



MINORITY SAFEPAK INITIATIVE

YOU ARE NOT ALONE. ONE MILLION
SIGNATURES FOR DIVERSITY IN EUROPE

European Parliament is investigating how the European Citizens' Initiative should be reformed and wants to hear about the experiences of the Minority SafePack Initiative

Hearing

Tomorrow will be an important day for the future of direct democracy in the European Union. On 26 February 2015, two committees of the Parliament, the Petitions Committee and the Constitutional Affairs Committee will organise a hearing on the European Citizens' Initiative.

After almost three years, it is obvious that the first international instrument of direct democracy did not fulfil its expectations. A total number of 47 initiatives were proposed. Of these, 20 were rejected already at the registration phase, 24 finished collecting signatures, of which only 3 managed to collect the required 1 million signatures and today you can sign only 3 initiatives. At the same time there are 7 citizens' initiatives pending at court, including our initiative, the Minority SafePack.

Representatives of civil society, the Commission, the Parliament and the Ombudsman have already announced that the current setup of the European Citizens' Initiative is not functioning and that changes have to be made. The aim of the hearing is for the Parliament to find out about the problems and to investigate possible solutions, with the help of the organisers of citizens' initiatives, legal professors, political scholars and campaigning experts.

The first hour of the hearing will see First Vice President Frans Timmermans of the European Commission respond to the experiences of three different European Citizens' Initiatives: the "Right to Water", a well-resourced initiative that managed to collect 1.88 million signatures and was able to influence policy in the field of water privatisation; the "End Ecocide" initiative, a volunteer-driven initiative that collected almost 120,000 signatures and failed; and our own Minority SafePack Initiative, that was rejected in the registration phase, and is now fighting the rejection by the European Commission before the European Court of Justice in Luxembourg.

The Minority SafePack Initiative

The Minority SafePack Initiative is based on an initiative of the members of the Federal Union of European Nationalities (FUEN). The project was born out of solidarity between the many different minorities and language communities in Europe. With strong support from communities all over Europe, the minorities wanted to collect more than one million signatures for a package of different legal acts (laws) for the promotion and protection of the European minorities and for the regional and minority languages. This package was drawn up by a team of legal experts.

The Minority SafePack was officially launched at the FUEN Congress of 2013 in Brixen, South Tyrol, Italy. A little later, in July 2013, the citizens' committee consisting of seven high-profile regional and community leaders, submitted the proposal to the European Commission. FUEN was very surprised, when in September 2013 the European Commission rejected the initiative; according to the European Commission the proposed initiative fell "manifestly outside the framework of the Commission's powers".

Soon after, the organisers decided that they had no other option than to challenge the decision of the European Commission. First of all, the reasoning by the Commission is incomprehensible: the Commission denied the initiative, although it wrote that some of the acts requested in the Annex to the Minority SafePack Initiative might be acceptable. The Commission failed to mention in its rejection decision, what acts it considered impossible. On the other hand, it wrote that the Regulation on the citizens' initiative does not provide for the registration of part or parts of a proposed initiative.

Legal proceedings

For the Minority SafePack Initiative the reasoning was insufficient. From the text it is not clear which of these measures are not possible, why these are unacceptable, and why it (eventually) would be impossible to register part of an initiative, as the initiators had asked the Commission to do, in case the Commission would deem one or more sub-proposals legally unacceptable. The Regulation is silent about registering parts of an initiative: it does not state that it is impossible. The second argument was that in the opinion of FUEN all the proposals are valid and therefore the complete Minority SafePack should have been registered and allowed to start collecting signatures.

In the course of the legal proceedings the Commission and the Minority SafePack have exchanged arguments about the proposed citizens' initiative. The first bone of contention is the comprehensibility of the rejection decision: for the Commission it is enough that they give a reason. It obviously does not matter for the Commission that the citizens will not be able to understand this reasoning and that therefore they are not able to resubmit a better version. FUEN is of the opinion that the rejection of a citizens' initiative should be understandable for citizens, and not require top class experts of EU law. This also follows from Recital 2 of the Regulation, which calls for clear, simple, user-friendly procedures and conditions so as to encourage participation by citizens and to make the Union more accessible.

The Commission also argues that only the 500 characters (the "corpus" as they call it) that can be entered at the description of the objectives determine the content of the initiative. The Annex (for us: the 14 pages with detailed proposals) can only have an indicative and informative character, writes the Commission. In the opinion of FUEN, nothing in the Regulation suggests that the Annex does not form an

integral part of the citizens' initiative, and should therefore be assessed on its merits, together with the description of the objectives.

The arguments made by the Commission on the content of the initiative are limited to three sub-proposals (Regional Policy, Political Participation and Equality) and deal with very delicate legal distinctions of when the Commission has the competence to make a proposal for a legal act and when not. By lack of precedents, neither the Commission nor the Minority SafePack can be sure about what the European Court of Justice will eventually decide, although the Minority SafePack Initiative is of the opinion that it has the stronger arguments.

The legal case against the rejection of the citizens' initiative has been going on since the end of 2013 and will probably continue till the end of 2015. Since Spring 2014, two Member States (Slovakia and Romania) have sided with the Commission and one Member State (Hungary) with the Minority SafePack Initiative. In the beginning of 2015 the written proceedings were concluded and now the initiators are waiting for the Court to set a date for the oral hearing.

Legal procedures like this one are costly and take much time. FUEN is hopeful that the outcome of the legal case will clarify the scope of minority protection in the European Union. On the other hand, FUEN thinks that it is unfair that seven private persons have to foot the bill to clarify fundamental issues of EU law and even run the risk of having to pay the costs of the Commission as well. Especially with these delicate legal issues, and unresolved issues in the Regulation on the citizens' initiative, it is unacceptable that private citizens are put in such a disadvantaged situation in comparison with the Commission or the Member States, which are paid by the money of taxpayers. A solution must be introduced to clarify and solve justified complaints or unresolved legal issues in relation to the European Citizens' Initiative itself. The investments made by the Minority SafePack Initiative are of great importance for both the European Citizens' Initiative as for some of the substantial issues in this legal case.

Conclusion

In the opinion of FUEN the European Citizens' Initiative has become too much a strictly legal instrument and not the instrument for European debate that it should have been. The approach as taken by the Commission is far too formalistic and legalistic.

FUEN is pleased to notice that most actors and institutions have recognised that something has to change in relation to the European Citizens' Initiative. FUEN is offering its expertise and experience. It hopes that the Regulation will be amended so that it will become easier to use the citizens' initiative for a genuine European debate on important issues. Europe needs these debates, and one of these is the debate on minority protection and on cultural and linguistic diversity in the European Union.

Frank de Boer

FUEN legal/policy advisor

For more information about the Minority SafePack and the procedure before the European Court of Justice on www.fuen.org or please contact info@fuen.org