anastasia Karatzia](#)

Dr Anastasia Karatzia expanded on the legal framework of the European Citizens' Initiative, which consists of Regulation 788/2019 - the new ECI regulation, replacing Regulation 211/2011 - the previous ECI regulation. Her contribution focused on two different points in the ECI process. First, she focused on the ECI registration stage and then focused on what happens in case of a successful ECI.

#### [ECI Registration stage](#)

Dr Karatzia stressed that in the previous ECI regulation, the initiative was described as a procedure that affords citizens the possibility of directly approaching the EC with a request. The new regulation now explicitly refers to the ECI as a citizen's right to approach the EC. Accordingly, the ECI contributes to enhancing democracy in the Union through the participation of the citizens in political life. Dr Karatzia stressed that this change in the wording corresponds to the emphasis played by the CJEU on the nature of the ECI as a citizen right.<sup>1</sup>

Analysing the text of the new ECI regulation, she identified that the right to approach the EC through the ECI is but one of numerous options for citizens to raise issues to the EU institutions, which include dialogue with civil society, consultation with certain parties, petitions to the EP and application to the Ombudsman. She classified the ECI as an instrument for citizens to approach the EC to table legislative proposals on the one hand, and on other hand as a way to foster debate. That duality is reflected in procedural changes introduced by the new regulation.

Changes at registration stage, in her view, allow for more flexibility by relaxing the threshold for admissibility. She recalled that under the previous regulation, the organisers had to provide the title, subject matter and to cite specific Treaty provisions, while there was an option to provide a full draft

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<sup>1</sup> See for instance case T-561/14 *One of Us and others v Commission* (EU:T:2018:210)

legislative proposal as well. The EC would only admit the ECI if it complied with a three-tiered legal admissibility test. The ECI would not pass the test if it fell manifestly falling outside the framework of the EC power, was manifestly abusive, frivolous or manifestly contrary to the values set out in Article 2 TEU. However, so far, all rejections were based on the EC powers. Dr Karatzia related how the test has evolved through CJEU case law as well as new approaches by the EC to ECIs. She argued that procedurally, the nature of the test has become more flexible and now allows for instance registration for only part of the initiative.

Relating to substance, Dr Karatzia argued that the scope of the application has expanded. It includes the ability for citizens to object to the conclusion of international trade agreements where direct participation has traditionally been very limited. Generally, the significance of the ECI admissibility test was highlighted by the CJEU in the case law. The Court expressed the view that the ECI is a right, and essentially that all refusal to register a proposed initiative is an action that infringed upon the very effectiveness of that right.

She argued that the main procedural gain of the new regulation relates to the possibility to register a partial initiative. In such a situation, the organisers are obliged to inform their future signatories that they are only supporting part of the initiative. However, she questioned the necessity of such an addition, as nothing in the previous regulation prohibited the registration of partial initiatives.

#### Successful initiatives

Dr Karatzia recalled that under the previous regulation, the EC was obliged to examine a successful ECI and to set out its legal and political conclusions separately. It had three months to set out the actions it wanted to take and explain the reasons for action or inaction. In the meantime, the organiser was entitled to present their initiative at a public hearing with the participation of the commission and other institutions that wish to participate. She stressed that only six initiatives went through this process.

As for the new regulation, it maintains public hearing but gives a central role to the EP. Dr Karatzia stressed that the different interests must be considered including the interests of the relevant stakeholders, civil society, social partners and experts in addition to the ECI organisers. The Council is also mentioned as an institution that can participate in the hearing. Dr Karatzia noted that there is no reference to the Council's role as a co-legislator.

Dr Karatzia stressed the new role of the EP which is now responsible for assessing the political support of a valid initiative after the public hearing and assessing the EC response to the initiative. The EC has six months after the publication of the initiative and following the public hearing to publish a communication with its legal and political conclusion, the action they take if any, and the reason why they take or did not action. As the institution representing EU citizens, the EP has been involved with ECI from an early stage. However, the new regulation solidifies this involvement by giving the EP a role in the public hearing and the accountability of the EC. This new legislative framework strengthens the link between citizens in the EU. She illustrates this new procedure by referring to the later successful ECI "Save the Bees". After the submission, the organiser had the chance to meet with the EC Vice President. In March the EP debated the initiative in its plenary session. Last April, the EC adopted its communication.

To conclude, Dr Karatzia referred to the position of the ECI within the bigger framework. Legally speaking the ECI is not binding, and EC is not obliged to propose legislation. She stressed that the EC has previously refused to take any action in response to ECI which did very well at the signatures stage. Indeed, based on the principle of good administration, they are entitled to refuse to take action. This non-binding nature according to the CJEU does not deprive the right. The added value comes from the opportunities that the initiative creates for EU citizens to initiate debate on policy within the institutions without having to wait for the commencement of a formal legislative procedure.

Dr Karatzia stressed that through the stronger involvement of the EP, the inclusion of the public hearing with different stakeholders and the potential engagement of EU institutions and bodies, the legal framework of the ECI has been improved. However, she believes that any assessment of the ECI should take place within the broader EU institutional framework and within the limitations that pose for this type of participatory instrument.

## Q&A

Nico Lorenzutti wondered *when EU citizens are made aware of this right*.

Dr Karatzia stressed that she has been researching the ECI since 2012. She noted that since the very beginning, the ECI has been widely criticised for its lack of visibility, and the fact that people are not aware of it. She stressed that specific actions should be taken by the EC to raise awareness.

Asked about possible comments in the Conference about the future of Europe (CoFoE) related to the ECI, Dr Karatzia recalled that no such link has been made by the participating citizens.

## Contribution of Dr Sergiu Gherghina

Dr Gherghina started his presentation entitled “ECI and participatory democracy: Beyond Promises”. He shared his view on the ECI from a political science angle, looking at the ECI from the point of view of political parties and citizens. He stressed how the ECI started with great expectations, being the bases for the first major transnational practice of direct democracy that could allow the EU citizens to set the agenda at the European level. It has been advertised as a participatory practice that could mobilise people when voting is declining, and the democratic deficit persists in the EU.

However, Dr Gherghina stressed that the institutions did not live up to these expectations. He emphasised how the ECI was setting a “mission impossible”. He stressed how little result the ECI has brought, due mainly to organisational capacity, narrow topic and limited reach. As a result, he argued, the tool has limited functionality.

## Weak tool of direct democracy

Dr Gherghina argued that the ECI is not a full-scale citizens’ initiative as it lacks an immediate legislative effect or the possibility to be followed by a ballot vote. It only enables citizens to place their requests at the start of the policy process, but they retain no control throughout the policy cycle process. Dr Gherghina stressed that while the new regulation envisioned a higher role for the EP, there is still a missing link.

Dr Gherghina analysed two different opinion polls. According to a Eurobarometer poll, ten years ago roughly 10 percent of EU citizens had heard about the ECI. He argued, that according to other polls,

the same value can be found relating to the Conference for the Future of Europe (CoFoE). He stressed that it relates to the part of the population that is knowledgeable about the EU.

According to a YouGov poll, in 2021, 2.4 percent of the citizens in Germany, Finland, Italy and Portugal know about the existence of ECI. Dr Gherghina stressed that a higher number would be expected from these countries. He believes that it relates to various causes such as the lack of involvement from the media, other priorities in the Member States or the lack of education relating to the EU at primary and secondary levels. Therefore, the part of the population that knows about the tool is very limited.

Turning to the question who uses the tool, Dr Gherghina elaborated that the ECI has been used mainly by citizens who view the EU as beneficial and comprehend its workings, comprising a small part of the population. Dr Gherghina further argued that this contrast with another segment of the population, as while looking at the studies conducted by the Eurobarometer at the early stage of the ECI, people who do not associate the mechanism with EU values are also willing to use it.

#### Suitable to further direct democracy?

Dr Gherghina went on to discuss if the ECI is a suitable tool to further direct democracy at the European level, which he answered in the negative in three steps.

First, he related that the experience with the ECI so far attests to limited successes: hundreds of attempts to register initiatives only resulted in a handful of successes in a decade, resulting in very limited visibility of the ECI. In this context he mentioned that in a personal conversation with a signatory of the ECI on “right to water” he was told that the signatory had not been informed that this ECI actually led to legislation.

Secondly, he believes that the ECI remains a weak tool, even after the reform by the recent regulation, which does not address all the functionality challenges, while also coming too late, explaining why only very few ECIs were implemented..

Thirdly, Dr Gherghina argued that the attention is shifting to other participatory tools such as the CoFoE, which, by the way, did not discuss the ECI at all. He recalled a conversation with the organisers that could not see a relation between the ECI and the CoFoE. Therefore, he argued, if it was disconnected for the organisers, it is very unlikely that the citizens would see a connection element between the two.

However, Dr Gherghina stressed that there is a positive element to the ECI. He stressed that the ECI developed the involvement of NGOs and social movements at the European level, allowing social movements to mobilise around specified goals. It incites them to organise and pushed them toward transnational consortia. Dr Gherghina stressed that eventually, some NGOs and social movements have set the EU agenda on some very specific, niche policy element. He argued that the ECI has played a tremendous role in coordinating action and enhancing transnational collaboration between organisations. He referred to successful ECIs, where many resulted from connections in several Member States.

Finally, Dr Gherghina argued that the lack of interest of political parties is another barrier to the development of the instrument. He stressed the high cost and little benefit for political parties to get involved in an ECI. Only a few initiatives were supported by political parties but always at the national

level and on very specific points, key issues of their agenda. Dr Gherghina stressed that it relates to the divergence between what political parties want and what the ECI stands for. Political parties want public interest aggregation, interest representation positions in the EP and aim at high impact on policy change. However, the ECI share only one of these elements, the public interest aggregation. Furthermore, apart from this common element, the ECI has elements that diverge from what political parties stand for. The ECI relies on citizens and NGOs, thus, rather than interest representation, the ECI's purpose is to offer an alternative to political institutions. Dr Gherghina also recalled that the ECI has a limited impact on policy change while political parties have other means available with higher political impact. Dr Gherghina argued that the unlikely engagement also results from the lack of engagement of political parties with citizen's initiatives at the national level. He argued that other means of direct democracy are more favourable to furthering direct democracy, such as referendums.

Dr Gherghina concluded his presentation by stressing the limited functionality of the ECI. Right now, he argued, there is no concrete avenue to implement the outcome of the ECI. Therefore, the ECI has limited reach. He stressed the poor visibility and ability to produce policy change. However, the emulation of civil society is a very positive element that he believes will bring long-term prospects. Finally, Dr Gherghina argued that he advocates reforming the current tools of direct democracy to make them more efficient rather than adopting new ones.

#### Q&A

Declan Deasy wished to make a comment. He stressed how radical the initiative was in 2010 and how the probability of success was limited in the beginning.

Asked to clarify a point of his conclusion, Dr Gherghina stressed that he referred to tools of direct democracy at the European level. He further defended the necessity to make those tools work rather than creating new ones.

Nico Lorenzutti remarked that while the ECI is a superpower, most people don't know its existence or its functioning. He wondered *if there is any way that people in Europe can call for a referendum.*

#### Closing of the Seminar

Professor Schiek took the opportunity of the last question to close the seminar. She first questioned, can there be an ECI about a referendum? "She opined that an ECI to demand an EU wide referendum would certainly be a novelty, and as such an interesting research topic for a collaboration of political scientists and legal scholars

She referred to the research focus of the seminar, *can the ECI create social rights?* In conclusion, it is difficult due in part to EU competencies. She referred to article 153 TFEU where policies combating social exclusion (such as the UBI) are limited to coordinating national policies, while harmonisation of national laws was excluded. She referred to the ECI UBI where the EC had chosen the less successful base, under the general recommendation provision.

Finally, she stressed that the coming elections of the EP could be used to bring awareness around these themes. She emphasised that there are still some successful elements of the ECI and that it should be considered as a means of transnational participation among others.

## Literature and further reading

- Karatzia, A., (2018). Revisiting the Registration of European Citizens' Initiatives: The Evolution of the Legal Admissibility Test. *Cambridge Yearbook of European Legal Studies*. 20, 147-178
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