Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative

[X1REGULATION (EU) 2019/788 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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on the European citizens' initiative]

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 24 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee(1),

Having regard to the opinion of the Committee of the Regions(2),

Acting in accordance with the ordinary legislative procedure(3),

Whereas:

(1) The Treaty on European Union (TEU) establishes the citizenship of the Union. The Union's citizens ('citizens') are granted the right to approach the Commission directly with a request inviting it to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties, similar to the right conferred on the European Parliament under Article 225 of the Treaty on the Functioning of the European Union (TFEU) and on the Council under Article 241 TFEU. The European citizens' initiative thus contributes to enhancing the democratic functioning of the Union through the participation of citizens in its democratic and political life. As is apparent from the structure of Article 11 TEU and Article 24 TFEU, the European citizens' initiative should be considered in the context of other means by which citizens may bring certain issues to the attention of institutions of the Union and which consist notably of dialogue with representative associations and civil society, consultations with parties concerned, petitions and applications to the Ombudsman.

(2) Regulation (EU) No 211/2011 of the European Parliament and of the Council(4) laid down the rules and procedures for the European citizens' initiative and was complemented by Commission Implementing Regulation (EU) No 1179/2011(5).

(3) In its report on the application of Regulation (EU) No 211/2011 of 31 March 2015, the Commission listed a number of challenges arising in the implementation of that Regulation and made a commitment to analyse further the impact of those issues on the effectiveness of the European citizens' initiative instrument and to improve its functioning.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2019/788 of the European Parliament and of the Council. (See end of Document for details)*

(4) The European Parliament, in its resolution of 28 October 2015 on the European citizens' initiative[6] and its own-initiative legislative draft report of 26 June 2017[7], called on the Commission to review Regulation (EU) No 211/2011 and Implementing Regulation (EU) No 1179/2011.

(5) This Regulation aims to make the European citizens' initiative more accessible, less burdensome and easier to use for organisers and supporters, and to strengthen its follow-up in order to achieve its full potential as a tool to foster debate. It should also facilitate the participation of as many citizens as possible in the democratic decision-making process of the Union.

(6) To achieve those objectives, the procedures and conditions required for the European citizens' initiative should be effective, transparent, clear, simple, user-friendly, accessible for persons with disabilities and proportionate to the nature of this instrument. They should strike a judicious balance between rights and obligations and should ensure that valid initiatives receive an appropriate examination and response by the Commission.

(7) It is appropriate to set a minimum age for supporting an initiative. That minimum age should correspond to the age at which citizens are entitled to vote in elections to the European Parliament. In order to enhance the participation of young citizens in the democratic life of the Union and thus achieve the full potential of the European citizens' initiative as an instrument of participatory democracy, Member States which consider it appropriate should be able to set the minimum age for supporting an initiative at 16 years and should inform the Commission accordingly. The Commission should periodically review the functioning of the European citizens' initiative, including as regards the minimum age to support initiatives. Member States are encouraged to consider setting the minimum age at 16 years in accordance with their national laws.

(8) In accordance with Article 11(4) TEU, an initiative 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 to implement the Treaties, is to be taken by not less than one million citizens of the Union who are nationals of a significant number of Member States.

(9) In order to ensure that an initiative is representative of a Union interest while ensuring that the instrument remains easy to use, the minimum number of Member States from which citizens must come should be set at one quarter of Member States.

(10) In order to ensure that an initiative is representative and that the conditions for citizens to support an initiative are similar, it is also appropriate to establish the minimum number of signatories coming from each of those Member States. Those minimum numbers of signatories required in each Member State should be degressively proportional and correspond to the number of Members of the European Parliament elected in each Member State, multiplied by the total number of the Members of the European Parliament.

(11) In order to make European citizens' initiatives more inclusive and visible, organisers can use for their own promotion and communication activities languages other than

the official languages of the institutions of the Union which, in accordance with the Member States' constitutional order, have official status in all or part of their territory.

(12) While personal data processed in application of this Regulation might include sensitive data, given the nature of the European citizens' initiative as an instrument of participatory democracy, it is justified to require the provision of personal data to support an initiative and to process such data as far as it is necessary in order to allow statements of support to be verified in accordance with national law and practice.

(13) In order to make the European citizens' initiative more accessible, the Commission should provide information, assistance and practical support to citizens and groups of organisers, in particular on those aspects of this Regulation within its competence. To reinforce this information and assistance, the Commission should also make an online collaborative platform available that provides a dedicated discussion forum and independent support, information and legal advice about the European citizens' initiative. The platform should be open to citizens, groups of organisers, organisations and external experts with experience in organising European citizens' initiatives. The platform should be accessible for persons with disabilities.

(14) In order to allow the groups of organisers to manage their initiative throughout the procedure, the Commission should make an online register for the European citizens' initiative (‘register’) available. To raise awareness and ensure transparency on all the initiatives, the register should comprise a public website providing comprehensive information on the European citizens' initiative in general, as well as up-to-date information on individual initiatives, their status and the declared sources of support and funding on the basis of the information submitted by the group of organisers.

(15) To ensure proximity to citizens and to raise awareness about the European citizens' initiative, Member States should establish one or more contact points in their respective territories to provide citizens with information and assistance regarding the European citizens' initiative. Such information and assistance should concern, in particular, those aspects of this Regulation whose implementation falls under the competence of national authorities in the Member States, or which concern the applicable national law, and for which those authorities are therefore best placed to inform and assist citizens and groups of organisers. Where appropriate, Member States should seek synergies with services that provide support for the use of similar national instruments. The Commission, including its representations in the Member States, should ensure close cooperation with the national contact points on those information and assistance activities, including, where appropriate, communication activities at Union level.

(16) A minimum organised structure is needed in order to launch and manage citizens' initiatives successfully. That structure should take the form of a group of organisers, composed of natural persons resident in at least seven different Member States, in order to encourage the emergence of Union-wide issues and to foster reflection on those issues. For the sake of transparency and smooth and efficient communication, the group of organisers should designate a representative to liaise between the group of organisers and the institutions of the Union throughout the procedure. The group of organisers should have the possibility to create, in accordance with national law, a legal entity to

manage an initiative. That legal entity should be considered to be the group of organisers for the purposes of this Regulation.

(17) While liability and penalties in connection with the processing of personal data will remain regulated under Regulation (EU) 2016/679 of the European Parliament and of the Council[8], the group of organisers should be jointly and severally liable, in accordance with applicable national law, for any damage that its members cause in the organisation of an initiative by unlawful acts committed intentionally or with serious negligence. Member States should ensure that the group of organisers is subject to appropriate penalties for infringements of this Regulation.

(18) In order to ensure coherence and transparency in relation to initiatives and to avoid a situation where signatures are collected for an initiative which does not comply with the conditions laid down by the Treaties and this Regulation, initiatives that comply with the conditions laid down in this Regulation should be registered by the Commission before starting to collect statements of support from citizens. The Commission should, when dealing with registration, fully respect the obligation to state reasons under the second paragraph of Article 296 TFEU and the general principle of good administration as set out in Article 41 of the Charter of Fundamental Rights of the European Union.

(19) In order to make the European citizens' initiative effective and more accessible, taking into account that the procedures and conditions required for the European citizens' initiative need to be clear, simple, user-friendly and proportionate, and in order to ensure that as many initiatives as possible are registered, it is appropriate to partially register an initiative in cases where only part or parts of the initiative meet the requirements for registration under this Regulation. Initiatives should be partially registered provided that a part of the initiative, including its main objectives, does not manifestly fall 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 and all the other registration requirements are met. Clarity and transparency should be ensured as regards the scope of the partial registration, and potential signatories should be informed of the scope of the registration and of the fact that statements of support are being collected only in relation to the scope of the registration of the initiative. The Commission should inform the group of organisers in a sufficiently detailed manner of the reasons for its decision not to register or to register an initiative only partially, and of all possible judicial and extrajudicial remedies available to it.

(20) Statements of support for an initiative should be collected within a specific time limit. In order to ensure that an initiative remains relevant, whilst taking into account the complexity of collecting statements of support across the Union, that time limit should not be longer than 12 months from the date of the start of the collection period determined by the group of organisers. The group of organisers should have the possibility to choose the start date of the collection period within six months from the registration of the initiative. The group of organisers should inform the Commission of the date chosen at the latest 10 working days before that date. To ensure coordination with the national authorities, the Commission should inform the Member States of the date communicated by the group of organisers.

(21) In order to make the European citizens' initiative more accessible, less burdensome and easier to use for organisers and citizens, the Commission should set up and operate a central system for the online collection of statements of support. That system should be made available free of charge to groups of organisers and should comprise the necessary technical features enabling online collection, including the hosting and software, as well as accessibility features ensuring that citizens with disabilities can provide support to the initiatives. That system should be set up and maintained in accordance with Commission Decision (EU, Euratom) 2017/46[(9)].

(22) Citizens should have the possibility of supporting initiatives online or in paper form by providing only the personal data set out in Annex III of this Regulation. Member States should inform the Commission as to whether they wish to be included in part A or B, respectively, of Annex III. Citizens using the central online collection system for the European citizens' initiative should be able to support an initiative online by using notified electronic identification means or by signing with an electronic signature within the meaning of Regulation (EU) No 910/2014 of the European Parliament and of the Council[(10)]. To this end, the Commission and the Member States should implement the relevant technical features within the framework of that Regulation. Citizens should sign a statement of support only once.

(23) To facilitate the transition to the new central online collection system, a group of organisers should continue to have the possibility to set up its own online collection system and to collect statements of support through this system for initiatives registered in accordance with this Regulation by 31 December 2022. The group of organisers should use a single individual online collection system for each initiative. Individual online collection systems set up and operated by a group of organisers should have adequate technical and security features in order to ensure that the data are securely collected, stored and transferred throughout the procedure. For that purpose, the Commission should set out detailed technical specifications for the individual online collection systems, in cooperation with the Member States. It should be possible for the Commission to seek the advice of the European Union Agency for Network and Information Security (ENISA), which assists the Union institutions in developing and implementing policies related to security of network and information systems.

(24) It is appropriate for Member States to verify the conformity of the individual online collection systems set up by the group of organisers with the requirements of this Regulation and to issue a document certifying such conformity before statements of support are collected. The certification of the individual online collection systems should be carried out by the competent national authority of the Member States in which the data collected through the individual online collection system is stored. Without prejudice to the powers of the national supervisory authorities under Regulation (EU) 2016/679, Member States should designate the competent national authority responsible for the certification of the systems. Member States should mutually recognise the certificates issued by their competent authorities.

(25) Where an initiative has received the necessary statements of support from signatories, each Member State should be responsible for the verification and certification of