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Bachelor Thesis

**Making the EU More Democratic?
Prospects of the European Citizens' Initiative**

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List of Acronyms

ECI	European Citizens' Initiative
EP	European Parliament
EU	European Union

Declaration of Authorship

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Münster, August 10th, 2011

1. Introduction

The notion that the European Union (EU) suffers from a ‘democratic deficit’ is widely agreed upon by scholars, politicians and citizens (Moravcsik 2002: 2). In general terms, the expression refers to a discrepancy “between the requirements of democratic rule and the actual conditions upon which the management of EU affairs is largely based” (Chrysochoou 2007: 360). The existence of this deficit is generally seen as a main reason for citizens’ frustration with the EU and the resulting low levels of public support for the integration project (Hix 2008: 66). While discussions about the democratic deficit and what to do about it have been going on since the mid 1980s, the growing range and importance of policy decisions made by European institutions have led to an intensification of those debates (Huget 2007: 14).

Consequently, there are attempts to halt the loss of confidence in the EU system. Scholars, civil society organizations or politicians have made innumerable proposals for enhancing the democratic credentials of the EU. The widespread view that there is work to do in this regard has also found its way into the European institutions. For example, the Commission in a White Paper explicitly recognizes the need to better involve its citizens in EU governance (Commission of the European Union 2001).

With the entry into force of the Treaty of Lisbon in December 2009, the European Union’s (EU) legal basis has once more been reformed. One of the innovations introduced by the Treaty is the provision for a European Citizens’ Initiative (ECI).¹ On 16 February 2011, the EU Regulation 211/2011 on the ECI was adopted and now sets out the rules for the use of this newly created instrument. In the main, this regulation makes provision for the following: A minimum of one million citizens of the EU from at least one quarter of the Member States is given the right of “inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties” (Art. 2.1 of Regulation 211/2011).

This definition clarifies that the ECI is a non-binding instrument. Citizens are given the possibility of ‘inviting’ the Commission to take action, but there is no

¹ Art. 11.4 of the Treaty on European Union

obligation on the part of the latter to initiate any kind of legislation. Thus, this innovation seems to be a rather weak participatory instrument. Nevertheless, the ECI represents the first ever instance of a transnational provision for direct citizen involvement (Kaufmann 2009). As mentioned in the preamble to the ECI regulation referred to above, the purpose of the initiative is to contribute to enhancing “the democratic functioning of the European Union”. This wording makes obvious the linkage to the discussion on the EU’s democratic deficit, in that it recognizes a need for improving the EU’s democratic functioning.

However, the actual introduction of the "European Initiative Right seems to have been more of a coincident than something seriously sought after” (Pichler 2009: 41). Its successful addition to the Constitutional Treaty (and subsequently the Lisbon Treaty) can be attributed to pressure from civil society and individual members of the Convention on the Future of Europe. These gathered support among delegates and managed to convince the presidium to adopt their proposal for an ECI only during the Convention’s last session (Efler 2003; Kammel & Möller 2010; Maurer & Vogel 2009: 5).² Furthermore, according to Efler (2003), the proposal that finally got adopted was not nearly as far reaching as the ideas the civil society organizations behind it originally had in mind. Thus, the ECI could be described as a compromise that its initiators see only “as a first small step” (ibid.).

Can the European Citizens’ Initiative still be seen to enhance the ‘democratic functioning’ of the EU? To find an answer to this question is the central aim of this thesis.

However, when trying to establish whether the ECI indeed has the potential to enhance the democratic functioning of the EU, one is inevitably pointed to a difficulty: Contrary to what the above quote from the Regulation 211/2011 might suggest, democratic functioning of the EU and its enhancement is a contested concept. As mentioned above, concerns about the democratic deficit are widespread. However, there are some authors disputing the claim that European governance is democratically deficient. Furthermore, among those who do argue for strengthening the EU’s democratic credentials, there is no consensus on how

² According to Efler (2003), the main driving forces behind the proposal were the NGOs ‘More Democracy’, ‘Democracy International’ and the ‘Initiative and Referendum Institute Europe’. Among the delegates, the contributions of Jürgen Meyer and Alain Lamassoure are emphasized.

exactly the deficiencies should be tackled (Chrysochoou 2007; Hix 2008: 68). One important reason for this variety of viewpoints is that the respective authors' stances in the debate are informed by different conceptions of democratic legitimacy (Jensen 2009; Kohler-Koch & Rittberger 2007).

Hence, the potential of the ECI to make the way the EU works more democratic should be judged in the light of the competing perspectives on the issue. Thus, in order to sufficiently account for the diversity of perspectives, in the first part of the thesis three central approaches to democratic legitimacy in the European Union will be considered, based on a review of literature. Some important recommendations that have been put forward for dealing with the issue of the EU's democratic legitimacy will be outlined in the section, as well as the different rationales behind these. Having identified those rationales, the conditions under which a given instrument could be seen to enhance democratic quality in line with each of the three approaches are specified. Subsequently, the next part of the thesis establishes what effects the ECI is likely to yield. This will be done by analyzing the ECI's legal framework and literature on the topic. Some conclusions can also be drawn from experiences with similar instruments in national contexts and from initiatives that have already been carried out on a European level. An ensuing discussion section will try to ascertain how the effects of the ECI relate to the three approaches to democratic legitimacy of the EU.

The objective thus is to systematically link the assessment of a concrete reform intended to make the EU more democratic with a discussion of theoretical approaches to the issue of the EU's democratic legitimacy.

2. Approaches to Democratic Legitimacy in the EU

2.1. The EU and Democracy Beyond the Nation-State

Before embarking on the discussion of different approaches to the EU's democratic legitimacy, one might ask the question why the issue is increasingly on the agenda in the first place. The debate on the EU's democratic deficit is embedded in the wider problem of whether and how democracy can be realized beyond the nation-state context. As Dahl notes, "the development of transnational systems reduces the political, economic, social and cultural autonomy of national states" (Dahl 1994: 26). Under these circumstances, a considerable number of international institutional arrangements has developed over the years, designed to help nation-states to cope with those transnational problems they cannot tackle (as efficiently) on their own.

A number of scholars have concerned themselves with the relation between the increased use of these institutional arrangements beyond the nation-state and the requirement for democratic rule (e.g. Dahl 1994; Dryzek 1999; Held 1999; Zürn 2000). For example, Dahl (1994) famously argued that there is a "democratic dilemma" inherent to international organizations. He claimed there was a trade-off between the improved problem-solving effectiveness they offer and reduced possibilities for citizen participation on a much larger, international scale. The EU can be seen as the "most developed transnational *polity* of the world until now" (Kaufmann 2009: 29, emphasis in the original). This is the reason why the discussion on democratic legitimacy beyond the national context is very lively in the case of the EU.

In order to prepare the discussion of different approaches towards the issue of democratic legitimacy in the EU, it is helpful to outline what is commonly seen to constitute the so-called democratic deficit of the EU: Popular and interrelated claims (according to Abromeit 2002: 20; Hix 2008: 68-71) include the perception that the integration process has led to the dominance of actors³ who are either members of national governments or installed by these, at the expense of national parliaments. The powers of the European Parliament (EP) are not sufficient to make up for the dominance of executive actors, especially regarding its inability to appoint or dismiss the European Commission.

³ Notably the European Council, the Council of Ministers and also the Commission.

Also, the EP is unlike a conventional parliament because the elections constituting it are more about national politics than they are a democratic competition over the future direction of EU policies. Furthermore, the bureaucratic and secretive nature of the way decisions are made at the EU level is lamented, with an unelected body – the Commission – playing an important role. Due to this bureaucratic nature, there also is a lack of understanding on the part of citizens. Finally, political competition is absent on a European scale although it would allow citizens to link their own wishes with what happens in the EU.

In addition to these points, which focus on the institutional setup of the EU and its functioning, there are also authors emphasizing a more structural dimension of the democratic deficit. Several scholars focus their attention on the absence of socio-psychological preconditions without which an institutionalization of democratic procedures at the European level cannot be legitimate (Chrysochoou 2007: 363; Huget 2007: 47; Jensen 2009: 5). Above all, this criticism points to the absence of a transnational European *demos*, a strong, common European identity or at least a public sphere on the European level (Scharpf 2006: 18-19).

What different approaches to the topic of democratic legitimacy in the EU have in common is that, in a most general way, they debate the functioning of the EU and how this might contradict the requirements of democratic rule (Chrysochoou 2007: 360). Beyond this, there are considerable differences. First of all, “there is no lack of different views regarding the degree to which the EU is suffering from a democratic deficit” (Kohler-Koch & Rittberger 2007: 4) and what its nature is. These different opinions in turn depend on how authors understand the EU as a system (Majone 1998: 27), on what conception of democracy they advocate for the EU (Jensen 2009) and also on what their preference regarding the future shape of the EU is (Decker 2002: 256). Thus, to engage in the debate seems to be akin to entering ‘crowded territory’ (Kohler-Koch & Rittberger 2007).

Three distinct approaches to democratic legitimacy in the EU, which can be identified in the literature, will be presented in the following. The perspectives included in the analysis are an approach of parliamentarization, a regulatory approach and a participatory perspective.

2.2. Three Approaches to Democratic Legitimacy

2.2.1. A Parliamentarization Approach

In order to redress the democratic deficit, many proponents of a parliamentarization approach advocate reforming the EU's institutional setup. Oftentimes, their focus is on the formal powers of the EP (Decker 2002; Höreth 1999: 250). In their view, these powers are insufficient for the parliament to be a counterweight to the Commission and the Council (Höreth 1999: 253). Thus, strengthening the EP would ensure accountability of executive actors to the European citizenry. Just to mention one exemplary reform proposal in this regard, Rohrschneider (2002) argues that citizen representation needs to be enhanced and thus proposes strengthening the EP. Others have instead suggested introducing direct elections of the Commission President (Crombez 2003; Decker 2002).

In contrast to these authors, who propose changes to the EU's institutional setup, Hix (2008: 76-86) argues that this setup as such is not inadequate. For example, the EP in his view does possess sufficient powers. However, electoral competition for political office – which for Hix is the essence of democratic politics – does not take place as it does in national contexts. As a consequence, the EP is perceived as a more or less uniform body. When citizens lose from a certain policy decision, they thus tend to blame the EU as a whole, while within the EU's Member States, they would blame a visible governing party or coalition. Electoral competition would provide voters with visible policy alternatives and EP election outcomes would then endow the winners with a genuine mandate. Having identified electoral competition as a key mechanism that makes parliamentary democracy work on a national level, Hix then continues to outline proposals for making EU politics more adversarial. He argues that fundamental changes to the EU's overall institutional design are unnecessary. Instead, he proposes that the winning parties of EP elections should obtain more committee chairs than they presently do, or that candidates for the Commission President post hold live public debates in the EP (ibid.: 137-165).

While giving different recommendations, proponents of the parliamentarization approach have in common that they diagnose a democratic deficit based on the view that the EU's institutional setup is inadequate for, or does not function as in a parliamentary system (Abromeit 2002: 21). Mostly, they advocate the “institutional adaptation of traditional democratic mechanisms and employ benchmarks for their

functioning which they derive from current domestic democratic institutions and practices” (Kohler-Koch & Rittberger 2007: 2). There is considerable variation as to the exact model advocated, with proposals ranging from bicameral parliamentary democracy to a presidential system or to a scaled-up federal structure with three chambers (Abromeit 2002: 21-30). From the viewpoint of the parliamentarization approach, the EU can be made more democratic by applying national recipes for representative democracy to the European level. This would redress the current incongruence between the powers held by the EU and its accountability to European citizens. The majority of proposals found in the literature follow one or another variant of the parliamentarization approach (ibid.). Besides trying to put nationally established conceptions to good use on the European level, what is the idea behind proposals for parliamentarization?

According to Höreth (1999: 258), the rationale to which proponents of this approach subscribe is to remedy the democratic deficit they diagnose in the EU by strengthening input legitimacy. This requires institutional arrangements which ensure that “governing processes are generally responsive to the manifest preferences of the governed” (Scharpf 2006: 1). Considering this definition, reforms in the spirit of parliamentarization are seen as beneficial because they could guarantee that citizens’ preferences are adequately represented at the EU level. Moreover, as a directly elected body, a strengthened EP would exercise democratic control “over the executive activity of the Union” (Höreth 1999: 258). This way, the responsiveness of governing processes to citizen preferences and hence input legitimacy would be secured.⁴

Consequently, within the logic of the parliamentarization perspective, a measure has to fulfil two *conditions* in order to be suitable for enhancing the EU’s democratic legitimacy. Such a measure should, firstly, make it possible to *ascertain what the preferences of the citizenry are*. Secondly, the *will of the citizens should have a decisive impact on the executive*, notably the policy agenda it pursues.

One major challenge to the parliamentarization perspective comes from authors who emphasize the structural dimension of the democratic deficit: Strengthening

⁴ Alternative proposals to strengthening the EP within this strategy work in the same way. For example, a direct election of the Commission President could make the executive directly accountable and thus responsive to citizen preferences (Abromeit 2002: 27).

conventional institutional channels for democratic accountability might not have beneficial effects on public support for the EU in the absence of socio-psychological preconditions (Scharpf 2006: 18-19). For example, enhancing the powers of the EP could mean that national interests, especially of smaller states, are more easily overridden than before even though citizens perceive their national institutions as much more legitimate than the European ones. Thus, because (small) nation-states would seek to prevent such a situation, an EU model of democracy would always involve an extremely high number of checks and balances. Under those circumstances, an increase in political competition on the EU level could be damaging to citizen support for the EU, because the agendas of election winners would “get bogged down in multiple-veto bargaining” (ibid.: 20).

To some authors, the emergence of a European *demos* is not only unrealistic but also undesirable (Weiler, Haltern & Mayer 1995), while others think that it is possible for strong common identities or at least a public sphere to develop on a European scale, albeit not in the short term (Scharpf 2006: 19).⁵ Several of the advocates of the parliamentarization perspective have reacted to this structural criticism with resignation, concluding that their proposed reforms aimed at making the EU more democratic can not be implemented under present conditions – and thus the democratic deficit will remain hard to solve (Abromeit 2002: 22).

However, there are also authors who challenge what in their views are overly strict conceptions of structural prerequisites and argue that “democratic processes beyond the nation-state must not be ruled out as an unalterable matter of principle until all aspects of a *demos* are fully developed” (Zürn 2000: 199, emphasis in the original). Consequently, it can also be argued that a sufficiently strong European collective identity “might well form through the practice of democratic competition” (Follesdal & Hix 2006: 550). Similarly, Decker (2002) is of the opinion that institutional reforms can simultaneously contribute to reducing the structural limitations for parliamentarization. He advocates introducing direct elections of the Commission President and further integration in policy areas that he deems vital for the formation of a common identity.⁶

⁵ Some authors have already identified elements of an emerging European public sphere, albeit mostly on an elite level (e.g. Schlesinger 2001).

⁶ For example, he argues that strengthening the Common Foreign and Security Policy could result in increasing citizen identification with the EU.

2.2.2. A Regulatory Approach

In contrast to the predominant view that the EU is deficient regarding its democratic quality, authors taking a regulatory approach are of the opinion that there is no democratic deficit inherent in the way the EU is governed (Kohler-Koch & Rittberger 2007: 4-6). They concede that further parliamentarization of the EU is not possible “as long as the Member States remain, for their people, the principal focus of collective loyalty and the real arena for democratic politics” (Majone 1998: 14). But for them, the absence of the structural preconditions for parliamentarization does not impinge on the democratic legitimacy of the way the EU currently works. Instead, accusations of democratic deficiency are based on false standards (ibid.).

In Majone’s view, the EU should not be conceptualized as a federation but rather as a “regulatory branch” of its Member States which have democratically decided to delegate “efficiency-oriented” tasks to it (ibid.: 28). These include issues like monetary policy, the removal of trade barriers, or environmental and consumer policy. Delegating those policy areas to the European level serves to redress market failures (Kohler-Koch & Rittberger 2007: 5; Majone 1998). In ‘regulatory’ policy areas, which are seen to be more ‘technical’, pareto-efficient solutions can allegedly be achieved that leave no side worse off. According to proponents of the regulatory approach, independent regulatory agencies staffed by experts are best suited to discover these pareto-efficient solutions (Bellamy 2010: 8). In contrast, ‘redistributive’ policy areas (e.g. social policy) involve trade-offs and more salient societal conflicts. This is why these should only be dealt with on the basis of a firm common identity, i.e. on the nation-state level.

A similar take on this issue of de-politicizing decision-making suggests that in regulatory policy areas like those mentioned above, citizens remain rationally ignorant due to the complexity of the topics dealt with. As within these policy areas there allegedly is also a greater need for efficiency and attention, experts are better suited than elected politicians to make the right or at least more informed decisions (Moravcsik 2002: 614). Furthermore, even under the assumption that elected politicians would be capable of devising appropriate policies in complex issue areas, delegation still makes for a higher degree of continuity. As the changing governing majorities primarily have the next election in mind, policies that require

long-term approaches can be less effective if they are subject to short-term electoral calculations of politicians (Majone 1998: 17). Technocratic decision-making isolated from democratic politics in this view is also seen as a means against “false positives”, meaning the undue overrepresentation, for example of powerful pressure groups (Bellamy 2010: 8).

Following the above arguments, judging the EU against standards of representative democracy misses the mark, because the effectiveness of the EU as a locus for efficient regulation relies on its exclusion from ideological or party-political influences (Abromeit 2002: 16; Kohler-Koch & Rittberger 2007: 4). Thus, in contrast to the approach of parliamentarization, authors conceptualizing the EU as a regulatory arrangement consider the Union as democratically legitimate by virtue of the beneficial effect its regulatory policies have on the common welfare of Member States.

Due to the focus on the general pareto-efficient effects of policy outcomes, the regulatory perspective can be seen to rely on output legitimacy (Kohler-Koch & Rittberger 2007: 4). In contrast to the input side, this refers to the requirement that “the policies adopted will generally represent effective solutions to common problems of the governed” (Scharpf 2006: 1). As from this second perspective on democratic legitimacy in the EU there is no democratic deficit, the recommendation would be to maintain the status quo (Huget 2007: 58) and to ensure that the EU deals with a clearly delineated set of non-redistributive policies (Jensen 2009: 5). Still, it is possible to point out what the rationale of the approach implies for measures intended to increase the EU’s democratic legitimacy.

In contrast to authors for whom the absence of ‘classical’ democratic institutions and politics on the EU level is the core of a democratic deficit, this very absence becomes a virtue in the eyes of others, as it ensures effective solutions to common problems of European citizens – and hence, output legitimacy. Thus, the *condition* that measures intended to enhance legitimacy should fulfil is to *preserve the impartial and technocratic character of EU decision-making*.

Criticism has also been voiced against proponents of the regulatory approach. First of all, the dichotomous distinction between regulatory and redistributive policies seems questionable, as regulation can also have redistributive effects (Follesdal &

Hix 2006: 542-543). Furthermore, according to Bellamy (2010), who strongly criticizes the notion that outputs alone can legitimize the EU, even decisions that are more technical in character involve a certain degree of discretion and uncertainty. Also, as experts are not unbiased themselves, technocratic committees are not immune to the 'political' kind of behaviour they are supposed to avoid. More importantly though, Member States are increasingly unable to deal on their own with challenges also in certain redistributive policy areas, like social policy (Scharpf 2006: 14-15). The EU thus seems to be confronted with a shift in the agenda away from pareto-efficient towards redistributive policies, e.g. from setting up a common market to determining how liberalized it should be (Hix 2008: 46). If, at the same time, authors supporting a regulatory perspective argue that redistributive policies should not be dealt with on a European level, one could argue that they fail to provide an answer to a core contemporary problem of governance beyond the nation-state (Zürn 2000: 195).

Within the first two approaches, debates seem to revolve around three aspects. These are the powers and functioning of representative institutions, the effectiveness of EU policies and the question of socio-psychological foundations for European representative democracy. According to Holzacker (2007: 259), these notions (in his words: representation and accountability, performance, identity) represent an understanding of democratic legitimacy that stems from liberal democratic theory.

2.2.3. A Participatory Perspective

It has been mentioned above that the endeavour of parliamentarizing the EU system has been criticized, most notably because of the absence of structural preconditions. On the other hand, excluding redistributive or controversial policies from the supranational level and relying just on output legitimacy has also been strongly questioned.

Applications of 'standard' forms of democracy to transnational contexts are to a large degree hampered by the fact that "the key principles and practices of liberal democracy are associated almost exclusively with the principles and institutions of the sovereign nation state" (Held 1999: 91). Thus, one might be tempted to search for alternative ways in which governance beyond the nation-state could be

democratically legitimized (Abromeit 2002: 30-31). In this context, the “dominant principle of representative democracy sees itself increasingly supplemented by alternative modes of democracy” that open up opportunities for participation beyond electoral channels (Kohler-Koch & Rittberger 2007: 10). A popular answer to the question of how to enhance the democratic quality of political processes on the international and European level thus relies on citizen and civil society involvement (Friedrich 2008; Greenwood 2007).

In fact, the participatory extension of policy-making is not just a central component of scholarly concepts on EU democratization but has also been taken up by EU organs themselves (Hüller: 2006). For instance, within its White Paper on European Governance, the European Commission (2001: 14-17) accords great significance to civil society. The Commission argues that a more inclusive approach to involving (organized) civil society can contribute to the further democratization of European policy-making (Hüller 2010: 300). And in fact, citizens and civil society can already engage with EU policy-making in a number of ways: For example, besides informal contacts through lobbying activities, there are provisions ranging from issue specific online consultations to petition rights and the advisory Economic and Social Council (Hüller 2006: 13). Thus, the idea of involving citizens and civil society is not only met with sympathy in scholarly accounts, but also increasingly reflected within the EU’s institutional architecture. In the following it will be outlined how this is thought to further the EU’s democratization.

For those sympathetic to the participatory approach, civil society organizations can, at least potentially, act as a kind of transmission belt between citizens and political institutions of international organizations like the EU. This is perceived as substitute democratization where ‘standard’ representation via, for example, parliaments is not possible due to certain reasons (Freise 2008: 8). The transmission function ascribed to civil society organizations involves two mechanisms: From a bottom-up perspective, the inclusion of civil society provides for the presence of a wider range of citizen interests. Civil society organizations take up the concerns of their constituencies and introduce them to decision-making processes. From a top-down perspective, they monitor the decision-making processes they are included in and communicate their observations back to their constituencies and the public. Civil society participation will, following this argument, lead to increased

transparency and therefore put pressure on all actors involved in the process to publicly justify their own positions (Freise 2008: 8; Hüller 2006: 8; Hüller 2010: 304-305). Thus, an important reason to value civil society participation is its alleged potential to inject the logic of public and reasoned argumentation into supra-national decision-making processes. This is considered to help eliminate illogical or unfair proposals and to lead to greater legitimacy of the policies adopted and of the international organizations themselves (Nanz & Steffek 2005: 89).

The focus of authors supporting the participatory approach on enhancing the quality and content of the decision-making process alludes to deliberative conceptions of democracy. Central to deliberative democratic theory is the conviction that democracy should not essentially be about mechanisms (such as voting and representation) that help to mirror and aggregate the distribution of citizens' preferences (Cunningham 2002: 163-166). Rather, democracy should provide a platform for exchange and scrutiny of preferences and values themselves. This implies that preferences are subject to change as a result of deliberation and political processes should thus encourage this reasoned kind of argumentation. For deliberative democratic theorists, voting is a matter of last resort to be applied only if consensus cannot be achieved by deliberation (*ibid.*).

This emphasis on deliberation and arguing, “over and above interest representation, bargaining and voting procedures” (Eriksen 2000: 44), as the essence of democratic legitimacy simplifies the extension of democracy to the international level. Scholars “can now look for democracy in the character of political interaction, without worrying whether or not it is confined to particular territorial entities” (Dryzek 1999: 44). Whereas representation assumes an identifiable and delineated constituency, deliberation and communication “can cope with fluid boundaries” (*ibid.*) which makes a deliberative take on democracy seem attractive in the EU context (Abromeit 2002: 34).

Thus, just like in the case of the parliamentarization approach, proponents of a more participatory perspective agree that there is a need for improvement of the EU's democratic quality. However, they draw different conclusions regarding the changes that would be necessary to enhance democratic legitimacy. As opposed to strengthening the EP, introducing a directly elected Commission President or making possible genuine electoral competition, they argue that increased

participation outside of elections would be beneficial. Participation would enhance the representation of diverse interests and improve transparency. This in turn increases the pressure on decision-makers to be responsive to citizens' interests. In the long run, some argue, the practice of participation "in the EU system of deliberation and decision-making" could also lead to the formation of a European *demos* (Eriksen & Fossum 2004: 446) and thus could reduce structural dimensions of the EU's democratic deficit.

Considering the mechanisms through which democratic legitimacy is thought to be enhanced within this approach, concrete measures for improvement should fulfil two *conditions*. In analogy to the bottom-up part of the transmission function ascribed to civil society, they should firstly be *inclusive and facilitate the introduction of diverse interests*. Secondly, they should *create publicity*. The presence of these elements would put pressure on actors to justify their positions by way of argumentation. This focus on the quality of the decision-making processes falls into the realm of "throughput legitimacy" (Holzhacker 2007: 259).

As said above, civil society already is involved in EU decision-making in multiple ways and furthermore, some scholars point out that a deliberative style of policy-making can be found in some instances of the EU system (Abromeit 2002: 33, 38). Thus, it seems like from the viewpoint of the participatory approach, the democratic deficit is not as pronounced as from perspectives emphasizing the shortcomings of the EU against the yardstick of parliamentary, representative democracy (*ibid.*).

However, this is where criticism has also been voiced: There is a concern that the emphasis on putative deliberative qualities of EU governance and the consultation of civil society in reality are merely an affirmative re-interpretation of obscure, elitist decision-making (Abromeit 2002: 39; Freise 2008). In the view of critics, "open and transparent dialogue is no guarantee for equal access and no cure for a lack in democratic accountability" (Kohler-Koch & Rittberger 2007: 11). Moreover, similar to what has been put forward against strengthening representative EU institutions like the EP, the absence of certain social preconditions could also impinge on the beneficial effects of civil society involvement. While publicity is an important precondition for the transmission-belt-mechanism described above to function, the European public sphere that could provide for such publicity is at best underdeveloped (Freise 2008: 8).

2.3. Summary of Approaches and Hypotheses

2.3.1. Perspectives on Democratic Legitimacy in the EU: A Summary

In the preceding section, three quite different perspectives on the issue of democratic legitimacy of the EU have been discussed. The three approaches with their rationales, sources of legitimacy, theoretical underpinnings and conditions for enhancement of democratic quality are summarized in the below table.

Table 1: Three Approaches to Democratic Legitimacy in the EU			
Approach	Parliamentarization	Regulatory	Participatory
Rationale	Mitigate democratic deficit by: <ul style="list-style-type: none"> • Enabling EU to function like representative democracy, e.g. by reforming institutions or fostering electoral competition • Mostly in analogy with existing democracies 	EU functioning is legitimate: <ul style="list-style-type: none"> • The EU is a regulatory entity producing pareto-efficient outcomes • Democratic politics on EU level would undermine beneficial effects of EU policies 	Due to challenges with conventional approaches: <ul style="list-style-type: none"> • Add more civil society participation to existing structure • Civil society participation leads to more deliberative policy making which improves democratic legitimacy
Source of democratic legitimacy	Input	Output	Throughput
Important theoretical foundations	Liberal Democracy		Deliberative Democracy
Conditions for beneficial reforms	<ul style="list-style-type: none"> • Allow for citizens' will to be expressed • Ensure responsiveness of executive to this will 	<ul style="list-style-type: none"> • Preserve technocratic decision-making removed from democratic politics 	<ul style="list-style-type: none"> • Allow for inclusive participation in the policy-making process • Increase publicity

Proponents of the parliamentarization approach focus on the input side of the political process and mostly advocate institutional reforms in order to redress the

EU's democratic deficit. These reforms are intended to close the alleged gap between the functioning of the EU and the yardstick of representative democracy found in its Member States. In contrast, authors taking a more output-centred point of view worry less about the current state of affairs. In their eyes, the EU's democratic legitimacy hinges on its ability to provide impartial and pareto-efficient regulation. The introduction of more representative democratic structures could even have a negative impact on this ability. Striving to enhance the EU's democratic legitimacy, authors within the third approach turn their attention towards civil society and the presumed potential their involvement has for improving the quality of the policy-making process. They thus advocate looking for measures that induce greater participation of civil society.

The summary of the three perspectives makes it clear that they entail rather different or even contradictory conclusions about whether and how the EU should be reformed. This is due to the different angles from which their proponents analyze the problem of EU democratic legitimacy. Within the previous sections an attempt has also been made to deduce from the different approaches' rationales the conditions that any reform would have to fulfil in order to contribute to the EU's democratic legitimacy. Unsurprisingly, as shown in the last row of the above table, these conditions also differ strongly depending on what view is taken as a starting point.

The previous section has also made it clear that all of the three views have been confronted with criticism for one reason or another. Thus, although it has been said that the approach of parliamentarization has been the most popular of the three, there is no uncontested perspective. Consequently, in order to facilitate a differentiated discussion of the ECI's prospects of making the EU more democratic, all of the three approaches should be considered.

2.3.2. Hypotheses on the Contributions of the ECI to Democratic Legitimacy

The preceding summary of the three perspectives on the EU's democratic legitimacy has emphasized their dissimilarity. To a certain degree, the different viewpoints can even be seen to contradict each other. Therefore, it can reasonably be expected that when analyzing the ECI, its potential to enhance the democratic quality of the EU depends on which of these three analytical lenses is applied. What

is more, due to the contradictions among the approaches it is possible that the ECI will be considered to have a positive impact on democratic quality by one approach but negative impacts by another. Consequently, it is hypothesized that:

- *H1*: Judgements on the ECI's potential for making the EU more democratic will strongly differ or even contradict each other depending on which of the three approaches is taken as an analytical framework.

It is thus expected that the answer to the question of whether the ECI makes the EU more democratic will be a differentiated one. In the introductory section it has been said that – at least at first sight – the ECI seems to be a rather weak instrument directed at increasing citizen participation. Based on this, one could suppose that the new instrument will primarily be seen as a contribution to the EU's democratic quality if the participatory perspective is applied.

Authors in the tradition of the parliamentarization approach are most frequently concerned about reforming the EP or the Council of Ministers and thus might be sceptical towards an innovation like the ECI. Also from a regulatory perspective, the initiative might not be seen as a contribution to democratic legitimacy: The rather technocratic way of decision-making that proponents of this perspective praise does not seem to leave much room for the participation of ordinary citizens. Hence, it is furthermore expected that:

- *H2*: The ECI can only be considered to enhance the EU's democratic legitimacy if analyzed from the participatory perspective.

Thus, while the first hypothesis suggests that the ECI's democratization potential will be evaluated differently, the second one predicts from which of the three perspectives the initiative can be seen favourably. The remainder of this thesis will establish whether or not the hypotheses can be confirmed. The analysis proceeds in two stages: First of all, it is necessary to determine what can be expected of the newly created ECI. This involves pointing out the characteristics of the initiative prescribed by its recently adopted legal framework. It also involves discussing

experiences with similar instruments in national contexts and expectations regarding the ECI found in the literature.

Secondly, it has to be found out to what extent, due to these likely ‘effects’ of the ECI, the instrument can be seen to enhance the EU’s democratic legitimacy according to each of the three approaches. Within the preceding chapter, an effort has been made to enumerate the conditions under which a reform could in fact be seen to make the EU more democratic. For any one of the three perspectives, the premise is that a positive impact on democratic quality can be assumed if a reform meets these conditions. When trying to estimate the ECI’s potential for democratization, the task is thus to examine whether the ECI – on the basis of the effects expected of it – can be seen to fulfil the conditions specified above for each of the three perspectives. The discussion (Chapter 4) provides an analysis in this regard.

Conditions under which democratization effects can be assumed

- From the perspective of the parliamentarization approach, the ECI contributes to democratic legitimacy if it (1) provides an avenue for the expression of the citizens’ will and if (2) it ensures the responsiveness of the executive to this will.
- From the regulatory perspective, the ECI contributes to democratic legitimacy if it preserves rational and impartial decision-making.
- From the participatory perspective, the ECI contributes to democratic legitimacy if it (1) allows for inclusive participation in the policy-making process and if it (2) provides for a high degree of publicity of the corresponding deliberations.

With a view to the research question of whether the ECI can be seen to improve the democratic functioning of the EU, the expectation is that there will be no unequivocal evaluation of the initiative’s potential. Furthermore, H2 suggests that a favourable assessment of the ECI can only be made from a participatory perspective. As so far there has been only cursory reference to the ECI itself, the next chapter will provide a more detailed account of the new instrument.

3. The European Citizens' Initiative

After having discussed different approaches to democratic legitimacy in the EU context, this section will examine the newly introduced ECI. It has characteristics that are “unknown to date at any level of national or trans-national government” (Auer 2005: 79). In order to be able to determine whether and how this innovative instrument might make the EU more democratic, it will be necessary to estimate what kind of impact the ECI is going to make.

First of all, the way the ECI works will be outlined by summarizing the legal framework. Based on this and on the insights from literature on the ECI and other initiative instruments, it will be examined whether this makes the initiative likely to be used in the future and who can be expected to put it to use. Another question to be answered is what the content of initiatives is likely to be. Finally, a crucial point is to establish what impact ECIs can be expected to have on outcomes of the legislative process.

3.1. Functioning of the ECI

The first step in the initiative process is to set up a citizens' committee of at least seven EU citizens eligible for voting in EP elections from seven different Member States (Art. 3.2 of EU Regulation 211/2011). This committee is responsible for organizing the ECI and liaising with the Commission. To start an initiative, the committee has to submit its proposal to the Commission in order for it to be registered. Next, the Commission has two months to make a decision on whether the proposed ECI will be admitted (Art. 4.2). At this point there is an important condition to be fulfilled:

The ECI will be refused if it falls “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” (Art. 4.2b). Most authors have concluded that this means initiatives proposing Treaty amendments, or policies in areas where the Commission does not have a right of initiative, will be declared inadmissible (Auer 2005: 82; Maurer & Vogel 2009: 11).

After the Commission registers and publicly announces the ECI, the organizers have got twelve months to collect statements of support either electronically or on paper. Their initiative will only be successful if they achieve at least one million signatories distributed over a quarter of the EU's Member States (Arts. 4, 5 and 7). After a period of verification of signatures in Member States, the ECI is submitted to the Commission.

Articles 10 and 11 of the regulation set out what the legal consequences of an initiative are. As already mentioned before, the ECI is a non-binding instrument. This is not just in the sense that the Commission does not have to adopt the ECI as it is proposed, it also has the possibility to not take any action on the topic concerned (Art. 10.1c). However, within three months from the receipt of an initiative, the Commission is required to publicly set out its "legal and political conclusions" (ibid.), so it is under the obligation of explaining its choice. The regulation also stipulates that the Commission has to receive the organizers of a successful initiative "at an appropriate level" (Art. 10.1b) to give them the opportunity to explain their proposal in detail. Also, there is a provision guaranteeing a public hearing on the successful initiative in the EP (Art. 11).

3.2. Usage of the ECI

An important part of determining what can be expected of the ECI is to try and estimate whether the instrument will be used at all. One concern that has been voiced is that its non-binding nature makes frequent usage unlikely. Due to the fact that the ECI process is rather laborious, it would be much easier to petition the EP instead (Hüller 2006: 18-19; Trechsel et al. 2010: 32). Furthermore, it might be expected that larger interest organizations will prefer their established channels of lobbying and interest-representation over spending resources on an ECI (Maurer & Vogel 2009: 10).

However, the empirical picture seems to speak against this argument. Already by mid-2007, when the provisions on the ECI had not yet found its way from the Treaties into implementation law, 20 initiatives aimed at meeting the requirements for an ECI had been started (Kaufmann 2008). What might be important to explain this finding is the requirement to reach one million supporters. Such an easy-to-

understand quorum should make it more likely to gain (media) attention for a certain cause, which is seen as a major advantage of the ECI (Hierlemann & Wohlfahrt 2010: 2, 7; Piesbergen 2011: 182). Therefore, it seems that the uncertain impact and increased efforts for organizing a Europe-wide citizens' initiative are made up for through the high degree of public attention the instrument can attract.

A concern that seems harder to reject is that the ECI is not in fact an instrument that can easily be put to use by (ordinary) citizens. As shown above, the very first hurdle to pass in the ECI process is to form a citizens' committee of at least seven persons from seven Member States. Also, it is within the responsibility of the organizers to ascertain whether the initiative will meet the criteria for being registered, and to collect one million signatures. Furthermore, the ECI also brings with it the need to finance a campaign. The claim that it is "absurd" to imagine ordinary citizens doing all that (Trechsel et al. 2010: 32) seems hard to refute.

The Regulation on the ECI provides for two ways in which citizens interested in organizing an initiative shall be assisted: Art. 6.2 asks the Commission to make available an open source software for collecting statements of support online. Furthermore, paragraph four of the preamble states that the Commission should provide information on how to use an ECI "upon request". These provisions seem to fall well short of what could have been done to enable the widest possible number of citizens to start an ECI themselves. For example, Hierlemann and Wohlfahrt (2010) suggest that internet-based support platforms should be established, for example to enable citizens to connect with like-minded people in other countries and jointly formulate a common opinion. In contrast, under the present conditions, the citizens' role is likely to be restricted to signing or rallying for an ECI proposed by those who have the resources to manage it.

In fact, it should be expected that the ECI is an instrument that can be handled mostly by already established interest organizations with access to an international network and funds (Trechsel et al. 2010: 32). The summary of 'pilot' initiatives Kaufmann (2008) offers confirms this expectation. Most of the initiatives have been organized by (networks of) civil society organizations. Where (groups of) individuals were the initiators, they were politicians. This indicates the second group that is commonly expected to make frequent use of the ECI. According to

Hierlemann and Wohlfahrt (2010: 7), political parties seem interested in using the ECI for promoting their views.

In sum, there are a number of hurdles in the initiative process which make it unlikely that normal citizens will start ECIs themselves. However, this probably does not mean that the initiative will not be used at all. Rather, interest organizations and political parties can be expected to put the instrument to use as a means to rally popular support for their positions.

3.3. Content of Initiatives

Regarding the subjects that the future ECIs might address, one major restriction has been pointed out above: Initiatives will not be admitted if they aim at changing the Treaties. This is where vocal criticism has been put forward: Kaufmann (2009: 34) calls a restriction to only non-constitutional questions “unacceptable” as this would “weaken the sovereignty of citizens at the transnational level”. In a similar manner, Pichler (2009: 47) asks why citizens should not be allowed “to propose the proposal” for constitutional changes. In his view, the more fundamental constitutional questions are the ones that have the potential to engage citizens and thus, the content-wise restriction for the ECI reduces the instrument’s attractiveness. To support this view, several of the initiatives in Kaufmann’s list that have been launched in the past concern proposals that would require changing the EU founding Treaties. One example for an initiative that would not be admissible under the ECI regulation is the ‘One-Seat Initiative’ which called for establishing Brussels as the only seat of the EP (Hierlemann & Wohlfahrt 2010: 3).

Therefore, it might be argued that the thematic restriction of ECIs will have a negative impact on the frequency with which the instrument is used. Still, even without constitutional questions, there should be a number of topics salient enough to merit starting an ECI, like consumer protection or environmental issues. For example, Greenpeace launched an initiative calling for EU food labelling standards to be amended. The organizers managed to hand over more than one million statements of support from 21 EU countries to the Commission although they did not even make significant use of online collection systems (Contiero 2008).

Apart from the admissible legal content, the range of topics and viewpoints that can be introduced by means of using the ECI is also connected to the quantitative requirement of one million signatories and the territorial requirement that a certain amount of signatories must come from each of at least a quarter of Member States.⁷ The second requirement is generally seen as beneficial as it contributes to ensuring that topics the ECI deals with are not just relevant in one or two states, but have at least a certain European dimension. It is essentially an incentive for formulating interests and demands across Member State borders (Piesbergen 2011: 290) and this can be seen to promise the formation of temporary European-scale public debate around these issues (Maurer & Vogel 2009: 10-11).

Concerning the quantitative requirement, it has been pointed out that the stipulation of a ‘placative’ number like one million provided for media attention. Thus, it can be seen as contributing towards the attractiveness of the ECI as an instrument for formulating political demands. The same requirement can also be seen to have some important implications for the contents of ECIs, specifically the range of topics that can potentially be introduced into the EU’s political processes: The threshold of one million citizens in relation to the total number of eligible voters in the EU is considered to be rather low for a direct democratic instrument (Auer 2005). Therefore, the ECI in principle makes it possible for minority interests to be introduced to the EU’s legislative process. This could include the positions of parties that are not represented in the EP or groups of the population which constitute minorities in a number of Member States (Maurer & Vogel 2009: 10).

The suitability of the ECI instrument to offer ‘new’ and formerly neglected minority positions an inroad to the legislative process however is constrained, because ECIs (as shown above) will probably be carried mostly by interest groups that are already well organized and able to exert influence even without the ECI (ibid.). Content-wise it should also be expected that ECIs will often stand in contrast to the stance of the Commission, which is unlikely to support a proposal “it could and would have initiated itself” (Auer 2005: 83). In the case of ECIs coming from or supported by political parties, it could accordingly be expected that the acts proposed will be stances contrary to the majorities in the EP or Council.

⁷ The number required in each country is equal to the number of EP members for that country multiplied by 750 (Art. 7.2 of EU Regulation 211/2011).

3.4. Impact of ECIs

It becomes clear from the preceding sections that the ECI will mostly allow European (networks of) interest organizations to direct their demands to the Commission. One major advantage from the viewpoint of organizers seems to be that they can hope to gain attention for their views, notably through the interest of the media. However, besides publicity, the hope of making an impact on legislation should be assumed at least as important a reason for embarking on the ECI process.

Besides the legal stipulation that the Commission has no obligation to take action in favour of a successful ECI, it is another question how much of an impact an initiative can be expected to make in practice. Experiences with similar instruments in some national contexts suggest that initiatives successfully fulfilling the thresholds for signatories do not often lead to the enactment of laws or policy changes (Efler 2006: 7; Maurer & Vogel 2009: 17-18). One could expect a similar rate of success for future ECIs for two reasons. Firstly, the fact that an initiative successfully passes the signatory threshold does not allow any conclusions on how strongly a successful initiative is actually supported by EU citizens (Hüller 2006: 19; Piesbergen 2011: 229). Furthermore, as has been shown above, the proposals that will be introduced at any given point in time are rather likely to contradict the attitudes of the current political majorities on the European level. Thus, the direct effects of ECIs are likely to be limited.

However, it could be expected that the ECI instrument will yield some more indirect effects. The rules on the ECI force the Commission to engage with the proposals that have found the necessary amount of support to be submitted to it. As it also has to directly engage with the organizers and be present at a public hearing in the EP, it is at least guaranteed that arguments put forward in an ECI will be acknowledged and considered by the Commission. Thus, even where the ideas from an ECI are not endorsed, a democratic feedback mechanism is provided for (Piesbergen 2011: 225).

4. Discussion: The ECI and Democratic Legitimacy of the EU

The preceding section has served to paint a clearer picture of what the ECI is and what can be expected of it. In order to come to an answer to the research question of whether the initiative can be seen to make the EU more democratic, this chapter will discuss the ECI from the viewpoint of each of the three perspectives on EU democratic legitimacy. For every part of this threefold discussion, the guiding question is whether the instrument can be expected to meet the respective conditions under which it would contribute to democratic legitimacy.

The conclusions drawn from the discussion's subsections will make it possible to critically evaluate the two hypotheses formulated above and to come up with an answer to the initial research question.

4.1. The ECI from the Parliamentarization Perspective

As evident from the wording of the second hypothesis, it is presumed that the ECI will not be able to make the EU more democratic from the point of view of those advocating the Union's further parliamentarization. However, this presumption was based mostly on a first glance at the ECI and the fact that it is different from reforms ordinarily suggested by supporters of the first perspective. Taking a closer look at the instrument then, this section will examine the veracity of this presumption. It has been stated further above that the ECI could be seen as a contribution to democratic legitimacy of the EU if it makes possible the expression of the citizens' will and at the same time secures the executive's responsiveness to this will.

One core characteristic of the ECI is that it provides an alternative way of influencing the policy agenda. Once a million statements of support for a certain initiative are attained, the Commission and the EP have to consider the topic brought up by the ECI. It could therefore be argued that the first of the above conditions is fulfilled: The ECI makes it possible for citizens' to express their preferences vis-à-vis the EU's political institutions. However, it should be considered that representation is one major concern for advocates of the parliamentarization approach. For example, their focus on the powers of the EP has

to do with the fact that a parliament represents, for a given period of time, the preferences of the whole population. Thus, it is not only important that reforms allow for opinions to be articulated, but they should also make it possible to ascertain whether a certain opinion is supported by a majority of the population.

In this regard it could be argued that the requirement that an ECI has to be signed by a substantial amount of citizens from a number of countries ensures that the ECI represents truly European issues. In contrast to this, the ECI requires a quorum of only one million or about 0.3% of the eligible EU population. Thus, despite the European dimension, there is an inadequate link between the ECI and the *demos* at large (Piesbergen 2011: 229). This lack of representativeness makes it implausible to conclude from a successful initiative that the citizenry wants a certain policy proposed by the ECI (Pichler 2009: 42). Therefore, although the newly introduced initiative's purpose is to give citizens a further option for expressing their preferences, it would probably go too far to say that the first of the conditions of the parliamentarization approach is fulfilled.

Then what about the second condition, which requires that the citizens' input must have an impact on the executive and the policies it pursues? As one of the most striking features of the ECI is that it is almost entirely non-binding, the intuitive reaction would be to say that this condition is not fulfilled either. What is more, the large number of veto positions inherent in EU policy-making further decreases the chance of successful adoption of the contents of an ECI (Maurer & Vogel 2009: 18). Thus, the only impact that can be guaranteed is on agenda-setting. Actors in the European Commission and – due to the public hearing – in the EP will have to seriously consider and publicly discuss the matter brought up by an ECI.

Although this might seem negligible, it should be kept in mind that – as stated above – ECIs seem to promise a relatively high degree of publicity. This could help initiative organizers to generate strong public pressure in favour of their proposals which increases the chances that their demands are responded to. However, as the first condition remains unfulfilled due to a lack of representativeness, from the point of view of the parliamentarization approach it might even be detrimental to the EU's democratic legitimacy if ECIs have a strong impact. For example, an initiative promoting a position contrary to that of the majority in the EP might – due to the media attention it gets – have an impact on the Commission's agenda which

is disproportionate to the low number of persons behind it. It is obvious that it would be a problem for authors advocating the strengthening of the EU's representative institutions, if citizen initiatives undermined these very institutions. In sum, the ECI does not fulfil the conditions under which it could be seen to make the EU more democratic from the parliamentarization perspective. In fact, it might even damage the representative institutions already in place under certain circumstances.

Still, there is one aspect yet to be considered: In chapter three it has been pointed out that the ECI seems to be an attractive instrument not only for interest organizations but also for political parties. As said above, there is a good chance that parties will use the ECI to gather support for their political aims among EU citizens. Hierlemann and Wohlfahrt (2010: 7) argue that this could lead to opposing positions on policy issues being increasingly formulated along party lines on an EU level. As a consequence, party-political competition could be stimulated on a European scale. If this proves to be an accurate expectation, the ECI could be seen as a partial remedy to the lack of democratic political competition criticized by many proponents of the parliamentarization approach. Recalling Hix's argumentation, an increase in competition would make it possible for citizens to identify governing majorities on the European level and thus enable the EU's setup of political institutions to function more like a 'real' representative democracy.

In conclusion, when analyzing the ECI from a perspective advocating further parliamentarization of the EU, the initiative can be seen to make merely some modest contributions to the EU's democratic legitimacy. The two conditions that would normally determine the suitability of a reform to enhance democratic quality are not fulfilled, with the lack of representativeness being a major shortcoming. The main positive effect the ECI can be seen to have, namely its ability to stimulate party political contest, is a rather indirect one.

4.2. The ECI from the Regulatory Perspective

As will be recalled from the second chapter, the EU is seen as democratically legitimate by proponents of a regulatory perspective. This is firstly because of the fact that EU Member States have democratically decided to establish the Union as a

‘fourth branch’ of their own governments and secondly because of the beneficial effects its regulatory activity has on the welfare of Member States and citizens. From the point of view of the regulatory approach on EU democratic legitimacy, the ECI would first and foremost have to contribute to preserving the rational and impartial style of decision-making they praise the EU for.

Due to the focus on the expertise and independence of European regulators, from this perspective, the involvement of the average citizen might not be seen as a contribution to democratic quality. However, one of the salient features of the ECI is the quorum of one million signatories, which in principle makes it possible to introduce minority interests into the political process. It could thus be argued that through an ECI certain matters can be brought to the attention of EU regulators that these have so far been unaware of. Seen this way, small or often neglected minority groups (e.g. Sinti and Roma) could, by using ECIs, increase the knowledge base of officials in the Commission. The ‘regulators’ – now possessing a more accurate idea of certain problem constellations – would then be in a position to make more informed and thus more impartial policy choices.

Thus, it is possible to imagine that the ECI has a potential to increase the expertise available in EU institutions which would enable regulators to produce (even) more favourable policy outputs and thus contribute to democratic legitimacy. From this perspective, it should also not be seen as a drawback that the direct impact of ECIs on legislation will probably be limited. The non-binding nature of the initiative is entirely consistent with the view that although citizens’ input can be useful for designing effective solutions to common problems, the ‘experts’ should have the final word.

Against this point, which would suggest that the ECI can be seen as a contribution to democratic legitimacy also from a regulatory perspective, it has also been noted above that ECIs are likely to be an instrument mainly put to use by interest organizations or political parties. What is more, they may be employed especially by those organizations that are already well established on a European level. Thus, there is a concern that the initiatives will merely serve to reflect the power balances that are already in place (Maurer & Vogel 2009: 10). Consequently, there would not be an introduction of yet unknown interests or information but rather a reproduction of existing debates through ECIs.

Beyond this, the previous section already pointed out that there is a danger that minority interests will have a disproportionately high impact on the policy agenda and thus the legislation that is ultimately adopted. In this line of thought, there are fears that the ECI may contribute to a situation where policy-making could “fall prey to a ‘tyranny of minorities’ backed by resourceful interest groups able to organise transnational initiatives” (Emmanouilidis 2011: 4). Due to the low threshold of one million signatures and the publicity generated through an ECI, these interest groups could build up disproportionately strong pressure in favour of their causes. This would constitute “false positives” (Bellamy 2010: 8) the prevention of which is a major concern for authors discussing the EU’s democratic legitimacy from the regulatory perspective.

Furthermore, it has been stated in the preceding section that the ECI might contribute to the politicization of EU policy-making along party lines. While this is beneficial from a parliamentarization perspective, it should be considered as a drawback to the initiative’s potential for enhancing democratic legitimacy from the regulatory approach. In fact, the high level of output legitimacy the EU has to offer in this view, is due to the fact that decision-making on the European level is (allegedly) largely isolated from democratic politics. It is clear that a higher degree of politicization on the EU level would stand in direct opposition to the rational and impartial style of decision-making that is favoured from the regulatory perspective.

In conclusion, it can be said that the ECI does not represent a contribution to the EU’s democratic legitimacy if a strictly regulatory perspective is applied. Although the instrument might potentially serve to enhance the accuracy of the information available in EU institutions, what can be expected of the ECI largely is in contrast to the stipulations of the regulatory ideal. This includes above all the possible distortion of impartial decision-making brought about by the growing politicization the initiative could contribute to. To sum up, from a regulatory perspective the newly introduced ECI involves more dangers to the EU’s legitimacy than it promises improvements.

4.3. The ECI from the Participatory Perspective

If a participatory perspective on the EU's democratic legitimacy is adopted, the focus turns away from representative institutions or their outputs, and towards the deliberative quality of decision-making processes. As outlined further above, this aspect of democratic legitimacy could be enhanced by the ECI if it facilitates inclusive participation in the policy-making process and also ensures publicity.

Regarding the first criterion of inclusiveness, it can be noted that the ECI is in principle open to all citizens of the EU and its composition makes it possible even for minority positions to form the basis of a successful ECI. On the other hand, there are concerns that the ECI might in practice be put to use almost exclusively by well-resourced interest organizations and thus only give more prominence to demands that are already well known and represented. At this point in time, it is not entirely clear in how far these concerns are justified and thus it is only through monitoring future ECIs that one can obtain a more accurate impression. For the time being, it can be concluded that the ECI, at least to a certain extent, contributes to the inclusiveness of the policy-making process.

Apart from the question of inclusiveness, the ECI would also have to enhance publicity and transparency in order to contribute to democratic quality from the participatory perspective. Three aspects seem to be of importance here: First of all, the Commission has to publicly explain the action it intends to take following a successful ECI, which could provide fuel for public debates on the issue addressed by an initiative. Secondly, the public hearing in the EP could further stimulate these debates. This point seems quite promising, considering the aforementioned interest of political parties in the ECI. Thirdly, it has been said above that a considerable degree of media attention for initiatives can be expected. Obviously, if the ECI turns out to be an instrument that the European media finds interesting to report on, this makes for a promising outlook regarding the publicity criterion. As Piesbergen notes, the public attention that the ECI can hope to get – due to its exposed place in the Treaties and the requirement for collecting a million signatures – is its major advantage over other participatory instruments present in the EU (Piesbergen 2011: 182). The ECI seems to fulfil the two conditions from the participatory approach at least to a considerable extent and it is therefore conceivable that it will contribute to democratic legitimacy of the EU from this perspective.

However, there also are grounds for scepticism, for example regarding the ability of the ECI to stimulate Europe-wide debates. It could be argued that the effort required from citizens to support an initiative does not go beyond filling in one's name on a list, and therefore it might be over-optimistic to expect broad public engagement beyond an elite-level (Hüller 2006: 19; Maurer & Vogel 2009: 11). Also, it has been mentioned that the thematic restrictions applying to the ECI mean that many topics that would be especially suited to stimulate Europe-wide discussion cannot be addressed by means of an ECI. In this regard, Pichler ironically predicts that ECIs on "the colors on freeway advertising signs will not bring about European identity" or lively debate (Pichler 2009: 47).

Still, previous initiative efforts show that there will be topics to engage the population and it seems justified to expect that the ECI will at least make possible the formation of temporary European publics (Maurer & Vogel 2009: 10-11). It could also be posited that the ECI provides incentives for political parties, NGOs or other interest organizations to network and organize more on a European level. From the viewpoint of the participatory approach, which assumes an important role for civil society organizations, this would probably be seen as a contribution to democratic quality.

Thus, if one takes a participatory perspective on the issue of EU democratic legitimacy, it seems that the ECI has much to offer. Furthermore, the fact that it is unsure what portion of the citizens supports the demands expressed by an ECI is not a big problem from this perspective. This is because the participatory approach focuses on inclusion and deliberation instead of aggregation of interests. Because of this focus on deliberation and debate, also the fact that in national contexts proposals made by initiatives do not often find their way into legislative acts does not constitute a major problem. Despite some of the drawbacks that the ECI has – like the restricted range of topics that can be addressed – it can overall be considered to contribute to the EU's democratic quality judged against the standards of the participatory approach. It partly enhances the inclusiveness of the policy-making process and also promises a good measure of publicity. If one accepts the logic of the participatory approach, this should contribute to the deliberative quality of EU decision-making processes because actors would be under pressure to rely on reasoned argumentation.

5. Conclusion

The democratic credentials of the EU are a subject of frequent and lively scholarly debate. There is no consensus on whether the EU is a ‘democratic’ entity and how its democratic quality should be enhanced. The decision to introduce a European Citizens’ Initiative shows that, despite this absence of consensus on EU democratic legitimacy, concrete measures intended to strengthen democracy are being created and implemented. Thus, it is perhaps accurate to say that through the introduction of the ECI – the first ever transnational instrument of direct democracy – practical politics has overtaken scientific theory development (Kaufmann 2009: 30).

Determining whether the ECI indeed has the potential to make the EU more democratic was the central aim of this thesis. The abovementioned disagreement on the democratic quality of the EU and the volume of publications on the topic indicate that there are no easy answers to this question. By analyzing the prospects of the ECI from three different perspectives, an attempt was made to accommodate the diversity of views on EU democratic legitimacy.

The three perspectives – parliamentarization, regulatory and participatory – singled out for the purposes of this thesis emphasize different aspects of what can be summarized under democratic legitimacy. They therefore differ in their assessment of the EU’s current democratic credentials as well as the reforms that they recommend. When comparing these three perspectives, it becomes clear that – depending on which approach one subscribes to – quite different sets of criteria should be met if the ECI was to increase the democratic quality of the EU. These sets of criteria have formed the basis for discussing the ECI’s prospects of making the EU more democratic.

Due to the disparities among the three perspectives on democratic legitimacy of the EU, hypothesis H1 predicted that there would be no unequivocal answer to the question of whether the ECI makes the EU more democratic. As is apparent from the preceding discussion, this hypothesis could be confirmed: While the ECI might be seen to promise modest and indirect contributions to democratic legitimacy from the parliamentarization perspective, it could also turn out to damage the EU’s legitimacy if a regulatory point of view is taken. From a participatory approach, however, the ECI can be assessed quite favourably: It can be seen to marginally

enhance the inclusiveness of European policy-making. Furthermore, the introduction of the ECI – at least to a certain extent – promises the stimulation of Europe-wide debate and provides incentives for interest organizations and political parties to organize on a European level.

A comparative look at the results of the discussion section also makes clear that the second hypothesis could not be confirmed in its entirety. Even if the ECI's prospects of making the EU more democratic should be seen most favourably from the participatory perspective, there are also grounds for assuming at least some indirect democratizing potential from the parliamentarization perspective: Although introducing a non-binding initiative falls well short of the far-reaching institutional reforms typically advocated by proponents of the parliamentarization perspective, if in fact the ECI will stimulate party political competition on an EU level, it can be seen as an improvement from this point of view. Conversely, although there might be certain reasons to value the ECI also from an output-oriented regulatory approach, the initiative could even be harmful to exactly those qualities of the EU – i.e. the technocratic style of policy-making – that proponents of the regulatory perspective see as crucial for its democratic legitimacy.

In sum, it is not possible to provide a definite answer to the question of whether the ECI makes the EU more democratic. Rather, the potential of the initiative in this regard strongly varies with the vantage point from which the concept of EU democratic legitimacy is viewed in the first place. This answer of 'it depends' might be less straightforward or satisfactory than a clear rejection or approval. However, by adequately taking into account the multitude of perspectives on how democracy can be achieved in contexts beyond the nation-state, it was possible to better evaluate a concrete measure intended to enhance democratic quality.

What should be kept in mind regarding this analysis is that the ECI is a very new instrument and can only be officially used from 2012 on. It is therefore obvious that the discussion conducted within this thesis and the conclusions drawn therein to a certain extent build upon expectations and probable effects of the ECI. Thus, it is only the future usage of the ECI that will allow more definite judgments on the initiative's actual contributions to EU democratic legitimacy. It should also be taken into account that this reform represents, even in the eyes of its proponents, only a small change far from fundamentally changing the Union's architecture

(Piesbergen 2011: 291). Still, by drawing on existing commentary on the ECI and experiences with similar initiatives in national contexts, it was possible to provide a reasoned estimation of what can be expected from the ECI.

Taking a broader view, the democratic credentials of governance beyond the nation-state are increasingly becoming a subject of debate (Kaufmann 2009: 28-29). Consequently, the question of what instruments could contribute to democratic legitimacy on that level is likely to come up more frequently in the future. In this regard, the ambiguous evaluation of the ECI could also foreshadow some of the difficulties that the endeavour of democratizing trans-national governance might confront.

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