

The European Citizens' Initiative: promoter of transnational discursive spheres?

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Introduction

The European Citizens' Initiative (ECI) is a new instrument of participative democracy on the EU level. Organisers of an ECI which are able to collect at least one million signatures of citizens' from seven member states get a privileged forum to voice their interests. This is a unique chance for new social groups, which are not well-established on the EU level, to enter EU politics. Compared to the necessary resources to lobby the European institutions during law making processes over years the thresholds to initiate an ECI are much lower. Especially when taking into consideration the possibility to collect statements of support electronically. After giving an overview on the formal procedures of an ECI in the first section of this paper, we argue why the ECI makes the EU political process more inclusive. (First hypothesis) We give three reasons why it is easier for new less formalised actors to participate in an ECI than in other forms of participative democracy on the EU level.

That will be possible from the beginning of April 2012. To receive attention for their interest from EU institutions organisers must be able to create public attention for their concerns to collect the necessary number of statements of support. Our second hypothesis is that this public attention will emerge in "transnational discursive spheres", but not in an EU wide public sphere. In general, a public sphere and transparency are considered as being necessary pre-conditions for legitimate political decisions. Non-established actors communicating on single issues are less likely to live up to these preconditions. In our paper we argue, that this is not an indicator of deficient legitimacy, but a conceptual problem. Thus, we propose in the second section of this paper with the concept of "transnational discursive spheres" an alternative to classic theories of public sphere. Furthermore, this concept is able to master the current reality of new habits of communication and segmented public spheres.

As mentioned above the first ECIs will start in summer 2012. Thus, we cannot give any empirical evidence to test our hypotheses. Instead we propose in the last section of this paper a research design to test our two hypotheses in empirical research beginning next year. To do so we rely on the "sociology of knowledge approach to discourse" (SKAD) and propose a discourse analyses of newspaper articles, PR materials of the organisers, and interviews of representatives from EU institutions and organisers of ECIs.

Comments on our two hypotheses, the concept of "transnational discursive spheres" and our research design are welcome.

The ECI: making participative democracy on the EU level more inclusive?

The ECI (art. 11 (4) Treaty on the European Union, TEU) is a new instrument of participative democracy, which grants a formal agenda setting power to 'not less than one million citizens'. After the entering into force of the Regulation on the Citizens' Initiative on 1 April 2011 it will apply from 1 April 2012. Organisers of an ECI will be able register their initiatives with the Commission (art. 4 of the regulation) starting from this date. After the registration of an initiative the organisers have twelve month to collect the necessary number of statements of support. (art. 5 of the regulation) For a successful initiative organisers have to collect one million statements of support from at least seven member states. In each of the member states a minimum number of supporters are required, (art. 7 of the regulation) ranging from 3.750 in Malta to 74.250 in Germany. Afterwards, national authorities have to verify and certify the collected number of statements of support. (art. 8 of the regulation) If this number matches the required criteria the initiative will be examined by the European Commission. According to art. 10 and 11 of the regulation this examination will include:

- The publication of the initiative (art. 10 (1) a regulation);
- The reception of the organisers by the Commission (art. 10 (1) b regulation);
- A hearing in the Parliament during which the organisers get the chance to present their initiative (art. 11 regulation);
- The publication of the judicial and political conclusions which the Commission draws from the initiative (art. 10 (1) c regulation).

Regarding this process of examination it becomes obvious why we do call the ECI an instrument of participative democracy and not of direct democracy. The European Commission's exclusive right to initiate legal acts (art. 17 (2) TEU) is not touched by the ECI. The European Commission has to draw judicial and political conclusions from every successful initiative and to give reasons for taking or not taking an action. Thus, the ECI grants a formal agenda setting power to the organisers (and the signatories) of an ECI.

Taking into consideration that the 'fathers' and 'mothers' of the ECI tried to introduce elements of direct democracy into the Treaty establishing a European Constitution (Constitutional Treaty) or to hold an EU wide referendum on the Constitutional Treaty (Plottka 2011: 99) the ECI is a compromise on the lowest common denominator. But compared to forms of agenda setting which are not formalised a successful ECI forces the Commission to enter into a dialogue with the organisers: the organisers receive the floor in the European Parliament, and the Council, the Parliament, and the public are informed about the Commission's conclusions. Thus, an ECI will not die away like many protest events on the EU level but a debate among the EU institutions on the respective is likely to emerge.

Furthermore, with respect to the Commission's gate keeper function the ECI differs considerably from other forms of participatory democracy on the EU level. 'Participatory democracy via civil society involvement was considered as a promising supplement to representative democracy' (Finke 2007: 4) for more than a decade. The Commission (2001) agrees with this perspective and tried to involve more actors into EU policy making and

diversified the number of instruments used during consultations. (Quittkat 2011) But still most consultations are 'closed shops' which are dominated by established 'issue communities' on the EU level. (Quittkat 2011: 121-124)

Despite the Commissions' willingness to include more actors, it still has the predominant role of a gate keeper, which decides on the participants in most forms of consultations. This is not true for the ECI. The Commission's ability to turn down an ECI is far more limited. The formal requirements for organisers are clear: They have to be citizens of the European Union and entitled to vote in European elections. For each initiative a citizens' committee has to be set up, which consists of at least seven organisers which reside in at least seven different member states. (Art. 3 regulation) When the organisers register the initiative with the Commission, it has some more discretion to stop an ECI. Initiatives which 'manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act' (art. 4 (2) b regulation), which are 'manifestly abusive, frivolous or vexatious' (art. 4 (2) c regulation) or which are 'manifestly contrary to the values of the Union as set out in Article 2 TEU' (art. 4 (2) c regulation) may not be registered by the Commission. How the Commission deals with its discretion to register an initiative will be a crucial factor influencing the ECI's ability to improve European democracy. Anyway, the ECI is a less exclusive form of participative democracy than most of the consultation instruments on the EU level.

Another aspect makes the ECI an instrument open to new social groups, which are not well-established on the EU level. First of all, the traditional forms of lobbying on the EU level, especially the so called 'access strategy,' (Beyers 2004) require knowledge about EU politics and personal contacts with relevant actors in the European Commission, the European Parliament, and the Council of the European Union. To pursue this strategy interest groups and other social groups need a permanent representation on the EU level, or at least public officers travelling quite frequently to Brussels. Many less formalised social groups and even more formalised interest groups who are well routed in their national and/or regional constituency cannot afford the necessary resources for this strategy. Organising an ECI does not require such close relations with EU actors.¹ To organise an ECI and collect the necessary number of statements of support the ability to do ground work and attract (media) attention in the respective constituency is more important. Because most of the EU level interest organisations are far away from their respective constituencies, they seem to be less able to organise successful ECIs. Thus, we expect either organisations active on the EU level to cooperate with social groups and interest organisations which are deeply rooted in their constituencies² or the latter type of organisations will organise in transnational networks cooperatively organising initiatives.

A last factor facilitating the participation of new actors in EU politics via the ECI is the possibility to collect statements of support electronically. (Art. 6 of the regulation) This

¹ Organisers of an ECI have to interact with the Commission during the process of registration and when the Commission draws its conclusions from a successful ECI.

² An example is the campaign for a work-free Sunday in all of Europe, which tries to organise the first citizens' initiative next year. See: <http://www.free-sunday.eu> (last access. 25 September 2011)

option makes it possible to use new social media to campaign for an ECI and decreases the costs for campaigning. The “one seat” campaign shows that such campaigns can be successful. Initiated by the then member of the European Parliament Cecilia Malmström the campaign called for the location of the European Parliament in Brussels and was able to collect more than one million signatories within one year online.³

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The formal framework shows why the ECI is not an element of direct democracy. Despite this shortcoming, which has been criticised widely, the ECI is likely to make participative democracy on the EU level more inclusive: 1) The Commission has a reduced gatekeeper function. 2) The resources to pursue a successful ECI differ considerably from those necessary for traditional lobbying strategies. 3) The possibility to collect statements of support decreases the campaign costs for an ECI.

The ECI: creating transnational discursive spheres?

From a normative perspective, the increased openness of the ECI for new actors, which have not been involved in EU politics before, can be regarded as strengthening EU democracy. But we see the differences between the ECI and older forms of participative democracy as not being limited to this aspect. While instruments of consultations constitute primarily an interaction between an interest or social group and the European institution it addresses, the ECI is more likely to receive broader public attention. This public attention is necessary during the 12 months in which the statements of support are collected. Furthermore, every successful initiative will be considered by the European Commission (and the European Parliament). Here it seems to be likely that other actors such as national politicians, interest and social groups will join the debate and increase its publicity.

Will the ECI then be able to create a European public sphere? In the debate about the democratic deficit of the European Union several authors have neglected the possibility to democratise the European Union, due to the fact that it lacks a European public sphere, in which all citizens and other actors can participate. (Kielmansegg 2003) In contrast to these authors several studies tried to detect a European public sphere empirically. (E.g. Trezz 2002; Meyer 2002; Kevin 2003) Both groups of authors transferred the concepts of national public spheres to the European level. With regard to this research we argue that the ECI is able to create a kind of European public sphere in deed. But furthermore we will argue that this public sphere is different from what is called a public sphere in general. To do that, we develop the concept of ‘transnational discursive spheres’.

Our concept of ‘transnational discursive spheres’ is based on an understanding of public as a spheres in which actors communicate with each other. They permanently exchange knowledge and produce discourses. Thus, our concept is open to empirical testing when the

³ Because the location of the European Parliament in Brussels makes a treaty reform necessary, the “one seat” campaign cannot be subject of an ECI. For the campaign see: <http://www.oneseat.eu/> (last access: 25 September 2011).

first initiatives start. But we do not understand discourse in the normative sense of a deliberative process, as it is done in political science quite frequently. Instead we do understand discourse combined with questions of knowledge and the production of meanings in communicative processes in the tradition of Foucault (1972) and Berger/Luckmann. (1966) With Keller we consider 'the processing of discourses through society as a dialectical interplay between actors producing statements, and the pre-given as well as emerging structurations and sociohistorical means they have to draw upon.' (Keller 2011: 52) In the discourse orders of knowledge and structures of meaning are created. During the discursive process the commonly accepted knowledge about the field in question is altered or new knowledge is produced. In this respect we expect each ECI to initiate a discourse on the respective subject of matter, which we call a policy specific discourse.

In this understanding of discourses actors are not equal, but have specific positions defined by formal and informal institutions. Thus, the concept of 'transnational discursive spheres' focuses on the development of discursive orders which will shape future communication. That makes it possible to apply the concept of 'transnational discourse spheres' to the example of the ECI: In the previous section we pointed out that the Commission on the one hand and the organisers of an initiative on the other hand have different formal competences to influence the discourse on the subject of matter of an ECI.

The crucial question is: Who participates in this discourse? Most commonly public is defined as media public. With respect to the question of a European public sphere, studies under take research in which they count whether the news coverage of EU related issues increases. (van de Steeg 2005; Tobler 2002; Wimmel 2006; for an overview Brüggemann et al. 2009; Risse 2010) This research is no longer based on the normative prerequisite of a European public sphere but discusses the Europeanization of public spheres, the creation of 'a European Community of Communication'. (van de Steeg/Risse 2010) The crucial criteria for a European debate became whether the same issue is discussed at the same time by using the same criteria of relevance (Kantner 2004) in national media discourses. But this research still relies on the assumption that there is a national public sphere or national media discourse which includes most of the country's citizens and which fulfils more or less the Habermasian criteria for deliberative processes. (Habermas 1981; 1996)

Our concept of 'transnational discursive spheres' relies on the assumption that this ideal type public or media discourse, as a homogenous and closed sphere, does neither exist on the national nor on the supranational level. We regard publics on each level of the political system as being segmented and centred on specific issues. Here we tie in with research which regards the European public as being a network of segmented publics. (E.g. Eriksen 2007: 26) Accordingly we do not expect that the ECI will create a European wide public sphere. Instead the ECI will connect existing discursive spheres, which have been dealing with the respective subject of matter. Probably, it will include new actors into these discursive spheres, who have not been involved in the matter before, and it will raise the awareness for the respective topic in discursive spheres, which have been discussing the matter just as a side aspect. The creation of a counter discursive sphere might happen as

well. Actors, who are quite satisfied with the status quo, might organise themselves as well. Here we have to leave it up to empirical research: (a) Whether such a counter discursive sphere will emerge. (b) Whether both discursive spheres will merge or whether two discursive spheres run parallel and different orders of knowledge and structures of meaning in two different constituencies emerge. At the end of the ECI the European Commission (and the European Parliament) will have to bring together both discursive spheres and the created knowledge anyway.

So far we have described what we mean by a discursive sphere. But when is a discursive sphere transnational? With regard to our subject of interest it is comparatively easy to answer this question. The signatories of an ECI have to be citizens of at least seven different member states. Thus, the discursive sphere has to cover actors from at least seven member states; otherwise it is unlikely that the organisers will be able to fulfil this criterion. As these organisers form a citizens' committee for the ECI the discursive spheres in all member states are organisationally link. As a further criterion we rely on the third element of the so called 'Eder-Kantner-criteria', that the same criteria of relevance (Kantner 2004) have to be used across the whole 'transnational discursive spheres'.

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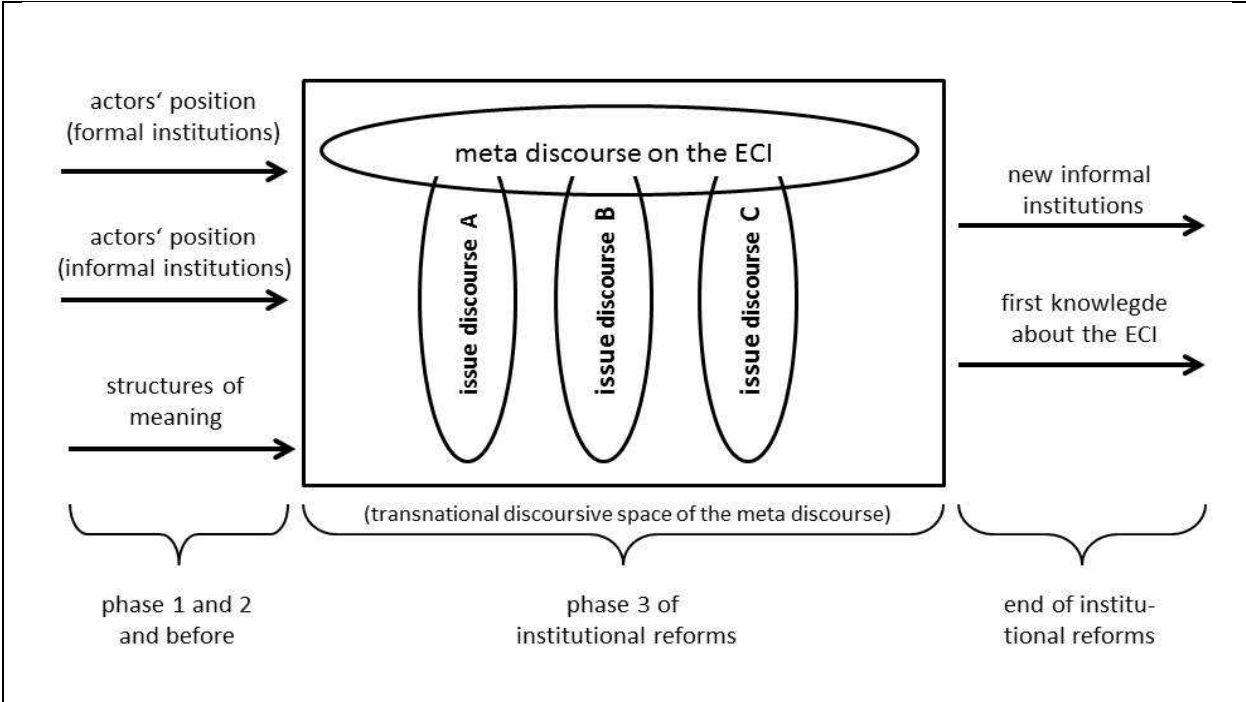
We tried to show that the ECI as an instrument of participative democracy is unlikely to create a European public sphere which is comparable to an ideal type deliberative space including nearly all citizens. But we do not regard this as deficiency. Instead we question the utility of this ideal type for the research on public spheres. Even in the nation state not all citizens participate in the same discursive sphere/public sphere. Especially the new (social) media foster the segmentation of discursive spheres. The concept of 'transnational discursive spheres' is an alternative, which overcomes the so called 'methodological nationalism' (Beck 2004; Beck/Grande 2007) in research on public spheres, and makes it possible to analyse the role of social groups as participants in discourse spheres.

The ECI: a research design

In the previous sections we formulated our hypotheses: (1) The ECI opens the EU policy process for new less formalised actors. (2) ECIs will create 'transnational discursive spheres', which are centred on the respective policy issue of the ECI. Due to the fact, that it will not be possible to register initiatives before April 2012 we cannot give any empirical evidence to test our hypotheses. Instead we try to sketch in this section a research design to test our hypotheses starting next year. As mentioned above our concept of 'transnational discursive spheres' stands in the tradition of Berger and Luckmann. (1966) In line with this methodological foundation we propose a discourse analysis, which is based on the "sociology of knowledge approach to discourse" (SKAD) (Keller 2011b) to test our hypotheses.

The analysis will include three ECIs dealing with different subjects of matter, which are expected to create three policy specific discourses in three ‘transnational discursive spheres’. (see issue discourse A-C in graph 1) At the same time we expect a meta discourse on the instrument of the ECI to take place. The three policy specific discourses and the meta discourse are intertwined as the first ECIs will be test cases for all actors, how to deal with this new instrument. In addition, the meta discourse will be an issue discourse itself, which includes politicians and scientists interested in the instrument of the ECI as well as non-governmental organisation which are engaged in promoting direct democracy. To analyse the meta discourse and the three policy specific discourses we plan conduct guided interviews with representatives of the EU institutions and the organisers of the three ECIs before the ECIs start and after the European Commission issued its conclusions from the ECIs. Parallel newspaper articles and PR material about the ECIs as well as material on the ECI as an instrument of participative democracy are collected. The interviews and the material are sampled and coded following the paradigm of the grounded theory. This way we try identifying the transnational discursive sphere on all four issues and to test the second hypothesis.

Graph 1: Analysing the first ECIs in 2012



Source: Own graph.

Testing the first hypothesis is more complicated. A first approach could be to conduct a quantitative longitudinal analysis, which counts the number of new actors involved in ECIs. Because we expect that in some cases new actors will cooperate with actors which are involved in EU politics for a long time, such a quantitative approach might be misleading. Instead we propose an analysis of institutional change.

Inspired by March's and Olson's definition of institutions as 'collections of structures, rules and standard operating procedures that have a partly autonomous role in political life' (March/Olsen 2005: 4) and which refers to Berger's and Luckmann's 'The social construction of reality' (Berger/Luckmann 1966) we define institutions as being composed of rules, roles and procedures. These rules, roles and procedures integrate formal and informal institutions or respectively political and social institutions. Our assumption is that formal and informal institutions can constitute the threshold, which hinders new actors to participate in the EU policy making process. Formal and informal institution can be inclusive or exclusive. With regard to the formal institutions that is quite obvious. All organisers of an ECI which do not match the requirements for organisers laid out in art. 3 of the regulation are excluded from conducting an ECI. Thus the first step of the analysis is to identify the actors' position based on formal institutions. The identification of informal institutions barring specific actors from EU politics is more difficult. To do that we plan to recode the interviews with representatives of the EU institutions and the organisers with regard to this question. As the ECI is a completely new instrument on the EU level we will ask during the first wave of interviews those actors, who had been involved in EU instruments of participative democracy different from the ECI before, for their previous experiences. As described in the first section of this paper we expect that the previous informal institutions barring specific actors from EU politics are not applicable to the ECI. Thus, we expect either institutional change or the creation of new informal institutions to take place. To detect these new institutions we recode the interviews of the second wave, too. Here we hope to identify new informal institutions, structuring the actors' behaviour in the process of an ECI and possibly barring specific actors from EU politics or not.

As graph 1 shows, we understand this process of institutional change or the creation of new institutions as being discourse driven. All actors participating in the meta discourse apply specific structure of meanings to the ECI. Finally, the meta discourse will produce new knowledge about the ECI, a commonly shared interpretation of this news instrument. In the long run this new knowledge will become manifest and create new informal institution, which structure the actors' behaviour in all ECIs starting later. (For an operationalisation of the variables mentioned see table 1 and 2)

Table 1: Operationalizing the variables

	Phase 1 and 2	Phase 3	End of institutional reform
actors' position (formal institutions)	defined in primary and secondary law	Constant	defined in primary and secondary law ⁴
actors' position (informal institutions)	informal institutions defining the positions of actors within the consultation regimes of the EU institutions	Transformation	new informal institutions
structures of meaning (of the ECI)	created during the Convention on the Future of the EU and the law making process on the regulation	possible transformation	transformed structures of meaning
knowledge about the ECI	not existing	Creation	Knowledge

Source: Own table.

Table 2: Material for the empirical research

actors' position (formal institutions)	- primary law - secondary law	Constant	/
actors' position (informal institutions)	- literature on interest intermediation - interviews with actors	Transformation	- interviews with actors - campaigning material - press material on the ECIs - statements of the EU institutions and political actors
structures of meanings (of the ECI)	- interviews with actors - material published during the Convention and the law making process	possible transformation	
knowledge about the ECI	/	Creation	

Source: Own table.

⁴ The European Commission shall present a review of the regulation on the citizens' initiative on 1 April 2015 and every three years thereafter. (art. 22 regulation) This review might be an impulse for a reform of the formal institutions defined in the secondary law.

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