



Press and Information

Court of Justice of the European Union
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Judgment in Case C-418/18 P
Puppinck and Others v Commission

The Court holds that the General Court did not err in upholding the decision of the Commission not to submit a proposal for legislation in response to the European citizens' initiative 'One of us'

In the judgment *Puppinck and Others v Commission* (C-418/18 P) of 19 December 2019, the Grand Chamber of the Court dismissed the appeal brought by the organisers of the European citizens' initiative (ECI) 'One of us' against the judgment of the General Court¹ whereby that court had dismissed their action for the annulment of the communication from the Commission of 28 May 2014 in relation to that ECI²

In accordance with the Treaty on European Union³ and Regulation No 211/2011,⁴ European Union citizens who number at least one million and who come from at least one quarter of all Member States may take the initiative of inviting the Commission, within the framework of its powers, to propose to the EU legislature the adoption of a legal act for the purpose of implementing the Treaties. Before they can begin the collection of the required number of signatures, the organisers of the ECI must register it with the Commission, which has to examine in particular its subject matter and its objectives.

Mr Patrick Grégor Puppinck and six other individuals form the citizens' committee of the ECI 'One of us', registered with the Commission in 2012.⁵ The objective of that ECI is to prohibit and put an end to the financing, by the European Union, of activities that involve the destruction of human embryos (in particular in the areas of research, development aid and public health), including the direct or indirect funding of abortion. After its registration, the ECI 'One of us' collected the million signatures required, and was then formally submitted to the Commission in early 2014. On 28 May 2014 the Commission stated in a communication that it did not intend to take any action in response to that ECI.

The organisers of the ECI then sought, before the General Court of the European Union, the annulment of the communication from the Commission, claiming, inter alia, that the Commission is obliged to submit a proposal for an EU legal act in response to a registered ECI. The General Court upheld the Commission's decision.

Hearing an appeal, the Court first observed that, under Article 11(4) TEU, an ECI is designed to 'invite' the Commission to submit an appropriate proposal for the purpose of implementing the Treaties, and not to oblige the Commission to take the action or actions envisaged by the ECI. The Court added that it is clear from various provisions of Regulation No 211/2011 that, when the Commission receives an ECI, it is to set out the action that it intends to take, if any, and its reasons

¹ Judgment of the General Court of 23 April 2018, *One of Us and Others v Commission* ([T-561/14](#)); see also Press Release No. [52/18](#).

² Communication COM(2014) 355 final from the Commission of 28 May 2014 on the European citizens' initiative 'One of us'.

³ Article 11(4) TEU

⁴ Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (OJ 2011 L 65, p. 1, and corrigendum OJ 2012 L 94, p. 49).

⁵ COM(2014) 355 final.

for taking or not taking action, which confirms that the submission by the Commission of a proposal for an EU act in response to an ECI is optional.

The Court then stated that the power of legislative initiative conferred on the Commission by the Treaties means that it is for the Commission to decide whether or not to submit a proposal for a legislative act, except in the situation where it has an obligation under EU law to do so. That power of legislative initiative conferred on the Commission is one of the expressions of the principle of institutional balance, characteristic of the institutional structure of the European Union. That principle means that each of the institutions must exercise its powers with due regard for the powers of the other institutions. In that regard, the Court observed that, under Regulation No 211/2011, an ECI is intended to confer on Union citizens a right comparable to that held, pursuant to Articles 225 and 241 TFEU respectively, by the European Parliament and the Council, to request the Commission to submit any appropriate proposal for the purpose of implementing the Treaties. Since the right thus conferred on the European Parliament and the Council does not undermine the Commission's power of legislative initiative, the same must be true of an ECI.

The Court also emphasised that the fact that the Commission is not obliged to take any action in response to an ECI does not mean, contrary to what was claimed by the appellants, that such an initiative is deprived of effectiveness. First, the ECI mechanism constitutes one of the instruments of participatory democracy which complemented, on the adoption of the Treaty of Lisbon, the system of representative democracy on which the functioning of the Union is based, with the objective of encouraging the participation of citizens in the democratic process and promoting dialogue between citizens and the EU institutions. Second, an ECI which has been registered in accordance with Regulation No 211/2011 and which complies with all the procedures and conditions laid down in that regulation imposes a series of specific obligations on the Commission, as set out in Articles 10 and 11 of that regulation. The Court states that the particular added value of the ECI mechanism resides not in certainty of outcome, but in the possibilities and opportunities that it creates for Union citizens to initiate debate on policy within the EU institutions without having to wait for the commencement of a legislative procedure.

Further, the Court endorsed the approach of the General Court in holding that a communication in relation to an ECI, such as the contested communication, falls within the exercise by the Commission of its broad discretion and must, consequently, be subject to limited judicial review, with the aim of determining, inter alia, the sufficiency of its statement of reasons and the absence of manifest errors of assessment.

In that context, the Court approved, in particular, the reasoning followed by the General Court in holding that the Commission, relying on a World Health Organisation (WHO) publication, had not committed any manifest error of assessment in considering that EU funding of a number of safe and effective health services, including abortion services, contributed to a reduction in the number of unsafe abortions and, therefore, in the risk of maternal mortality and maternal illness.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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