Introducing direct democracy in the EU

A rollercoaster ride towards democracy

How the European Citizens' Initiative found its way into the EU Constitution, today's Lisbon treaty [1]

by *Michael Efler*, June 2003 – notes and some minor edits by Vladimir Rott, December 2009

Michael Efler, of *Mehr Demokratie* and *Democracy International*,[2] tells the story of how the ECI, European Citizens' Initiative found its way into the EU Constitution (today's Lisbon Treaty).[3]

The inclusion of the citizens' initiative in the draft EU Constitution is a great success for all those who were involved in the European Referendum Campaign.[4] It was the first time that people from different European countries lobbied for direct democracy during a reform of the European treaties and so it was somewhat surprising that this first effort was successful.

Six steps to more democracy

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[1] **NOTE** (December 2009) – the European Constitution (Treaty establishing a Constitution for Europe, Constitutional Treaty) of 2003/04 didn't pass the French and Dutch referenda in 2005, so it was renamed to Treaty of Lisbon

- ECI and its actual development on the European Commission's web ec.europa.eu/dgs/secretariat_general/citizens_initiative
- actual state of ECI on the initiators' web citizens-initiative.eu / eu-buergerbegehren.org (in German) / democracy-international.org/eci.html

[2] mehr-demokratie.de / democracy-international.org / iri-europe.org

[3] democracy-international.org/story.html – the story as published on the web of Democracy International (June 2003)

[4] erc2.org – ERC, European Referendum Campaign

Step one: paving the way

Getting the Convention involved

From March 2002 to November 2002 our work was concentrated on **discussing** our concrete **proposals** on individual meetings with **Convention** members.

At the end of March, IRI Europe [5] founded a **network** of interested Convention members and NGOs. The report "Voices of Europe – the growing importance of Initiatives and Referendums in the European integration process" was sent to all Convention members, MEPs and national parliaments. A **conference** organized by IRI Europe in mid-September brought together almost 100 participants from 20 countries and demonstrated the growing and broad interest in the issue.

Two goals – Europe-wide referendum on EU Constitution, citizens' initiatives and referendums

After much deliberation, we decided to push for **two ideas**: first (also the first priority), a Europe-wide **referendum on the European constitution**; and second, the introduction of far-reaching **elements of direct democracy** – a right of **citizens' initiative** including **citizens' referendums** and o**bligatory referendums** for **constitutional amendments**.

Our strategy was not to reduce our demands at the beginning.

Broad support, strong opposition

It is interesting to note that in our first discussions, especially with MEPs (**Members of European Parliament**), there was broad support for a Europe-wide referendum on the upcoming constitution regardless of the legal constraints (such a referendum would have required a prior amendment of Art. 48 of the European Union Treaty before adopting the new constitution, and that requires unanimity). We faced strong opposition to our proposal for national referendums on the EU Constitution being held in every member state on the same day, which we considered from the outset as the only legally possible and politically feasible way.

But we stuck to our ideas, because we saw that some MEPs especially held a totally unrealistic and sometimes ideological view of that issue. Some of them look at the constitutional process from a solely European perspective and ignore legal, political and logical barriers.

Step two: the breakthrough dinner

Working with members of the Convention

In December 2002 we wrote two short **articles drafts**, amendments for the draft constitution and we decided to initiate a **working process** within the **Convention**. But how could we do that as a couple of small NGOs (More Democracy/democracy international, IRI Europe)? So we tried to find co-inviters for a **working dinner** in the European Parliament scheduled for Jan. 20 (2002).

And we got **support** from nearly all the political groups: **Heidi Hautala** (Greens, Finland, MEP), **Diana Wallis** (Liberal, UK, MEP), Prof. **Jürgen Meyer** (Social Democrat, Germany, Convention member) and **Alain Lamassoure** (EPP, France, Convention member) agreed to be co-inviters, in addition to Bruno Kaufmann for the Initiative & Referendum Institute Europe and myself (Michael Efler) for More Democracy and Democracy International.

This working dinner was a great success and in retrospect the breakthrough for our efforts. More than 10 **Convention members** from several different countries and from all the political groups attended the meeting; a lot more showed their interest by e-mail. Both federalists and EU-

[5] iri-europe.org – Initiative & Referendum Institute Europe

sceptics were represented. The atmosphere was very focussed. After introductions by Andreas Gross (Vice-President, Council of Europe), Bruno Kaufmann (IRI Europe) and myself (Michael Efler), a profound discussion took place.

Draft texts

The **referendum on the European constitution** was at the centre of the debate whilst the **initiative process** played only a minor role even in our own contributions. All but one speaker (a Convention member from Portugal) spoke in favour of a referendum. At the end of this meeting it was agreed that John Gormley, an alternate Convention member and leader of the Irish Green party, would draw up **concrete draft texts** for the referendum and the direct democracy ideas to be discussed at another meeting.

Step three: an "informal" working group surprises the Convention

Reaching agreement within the working group

Two meetings were needed to reach **agreement on a text on the referendum**. The only concession we had to make was that in those countries whose constitutions currently do not allow referendums at least consultative referendums should be held. Our original aim was to encourage these countries (such as Germany) to change their constitutions to allow binding referendums.

But with regard to the second text (**citizens' initiative**) we were unable to reach a consensus. Some favoured creating high thresholds for citizens' initiatives, others didn't want to interfere with the European Commission's exclusive right of legislative initiative and we suggested **only** covering the **basic principles and instruments of direct democracy**, in order to avoid complicated debates on procedures and numbers.

At the end of that meeting (on 27 February), only 5 minutes were left to discuss these differences – impossible to reach a consensus. It was not clear either who should be responsible for coordinating the whole process and especially for collecting signatures in the Convention. We discussed these problems and decided to coordinate the process ourselves in close cooperation with Jürgen Meyer and Alain Lamassoure.

Collecting signatures of Convention's members (1)

We started **collecting signatures** among the **Convention** members that day. It was very unusual for members of NGOs to collect the signatures of elected representatives, but no-one questioned our right to do so and we felt obliged to fight for our ideas and for the agreed text. We left Brussels on Friday, 28th February (2003), with 8 signatories for the referendum proposal.

But how to proceed with the **citizens' legislation**? After nearly one month of discussions with individual Convention members, we decided to seek support for a text that introduced the instruments of the **citizens' initiative**, **citizens' referendum** and an **obligatory referendum** only in the case of constitutional or treaty amendments, without specifying the procedure, the majority requirements or the number of signatures that had to be collected.

When we started to push for our second text we had already collected 33 signatures for the referendum – most of them at the Convention meeting on March 17-18 which six of us attended, and some by the federalist intergroup in the Convention.

Between the meetings we distributed our text to a lot of Convention members by e-mail and fax and phoned them over and over and over again… It was a very hard and sometimes frustrating job because it was much easier to contact the politicians directly in Brussels, but on the other hand it was not possible to contact them all directly.

Proposal of referendum on EU Constitution sent to the Convention

On 31st March Alain Lamassoure sent the **referendum text** – signed by 37 members, alternates and observers – as a **contribution to the Convention secretariat**. At that time we had only 3 signatories for the second text (citizens' legislation).

Step four: what kind of "democratic life in the European Union"?

Collecting signatures of Convention's members (2)

At the **Convention** meeting on **3rd-4th April** (2003), we collected **signatures** for the first time for **both proposals**. At a very well attended press conference with Alain Lamassoure, Jürgen Meyer, Bruno Kaufmann and myself (Michael Efler) we presented the **referendum** text to the **European media**. After that meeting we had **65 signatories for the referendum** and **8 for the citizens' legislation**. At that meeting the presidium of the Convention published its first draft Art. 34 (principle of participatory democracy). It was a big disappointment for us – absolutely no mention of direct democracy, only structured dialogues with the so-called representative organisations and civil society. There was only one week left to submit amendments to the presidium, but after analysing the existing amendments (four or five were going in our direction) we agreed to continue the gathering of signatures until a much more impressive number of supporters is gained.

Presenting our proposals to the Convention, and to the presidium

The next **Convention** plenary on **24th-25th April** (2003) was very important for us as well. Jürgen Meyer presented both proposals in the meeting of the social democrat Convention members and gained a lot of support. At the plenary discussion on the so-called "democratic life of the Union", a lot of members spoke **in favour** of a **referendum** and of **elements of direct democracy** in the **Constitution**. At the end of the debate, **Giscard** (d'Estaing, Convent's president) indicated that he would **test the referendum idea in the presidium**. We left Brussels with 75 and 26 signatories respectively.

The following two Convention meetings, on 15th-16th and 30th-31st May (2003), were characterized by a growing dissatisfaction with the work of the presidium. A lot of the proposed amendments had not even been considered, on key issues such as the institutions there were still no texts and the end of the Convention's scheduled work was coming closer and closer. It became more and more difficult to find more signatories for the referendum, because we had already discussed with most of the Convention members (sometimes we felt like Convention members as well).

At the second plenary meeting in May (30th-31st) we finalised the gathering of signatures. We distributed more than 700 leaflets with the slogan "Last call for referendum" with the help of some Belgian and Dutch activists. We finished our work with **93** and **43 signatories**.[6] Alain Lamassoure and Jürgen Meyer agreed to submit the texts to the presidium the following week.

Step five: High noon in the presidium

Compromise as first step[7]

In the first week of June we got clear indications from members of the presidium and other Convention members that our far-reaching text on direct democracy would not achieve a consensus in the presidium (not a great surprise to us) and we agreed with Jürgen Meyer to formulate a

[6] democracy-international.org/97convention-members.html / democracy-international.org/39.html

[7] as a mere petition to the Commission only (same note as [9])

compromise text that would give citizens the **right to present proposals** to the European Commission, which would then have to decide whether to take legislative action or not.[8]

This is a **very small first step** in the right direction, but it should not be underestimated. It is a citizens' initiative right similar to that which exists in Austria and which is very often used by the people.

Convents' presidium in favor... or not

The Convention plenary on 5th-6th June (2003) was a rollercoaster that I (Michael Efler) will never forget. First we received the information that a huge majority of the national parliament delegates in the Convention had accepted the compromise text and that Jürgen Meyer had gathered more than 30 new signatures for the new text. At the end it was **signed by 72 Convention members**.

In a consultation with the national parliamentarians, (Convent's) president Giscard announced to our total surprise that he was in favour of the citizens' initiative and that the presidium would find a way of endorsing it. Totally happy and full of optimism we went to the Place du Luxembourg in front of the European Parliament and had some drinks. Then we met a member of the presidium who told us that the presidium had just rejected the proposal by a huge majority and that Giscard was not present at that meeting. The trip back to Berlin was a very sad one indeed…

Lobbying the presidium

After some days of feeling quite depressed, I (Michael Efler) called Jürgen Meyer and told him about the latest developments. We agreed not to give up and to try to get a different decision in the presidium. Democracy International activists sent hundreds of e-mails to the presidium members; I sent faxes to all of them, too, and in Brussels on 12th June we used our last opportunity to "catch" some of them for a direct discussion.

Citizens' initiative getting in [9]

After several meetings of the presidium and two joint meetings of the European parliament and national parliament delegates they agreed a joint position on "**last minute amendments**" of the draft constitution. One of these seven points was the introduction of the citizens' initiative.

The **last presidium meeting** took place at 3.00 pm on 12th June (2003), and the results were presented by Giscard at 7.00 p.m. in the great plenary room of the European parliament. At that point of time we had **absolutely no idea** what the presidium had decided. We were all very glad when we heard **Giscard speaking about the citizens' initiative** and stating that the presidium had included the proposal in the draft constitution (leaving open the fixing of the concrete procedure by a European law).

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[8] exactly and alas: whether to consider it or not

[9] as a mere petition to the Commission only (same note as [7])

[10] notes and some minor edits by Vladimir Rott, December 2009