The European Citizens’ Initiative: A Solution to the Democratic Deficit?

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Abstract

In 2009 the Treaty of Lisbon entered into force and with it introduced for the first time in the European Union’s (EU) history a model for direct democracy, the European Citizens’ Initiative (ECI). The ECI was designed in part, as a tool of direct democracy to counter the democratic deficit. This thesis sought to identify if the introduction of the ECI was able to succeed in its mission of reducing the democratic deficit in the EU. This thesis used a comparative case evaluation to examine the design of the ECI with the agenda initiatives instruments of Austria, Spain and Poland. The ECI and the agenda initiatives were evaluated on five elements of direct democracy: list of exclusions, entry hurdles, time limits, quorum and follow-up to agenda initiatives. Through this comparative evaluation, Results indicate that the design of the ECI and similar agenda initiatives, have not been very successful in creating civic engagement and giving citizens a viable tool for legislative participation. The main findings for the ECI to be unsuccessful are; the difficulty of the signature collecting process, the lack of political effort to make the ECI successful and the difficulties of implementing direct democracy on a continental scale.

Keywords: agenda initiative, democratic deficit, direct democracy, European Citizens’ Initiative, European Union.
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1. Introduction

In recent years, the European Union (EU) had to respond to challenges of its legitimacy. It is facing a diminishing lack of support from citizens and member states for its cause and its dream of an ‘ever-closer union’. A growing number of critical voices are contesting the democratic nature of its elected bodies. Furthermore, there has been a growth in anti-European sentiment across Europe, which has cultivated into the EU’s biggest threat: an upcoming referendum on the exit of Great Britain out of the EU. The growing resistance towards the EU is a result of the perceived distance between the governing structures in Brussels, and its citizens in the member states. The presumed existence of a lack of representation, accountability, and accessibility, is the result of the complexity of the decision-making process and the workings of the institutions (Grant, 2013). This theory on representation described above is known as the democratic deficit. The concept of the democratic deficit has been a point of discussion in EU politics for over 30 years. Politicians on opposite sides of the debate use the notion of the democratic deficit to argue their cause. Some argue that the democratic deficit can only be solved by giving more powers towards the European Parliament. Euro-sceptics reason that the powers of the member states should be maintained (Crombez, 2003: 103; Vesnic-Alujevic & Nacarino, 2012: 63).

In 2011 the EU introduced the European Citizens Initiative (ECI), this measure was introduced to increase democratic participation of citizens in the EU (Anches, 2014: 224). The ECI was part of a larger set of measures introduced in the Lisbon Treaty to address the democratic deficit (DeVuyst, 2007: 308). The idea of giving citizens a vehicle to petition the EP was first discussed prior to the Amsterdam Treaty. Reference towards the principle of participatory democracy in the EU was first made in the Draft Constitutional Treaty which introduced the ECI (Szeligowska & Mincheva, 2012: 272). The citizens’ initiative is an optional tool for citizens to engage in the political process, express their political opinion, and
to influence the legislative process. The EU hopes that the ECI will increase citizen participation and potentially decrease the democratic deficit (Anches, 2014: 235). Others are more sceptic and view the introduction of the ECI more of a vehicle to petition the EC as the EC is not obliged to consider the proposals (Anches, 2014: 231; Hurrelmann, 2014: 24).

This thesis will focus on the introduction of the ECI, as a measure to resolve the democratic deficit and compare it to citizens’ initiative in Austria, Spain and Poland in order to analyse if the ECI in its form is able to solve the democratic deficit in the EU. Therefore the following research question is posed:

To what extent is the European Citizens Initiative a solution to the European Union’s democratic deficit?

The issue of the democratic deficit is still highly relevant and has received increased attention in the recent years. One aspect of the democratic deficit is the diminishing voter engagement in the elections for the European Parliament (EP), with an absolute low point in voter turnout of 42.6 percent in 2014 (European Parliament, 2014; Kroet, 2016). This thesis evaluates the ECI as one of the measures imposed by the Lisbon Treaty to resolve the democratic deficit. In order to assess if the ECI is able to be a solution to the democratic deficit, it will employ a comparative case evaluation to examine the design of the ECI and the agenda initiatives instruments of Austria, Spain and Poland. Using these agenda initiatives as benchmarks gives me an historical background of similar initiatives’ designs and their performance in increasing civic engagement and enhancing the legislative capabilities of citizens, thus allowing me to normatively compare and evaluate the ECI according to previous initiatives’ designs and processes.

Resolving the democratic deficit of the EU is therefore of utmost importance. The indifference of citizens regarding politics in the EU and the lack of participation in EU
elections are serious problems that are threatening the legitimacy of the EU (Vesnic-Alujevic & Nacarino, 2012: 65). An analysis of the functioning and the structure of the ECI will give an insight into its potential to diminish the democratic deficit. The next chapter discusses important concepts and the context around the democratic deficit in the EU, in order to establish which aspects of the democratic deficit the introduction of the ECI is trying to address, and why there is a need for the introduction of direct democracy. Subsequently, the comparative case method used as approach to this research is explained. Next, the results of this research present that the design of the ECI and similar agenda initiatives, have not been very successful in creating civic engagement and giving citizens a viable tool for legislative participation. These results allow this research to conclude that the ECI has not been successful in resolving the democratic deficit.

2. The Democratic Deficit in the EU

In the formative years of the EU in the 1950’s, there was not much thought given to the democratic nature of the EU and increasing the legitimacy of its institutions, by incorporating more measures of decision making for the citizens of the member states. The legitimacy of the European communities was derived from the peace and the prosperity integration between the member states, and working together would bring to Europe (Chryssochoou, 2010: 379). The term democratic deficit was first coined in a chapter of the ‘JEF manifesto’ that was adopted by the Congress of Young European Federalist in Berlin in 1977 (Federal Union, 1977). The democratic deficit is constructed into two aspects, an institutional aspect, and a socio-psychological aspect. The socio-psychological aspect deals with the lack of voter engagement. The institutional aspect highlights the flawed institutional relationship within the EU and the lack of representation of the ordinary citizen, lack of accountability of EU institutions and perceived lack of accessibility to citizens.
(Chryssochoou, 2007: 380; Demetriou, 2015:7; Sieberson, 2008: 448). The definition of the democratic deficit used by the EU (Demetriou, 2015: 5) is:

The democratic deficit is a concept invoked principally in the argument that the EU and its various bodies suffer from a lack of democracy and seem inaccessible to the ordinary citizen because their method of operating is so complex. The view is that the Community institutional set-up is dominated by an institution combining legislative and government powers (the Council of the European Union) and an institution that lacks democratic legitimacy (the European Commission). (p. 5)

Members of the EP argue that the democratic deficit results from the fact that the European elections are more about national political concerns and not the concerns and problems that are relevant to the EU (Katz, 2001: 55). The EP elections are a result of national battles and national personalities not those of the EU (Follesdal & Hix, 2006: 536). In addition, the policy-making at an EU level does not reflect the policy preferences of citizens. The argumentation behind this is that governments pursue policies on an EU level which they are unable to pursue on a national level due to constraints from parliaments, interest groups, voters or national law. This can also be caused due to lobbying efforts from corporations that prefer and benefit more from a policy outcome on an EU level rather than a national level (Follesdal & Hix, 2006: 537; Streeck & Schmitter, 1991: 136). At the core of the democratic deficit is that the EU itself and its political practices does not resonate or conforms to the conception of parliamentary democracy found in the member states. This creates a discrepancy between the expectations of citizens and reality, which in turn leads to a perceived democratic deficit (Coultrap, 1999: 109; Follesdal & Hix, 2006: 536). There are reasons for an institution to be undemocratic in their nature and to have a discrepancy between an ideal and applied theories of democracy. This is the transaction cost of political participation. The transaction cost of political participation which are, the limitations on the
ability, and willingness of citizens to involve themselves in politics, becoming knowledgeable of the topics discussed and develop an expertise to overcome differences (Moravcsik, 2004: 344). Moravcsik (2004) argues that there are structural reasons for a democratic deficit: social complexity, political uncertainty and differentials in social power. Social complexity refers to the ability of citizens to understand and to vote on complex governmental policy such as medical, legal or technical decisions which requires expertise and involvement refereeing to the transaction cost of political participation. Second, political uncertainty, and the role of rights stating that democratic systems constrain majority decision-making. The author argues that a controlled system should exist where the rights of citizens and individuals are protected against arbitrary decisions that can result from demands of the majority of the population. According to Moravcsik (2004) political power should be performed in an isolated environment, meaning that politics is protected from the influence of powerful interest groups which cause the majority to be unrepresented. Moravcsik (2004) disagrees with the common view of a democratic deficit in the EU, arguing that policy making in the EU is generally clean, transparent, effective and politically responsive to the wishes of the member states (338).

Richard Katz (2001) argues that the model of democracy in the member states is different from the model of the EU, and therefore leads to a perception of a democratic deficit. The first difference is that major decisions are not being made by elected officials or by those that are accountable to them or through a party. Second, the shift of powers from national governments, towards a relatively undemocratic EU has undermined the quality of the democracy in the national parliaments of the member states. A fundamental problem is the lack of European political parties, leaders and media. This creates a situation where there is no European public debate on policy and controversies, which creates as system without accountability (Majone, 1998: 11; Scharpf, 1997: 19). Other authors argue that the policies of
the EU are not fundamentally undemocratic but the process may give rise to a democratic deficit (Crombez, 2003: 117).

2.1 Aspects of the democratic deficit

The socio-psychological aspect discusses the lack of civic engagement in the EU and the lack of community amongst its citizens (Azman, 2011: 246; Etzioni, 2007: 31). An important factor for voter engagement is the benefit for voting for the EP elections. The notion exists that the EP is not influential in the decision-making process. Therefore, the benefit of voting for the EP is removed from voting, leading towards a lower voter turnout (Mattila, 2003: 454). In addition a strong factor is a lack of support for the EU which causes a lack of voter engagement (Franklin & Hobolt, 2011: 68). Third, the elections of the EP are not of a primary concern to voters (Franklin, 2001: 315). This, mostly ‘national orientated’ factor is a result of parties compete mostly on European issues, and citizens only vote for domestic issues and concerns. Citizens also believe that there is little at stake in the EP elections and that its results will not affect domestic policy (Franklin & Hobolt, 2011: 68). Voters also simply do not know which parties represents their interests and for which party or person to vote. The lack of knowledge of the subjects or the members of parliament that lead the parties has contributed towards a low voter turnout (Directorate-General for Communication, 2014: 4; Norris, 1997: 281).

The institutional aspect of the democratic deficit deals with the lack of representation of the ordinary citizen, lack of accountability of EU institutions and a perceived lack of accessibility to citizens (Demetriou, 2015: 8). The argument of perceived lack of accessibility for citizens is constructed into three parts. The institutional design of the EU is deemed to complex, the spatial distance of the headquarters of the EU in Brussels enhances the idea of unaccountability among citizens, and the modus operandi is perceived as to different from the
workings of the national parliaments of the member states (Coultrap, 1999: 109; Follesdal & Hix, 2006: 536). In turn, this creates a gap between the logic of domestic politics views as democratic and the view of an elitist and technocratic EU (Dinan, 2005: 7; Sbragia, 2003: 7). The argumentation behind this is that the EP is commissioned to represent the people and the other institutions are not commissioned. Therefore, there cannot be a situation where the other institutions power is greater than that of the directly elected institution (Azman, 2011: 245). Second, is that further integration of the EU has been pursued without popular approval of citizens, and the EU electorate does not have enough power to put a halt to unpopular policies (Katz, 2000: 3). Third, is that the EC and the European Council is and cannot be held responsible by the EP (Majone, 1998: 22). Fourth, the national executives use the decision-making in the Council as an excuse for unpopular policy (Jolly, 2003: 9).

The problems of a lack of representation are embedded in transferring power towards an institution. The EC is a non-elected institution which wields too much power with control over the decision-making process, and the EC is not elected by or has to consult the people (Azman, 2011: 245). The transfer of power from national governments towards the EU has not been compensated with an increase of power of the EP. The EP has less power in the drafting of policies and law in respect to the Commission. As a result, governments can bypass and ignore their national parliaments. Therefore, they cannot sufficiently protect the interests of the people (Follesdal & Hix, 2006: 535). The shift away from national decision-making bodies towards European committees, experts, and bureaucrats is part of the delegation of authority to unelected officials where they are beyond the control of national parliaments (Follesdal & Hix, 2006: 535; Habermas, 2000: 52). In addition, the extensive lobbying activities taking place at the European level, where business interests have a greater incentive to organize causes policy outcome to favour the owners of capital (Jolly, 2003: 10; Streeck & Schmitter, 1991: 136). The use of QMV in the Council of Ministers and the
secrecy of the deliberations behind the decision-making process make it impossible for the national parliaments to hold their representative’s accountable (Katz, 2001: 55).

As discussed above there are numerous reasons for the notion of the democratic deficit to exist. The democratic deficit consists of many different factors, but the introduction of the ECI only focusses on increasing civic engagement and reducing the lack of accessibility. The introduction of the ECI does not concern itself with other factors of the democratic deficit such as the lack of representation or lack of accountability. Some authors argue that this is unnecessary and the notion of the democratic deficit is unfounded which is mostly driven by a lack of interest and not opportunity.

2.2 Debating the Democratic Deficit

In this section, the debate on the democratic deficit and to what extent it is a legitimate concern for the EU and its member states is discussed. For this, I will predominantly use the arguments of Moravcsik (2002) and Majone (1998) who oppose the viewpoint on the democratic deficit. The arguments for the existence of the democratic deficit are the authors Follesdal and Hix (2006). I focussed on these authors since they are among the foremost scholars debating the existence of a democratic deficit in the European Union.

Moravcsik (2002) argues, that the EU is a legitimate institution which is constrained by constitutional check and balances. The subjects that are dealt in the EU such as central banking, civil prosecution and economic diplomacy are examples of issues that are of low electoral salience (603). Lack of interest not lack of opportunity is the reason why citizens do not vote in EP elections. According to Moravcsik (2002), there are multiple reasons why the notion of a democratic deficit is so common and widely perceived. In relation to the lack of voter engagement he can understand why the EU seems distant from EU citizens. The lack of common history, culture, discourse and symbolism, which member states use to create a
common identity is less present in EU, therefore, citizens disengage from the EU. He argues that while there is a lack of common identity it does not mean that the EU is not a democratically legitimate institution (Moravcsik, 2002: 604). In addition, Moravcsik (2002) argues that if the European elections were the only form of democratic accountability in the EU it would be a difficult matter. However, citizens are represented in the European Council where the elected heads of state have direct power and input in the EU (Moravcsik, 2002: 612). Citizen’s indifference towards EP elections or the EU itself does not implicate that the EU is undemocratic.

Follesdal and Hix (2006) acknowledge that a lack of community and media interest creates a notion that the EU is too distant from voters. However, voter saliency does not equate to a lack of interest. It can also be contributed to a lack of understanding of the EU and citizens that are unable to understand the EU wont regard it as a democratic institution (Follesdal & Hix, 2006: 537). Their primary critique on Moravcsik’s argumentation, is that because the policy making process is in the hands of technocrats, there is a lack of debate. The public is distanced from the process sustains the lack of debate. In short, if an issue is not debated it will lead to voter salience (Follesdal & Hix, 2006: 546). European citizens decided against further integration of the EU and giving it more ‘politically interesting’ competencies. The result of that decision is that it has led to ‘depoliticisation’ which created according to Majone (1998) a justified democratic deficit.

The argument of a lack of representation in the EU in its core is concerned with the transfer of power towards the EU from national parliaments without equal growth in representation. Moravcsik (2002) disagrees with this notion of a lack of representation in the EU. The powers and core competencies of the EU are heavily constrained through institutional and constitutional constraints. Arguing that the core competencies of the EU are predominantly in the field of regulating policy externalities that are the result of cross-border
activity (Moravcsik, 2002: 607). Moravcsik names several constraints that keep the EU from acting without the member states consent and expanding their powers. These constraints are fiscal, administrative, procedural and legal constraints. Fiscal constraints withhold the EU from acting in new areas and creating new policies. (Moravcsik, 2002: 608). The EU’s power to implement and administer regulations are very weak and not as powerful as citizens might think (Majone, 1998: 9; Moravcsik, 2002: 608). Procedural constraints, consists of check and balances placed upon the EU’s ability to act. Inhibiting the EU from making arbitrary decisions which do not support the consent of member states. (Moravcsik, 2002: 609). In each branch and level of the EU, a majority of countries or votes are needed to impose or execute legislative authority. Meaning that nothing in the EU can be done if there is not a substantial consent among a majority of member states which represent its citizens, either in the EP or the Council before the EU can impose regulation (Moravcsik, 2002: 610). Legal constraints gives member states the ability to stop legislation that is unacceptable to them and, they are able to opt-out. They can also use a variety of legal barriers on policies to prevent the legislation to have an impact on the member state (Moravcsik, 2002: 610).

Follesdal and Hix (2006) have the exact opposite opinion and vocalize this on the first pages of their article on why there is a democratic deficit.

Follesdal and Hix (2006) disagree on one key element:

Whether a democratic polity requires contestation for political leadership and argument over the direction of the policy agenda. This aspect, which is ultimately the difference between a democracy and an enlightened form of benevolent authoritarianism, is an essential element of even the ‘thinnest’ theories of democracy, yet is conspicuously absent in the EU. (p. 534).
One of their main arguments is that institutions in a real democracy ensure that their policies are a response to the will of the people, for that to happen, contestation for policy development and input from citizens or representatives is needed (Follesdal & Hix, 2006: 556).

Moravcsik (2002) names several arguments why he disagrees with this idea of a severe lack of accountability in the EU. First, the EP has become more influential with every treaty and their ability to scrutinize and hold accountable the EC and the Council. Second, the democratically elected government of each member state holds control over the territorial and intergovernmental structure of the EU (Moravcsik, 2002: 612). Third, representatives from every member state are held accountable in their respective parliaments. Fourth, in the EU there is a broad representation of every member state in the legislative process which causes it to be under intense scrutiny from officials of every member state. Therefore legislation is under far greater scrutiny, than legislation in member states (Moravcsik, 2002: 612). Majone (1998) states that there is a real problem with transparency and accountability in the EU.

The proliferation of committees, working groups, and agencies, shows how urgent is the need for a single set of rules explaining the procedures to be followed in regulatory decision-making. The growth in the number of such bodies, the overlap of their activities, and the divergence’s between the rules governing their functioning create a real lack of transparency. (p. 22)

The main argument of Moravcsik (2004) is that throughout the EU, executives of national member states are involved in the decision-making process such as ministers in the Council. Follesdal and Hix (2006) argue that the actions of these executive agents are beyond the control of national parliaments. The secrecy behind the decision-making process and the lack of transparency, creates a situation where the national executives is unaccountable and
puts them in a position where they can push the blame onto the EU (Follesdal & Hix, 2006, 535).

Moravcsik (2004) concludes that when the EU is judged by the practices of existing nation-states and multi-level systems, the EU does not suffer from a fundamental democratic deficit (362). His criticism on this supposed lack of accessibility refers back to the arguments made in connection to the lack of voter engagement. Citizens are not interested in the topics of the EU and have not made an effort to understand its workings and rules (Moravcsik, 2008, 340). Follesdal and Hix (2006) respond to this argumentation in a similar fashion as they contested in the lack of voter engagement debate: “The low current salience about policy issues is not a justification for no democracy, as long as it may equally well be the result of a lack of democratic arenas for contestation” (551).

The debate on the democratic deficit has yet to be resolved. I would argue that there is a democratic deficit in the EU. Due to the lack of political participation among citizens, the lack of understanding of the workings of the institutions and the lack of options for direct democracy in the EU. I argue against the notion that citizens are not represented in the EU and that the influence and sovereignty of the individual member states have been taken away by the EU. There is a price citizens and member states have to pay in order to work together, which automatically implicates that member states have to give and take in order for the EU to be successful. The lack of citizen participation and the perceived notion of a lack of accessibility, accountability and transparency make the democratic deficit a reality whether it is the fault of the EU or not.

As discussed above there is a democratic deficit in the EU. In the next chapter, I will discuss why there is a need for direct democracy in the EU and what the benefits are of direct democracy.
3. Direct democracy

With the introduction of the ECI, the EU introduced its first form of direct democracy in the EU. The main difference between representative democracy and direct democracy is that it argues for more participation by citizens in the political process besides voting for a representative. The most important principle of a participatory democracy is bringing more equality to participation and expand the forms in which citizens can express their political opinions. It believes that citizens have the ability and the potential to contribute more to the political process. With this contribution and its increased participation a dialogue can be formed and more common interest can be found. This leads to a situation where politicians can learn more from citizens and vice versa (Schiller, 2007: p.53). Theories of participatory democracy also discuss the preconditions necessary to successfully have forms of direct democracy such as; social equality, participation in various social contexts, and egalitarian conditions for education. (Schiller, 2007: 54). Dolenec (2012) states that direct democracy is not a tool that can be implemented without considering cleavages in society, interest in parliamentary discussion or referenda is not enough to trigger social collective action. It must be fought for through political action and mobilisation. (Dolenec, 2012: 69). There are numerous political and economic cleavages between the member states and the EU, which is in part the result of nationally orientated political arenas. The ECI is in part a measure to solve this European political fragmentation and to instigate European discourse on European-wide issues (Joerges, 2012: 3). However, it is the wrong to assume that a direct democracy tool such as the ECI can instigate social collective action in itself without proper political guidance. (Dolenec, 2012: 69)
3.1 Direct Democracy and the EU

One cause of the democratic deficit is that the discussion in the political arena does not compare to the cleavages in society, therefore, there is a failure of political representation. The sudden implementation of a tool of direct representation cannot solve the difference between the EU and citizens (Dolenec, 2012: 71). The principles of democracy discussed previously in this thesis such as effective participation, enlightened understand, equality in voting, control over the agenda and inclusion of adults. These principles of democracy apply in similar fashion to direct democracy. Where participation should be seen broader than just voting for the representative. It gives citizens the ability, and the tools to be more involved in the decision-making process (Schiller, 2007: 54). Control of the political agenda should go beyond understanding, and more towards the equal opportunity to influence the decision-making process and the political agenda. This should be controlled by citizens and not be a primary task of the representative. This leads to an ‘enlightened understanding’. Where the opportunity to contribute to the legislative agenda is an opportunity for learning and public deliberation (Schiller, 2007: 54).

One major argument against direct democracy is that voters are not competent enough to vote on specific issues. They would also lack the interest to research and to reconcile their interest with their choice. Critics argue that referenda are too easily influence by demagogues and leads to simplification of the issues (Mendez, Mendez, & Triga, 2016: 8). Direct democracy can be appealing, it is however not as good as a tool to be used in continental sized polities (Mendez et al., 2016: 10). Arguments in favour say that it would have a positive effect on creating debate on the issues, would educate its citizens on the various policy and would make executives more accountable to their electors (Mendez et al., 2016: 9). The authors Andreas Gross and Bruno Kaufmann argues that it can be an excellent tool to overcome several problems that the EU is facing. Direct democracy can help increase
according to Gross: communication and deliberation, public and individual learning, increase legitimacy and establish a meaningful relationship between the ‘elite’ and citizens (Gross & Kaufmann, 2002: 4).

There are several reasons to have a restriction on citizens’ initiative as mentioned previously in this thesis there are several reasons to deny citizens the right to direct democracy or limit the number of issues citizens can discuss. First, incompetence of citizens, the issues and decisions are too complex for citizens to completely understand and make a well-judged decision. Second, the self-interest of citizens would inhibit them to make rational decisions. It would lead to self-serving legislation which would benefit citizens in the short term but would be detrimental to state affairs on the long term. Third, a threat to minorities, the fear is that direct democracy would favour the majority and could lead to legislation that would harm minorities and take away their fundamental rights and freedoms. The unrestricted use of direct democracy would empower extremists and would make society more vulnerable. Fourth, the option of unrestricted direct democracy could lead to special interest movements initiating legislation that would only further their own interest and not that of the state and its citizens. Fifth, several forms of direct democracy, this applies to citizens initiatives and citizens initiated referenda, leaves little room for the difficult intricacies of policy making and would present legislation as black and white.

Purists of direct democracy argue that to deny citizens an opportunity or restriction to direct decision-making on legislative or constitutional issues is unacceptable. They argue that distrust of citizen’s capability to properly vote in citizen’s initiatives or referenda is unacceptable. The authors Verhulst and Nijeboer (2007) argue against these objections made to direct democracy. On the first issue of incompetence of citizens they argue that citizens do not need a detailed knowledge of issues and legislation at hand. Citizens would have a choice which is not technical in nature, but is more of a value judgement which does not require
intensive knowledge of the legislation at hand (Verhulst & Nijeboer, 2007: 68). They argue that the argument implies that the representative, which should be able to vote on the matter, is more competent than citizens and has more extensive knowledge on the matter. This could be the case in some legislative discussion but this situation is usually reserved for a small group of experts (Verhulst & Nijeboer, 2007: 69). Moreover, other authors argue that direct democracy leads to a more informed and engaged electorate which could reduce the ‘incompetence’ of citizens (Kies & Nanz, 2013: 208; Monaghan, 2012: 285). In turn, other studies have shown that direct democracy does not lead to a higher voter turnout or a more permanently engaged electorate (Childers & Binders, 2012: 101).

Second, the self-interest of citizens would inhibit them to make rational decisions. It would lead to self-serving legislation which would benefit citizens in the short term but would be detrimental to state affairs on the long term. Against this self-interest of citizens, restrictions are often imposed on issues concerning taxation. The argument is that citizens would use direct democracy for short term financial gain. This argument implies that citizens are only motivated by financial gain. However, citizens are the ones affected by these decisions and would, therefore, choose financial stability over short term gain. This implies that the representative is always free from financial motives on voting on these issues which is not the case (Verhulst & Nijeboer, 2007: 69).

Third, it would form a threat to minorities. The fear is that forms of direct democracy would favour the majority, and could lead to approving legislation that would harm minorities and take away their fundamental rights and freedoms. This argument is according to the authors an argument against democracy itself. This could be a reason for a barrier on voting on constitutional issues. Representative democracy, as well as direct democracy, has the ability to be detrimental towards the rights of minorities (Verhulst & Nijeboer, 2007: 71).
The authors do acknowledge that direct democracy should always be in accordance with international treaties on basic human rights.

Fourth, the option of unrestricted direct democracy could lead to special interest movements. They would pursue legislation that would only further their interest and not that of the state and its citizens. This argument can also be made for representative democracy. Contributions to political parties from private individuals or corporations are not uncommon. These contributions could also lead to legislation that is against the interest of citizens and for that of corporations. In addition, this argument could be an extra reason to increase measures of direct democracy and a more informed and involved citizenry (Verhulst & Nijeboer, 2007: 73). The problem of a well-funded private group dominating the narrative is indeed a threat to democracy, being it representative or direct democracy. However, public radio and television could and should be a platform of a well-informed discussion on national and international issues and less on an entertainment platform (Verhulst & Nijeboer, 2007: 74).

Fifth, several forms of direct democracy, this applies to citizens initiatives and citizens initiated referenda, leave little room for the difficult intricacies of policy making and would present legislation as black and white. This argument also holds true for a representative democracy. Citizens are often presented with a choice of a few political parties which present their arguments as black and white and parties often generalize their party program. Direct democracy gives citizens an opportunity to vote for particular issues instead of giving representatives a broad range of arguing on behalf of citizens. It is correct that referenda and citizens initiatives only offer a black or white option for citizens, however, options for direct democracy can be altered and organised that citizens can vote for several issues or options of a proposed ‘package’ of initiatives (Verhulst & Nijeboer, 2007: 77). The problem of linking a yes or no vote to oppose a different agenda that can be voted upon, as in the case of the Dutch referenda on the trade agreement with Ukraine, is a real problem which
cannot be denied. However, this is a symptom which is often the result of a policy agenda which is unpopular with citizens. The so-called anti-vote can also be seen in representative democracy’s where the incumbent parties often face losses after their term in the legislature (Verhulst & Nijeboer, 2007: 77). The authors do acknowledge that direct decision-making must be subject to restrictions which also apply for representative decision making:

First, the decision-making must occur at the proper level. For example, one cannot reform the social security system at the provincial level, or abolish the generation of nuclear power at municipal level. Second, the proposals to be voted on must be in accordance with the basic rights and freedoms as established in the constitution and the international treaties concerning human rights. (p. 17)

3.2 Method

This research investigates if the ECI works as a measure to resolve the democratic deficit. In order to assess the ability of the ECI as solution, this thesis presents a case study on the ECI and agenda initiatives in Austria Spain and Poland.

For this the following research question will guide this research:

To what extend is the European Citizens Initiative a solution to the European Union’s democratic deficit?

To make this study more concrete, it will employ a comparative case evaluation to examine the design of the ECI and the agenda initiatives instruments of Austria, Spain and Poland. These three EU countries are chosen based on the fact that they hold a similar agenda initiative design as the ECI (Setälä & Schiller, 2012: 5). Using these agenda initiatives as benchmarks gives me an historical background of similar initiatives’ designs and their performance in increasing civic engagement and enhancing the legislative capabilities of citizens, thus allowing me to normatively compare and evaluate the ECI according to
previous initiatives’ designs and processes. The results of this research could have implications for the design and performance of the ECI.

As discussed above the expectation of the EU is that with the introduction of ECI as a tool of direct democracy by the Lisbon Treaty would have an impact on the democratic deficit. Due to its ability to increase democratic participation.

**Research design**

To answer the presented research question, this study analyzed each country’s agenda initiative design and used them as benchmarks to evaluate the ECI. The information gathered to analyze the countries is retained from *Citizens’ Initiatives in Europe: Procedures And Consequences of Agenda-setting by Citizens* (Setälä & Schiller, 2012), a collective work on agenda initiatives in Europe. This book contains (amongst others European countries) the case analyses on the citizen’s initiatives in Austria, Poland and Spain. For the data on Austria, the research of Giese (2012) was used. This study examined the agenda initiatives in Austria between 1964 and 2011. For Spain, the data was gathered from the work of the author Cuesta-López (2012) who examined the agenda initiatives in Spain between 1984 and 2007. And for Poland, the data was gathered from the work of the author Rytel-Warzocha (2012), who examined the agenda initiatives in Poland between 1999 and 2009. The data used to evaluate the ECI is collected from the database IDEA held by the EC on the citizens initiatives and is also retained from an EC initiated report on the result of the ECI (IDEA Database, 2016; EPRS, 2012)

The different designs of citizen’s initiatives in Europe are evaluated using the five most important and definite procedural elements of direct democracy according to Andreas Gross and Bruno Kaufmann (2002). These authors argue that this model covers many procedural elements of an agenda initiative and the design and its aspects (Gross &
Kaufmann, 2002: 5). Therefore, using these elements enabled me to make an assessment of the overall quality and performance of the ECI in comparison to other agenda initiatives.

The five elements, identified by the authors as crucial and highly important, are: *list of exclusions, entry hurdles, time limits, quorum and follow-up to agenda initiative* (Gross & Kaufmann, 2002: 5).

- **List of exclusions** on issues: how many political issues are excluded from the agenda initiative?
- **Entry hurdles**: How many signatures of the electorate do I need to collect, to successfully complete the process of an agenda initiative?
- **Time limits**: How much time do I have to collect these signatures?
- **Majority requirements/quorums**: what special requirements are applied to the deciding majority of the voters in referendums (participation quorum, majority approval requirement, qualified majority etc.)?
- **To what extent is there a follow-up** to the successful citizens’ initiatives?

**Operationalization**

The operationalization, will explain how the ECI will be theoretically tested on the five elements of the model of Gross & Kaufmann and the argumentation for testing these elements of an agenda initiative.

**Elements**

First element - *List of exclusions* on issues. The first element that was used to analyse the ECI, are the limitations on the subjects for an agenda initiative. The reason for this element is that if there are too many limitations it can destroy the potential of the citizens’ initiative.

There are several common restrictions towards citizen’s initiatives:

(a) Restrictions referring to constitutional amendments; (b) those concerning issues of the integrity of the state, matters of war and peace, the transfer of state jurisdiction to supranational and international bodies, and international treaties; and (c) various
limitations relating to ordinary legislation and other political decisions (IDEA, 2008, p. 66).

The limitations set by each country for the agenda initiative are compared to determine if the ECI has more limitations on the issues than in the other countries. This is measured by looking at the various restrictions set on the topics, in the design of the agenda initiatives and the ECI.

Second Element - Requirement of a successful initiative: threshold, quorum and time limit. The element of a successful initiative in this thesis is constructed out of three elements in this thesis being; threshold, approval quorum and period of time that is allowed to collect the signatures. The turnout quorum is “A specified minimum voter turnout required for a vote of the electorate to be valid” (IDEA, 2008: 213). There are several reasons for comparing the element of the threshold. The difference between a higher and a lower threshold in the signature collection is the difference in access to the decision-making process and access to an open democracy. Where a low threshold can lead to abuse a high threshold can lead to deterrence and would only leave bigger corporations or institutions able to make use of a citizen’s initiative (IDEA, 2008: 70). This holds up for a high approval quorum or a low approval quorum. Approval quorum is defined in this thesis as:

“A requirement for passage of a proposal which takes the form of a specified number of votes or a percentage of the electorate in support of the proposal” (IDEA, 2008: 212).

A high approval quorum could deter citizens from starting an initiative and a low approval quorum could lead to initiatives being brought forward that are not supported by a majority of citizens. In addition, a high approval quorum would give more legitimacy to a citizen’s initiative as for a lower threshold could leave room for policymakers to claim that there is not a majority of citizens for the initiative and would question its legitimacy (IDEA, 2008: 71).

The period of time given to collect the signatures and what methods are allowed will significantly impact the chances of successfully completing the procedure. These three elements are measurable by looking at the requirement set in each agenda initiative for each element.

Third Element - *Follow-up to the successful initiatives:*

The result of a citizen’s initiative should not be purely consultative and cannot be neglected. If citizens initiatives are neglected it could be counterproductive as it will implicate that their vote and their initiative is not being taken seriously. In addition, it contributes to the narrative that in the case of the EU it is not democratic and that the will of the people is neglected. Therefore, in this thesis, the third element is the ‘follow-up of citizen’s initiatives’. This element is defined as the number of citizen’s initiatives that have been acted upon, after successfully fulfilling the procedural aspects. Acted upon is defined as the citizens’ initiative has led to further action and or has encouraged new legislation or a change in legislation. This is measurable by looking at the amount of agenda initiatives that have led to follow-up in the different countries and the ECI. Legislative follow-up is determined by if the agenda initiative or the ECI has been responsible to the creation of legislation in the following year after the initiative has been completed or if in the making of the legislation is a direct reference to the agenda initiative.

**Definitions**

The definitions below are given to frame the concepts discussed in this thesis.

Direct democracy procedure is defined in this thesis as:
A legal arrangement which gives citizens the right to be directly involved in the political decision-making process. It may take one of three forms: citizens voting on a public policy proposal originated elsewhere (referendum); citizens setting the agenda by originating a public policy proposal themselves (initiative); and citizens requesting and voting on the early termination of the period in office of one of the personnel of government (recall). Also known as a direct democracy instrument and a direct democracy mechanism. (IDEA, 2008, p. 213)

Citizens’ Initiative is defined in this thesis as:

A direct democracy procedure that allows citizens to initiate a vote of the electorate on a proposal outlined by those citizens. The proposal may be for a new law, for a constitutional amendment, or to repeal or amend an existing law. (IDEA, 2008, p. 213)

There are two kinds of initiatives.

Initiatives can be either direct or indirect. In a direct initiative, the popular vote will take place without any further intervention by the authorities. An indirect initiative involves a procedure whereby the legislative authorities may either adopt the proposal or have the option of presenting an alternative proposal to the popular vote. (IDEA, 2008, p. 61)

The ECI was introduced by the treaty of Lisbon and officially adopted in 2011 (Official Journal of the European Union, 2011). Its goal was to involve citizens more closely in the agenda setting process on an EU level, with the purpose of increasing the level of direct democracy in the EU. The definition is taken from the EU regulation adopted by the EP and the Council of the EU in February 2011:
‘Citizens’ initiative’ means an initiative submitted to the Commission in accordance with this Regulation, 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, which has received the support of at least one million eligible signatories coming from at least one-quarter of all Member States. (Council Regulation EC, no. 211/2011, p. 6)

The ECI is an agenda initiative and has different names in the examined countries, however in the analysis it will be referred to as an agenda initiative when it holds to the definition below:

“A direct democracy procedure which enables citizens to submit a proposal which must be considered by the legislature but is not necessarily put to a vote of the electorate” (IDEA, 2008: 212).

Validity & reliability

The data used in this thesis is depended on the accuracy and the interpretation of the authors which collected the data in the selected countries. In particular for the element of legislative follow-up this could be subjective. The authors do not specify where they took the decision when an initiative received legislative follow-up. The process for this is not completely transparent and could lead to a difference in outcome when the study is replicated. Second, is that this thesis does not take into account the time period after the selection of the authors. It could be that legislation has changed in the chosen countries in recent years which has led to a different agenda initiative process or outcomes than described in this thesis.

The validity of this study is predominantly dependent on the element of legislative follow-up to the initiative. This element is particularly difficult to compare since the ECI has
only been in effect for four years, while the comparison made with the other countries is made over several decades. A constant comparison over a given period of time would give the research more validity. The reason I have deviated from taken the exact same time period is threefold. First, the difficulty and availability of the information in the different languages about the legislative follow-up in the examined countries. Second, the usage of agenda initiatives in these countries have varied from time period and its popularity is depended on the legislative follow-up in the previous years. Third, the number of agenda initiatives started is similar to the amount of ECI’s started.

In the next chapter I will examine the ECI and the agenda initiatives in the chosen countries, in order to compare their institutional design and criteria they hold for the chosen elements. This will help determine the quality and performance of the different initiatives in the analysis.
4. Europeans Citizens Initiative

The ECI was introduced by the treaty of Lisbon and officially adopted in 2011 (Official Journal of the European Union, 2011). Its goal was to involve citizens more closely in the agenda setting process on an EU level, with the purpose of increasing the level of direct democracy in the EU. The idea of an instrument that provided direct influence for citizens in Europe, was not a priority in the formative years of the EU. From the 1950’s up to the 1980’s other political and economic issues were more pressing. The difficult economic and political situation in Europe, specifically the recovering of the European Communities after World War II and the tension of the Cold war. In addition, the Communities were introducing more and more formative legislature that would lay the basis of the EU, the single currency and the common agricultural policy (Petrescu, 2014: 993). In the period between 1976 and 1979 the first major steps to democratic participation for citizens in the European member states were taken. On the 20th of September 1976, the Decision and Act was adopted and it concerned the election of representatives by direct universal suffrage, which came into force after all the member states ratified the document. This made it possible for citizens in the nine member states to directly vote for their representatives in the EP in 1979 (Petrescu, 2014: 995).

An important moment that paved the way for the ECI came with the drafting of the Constitutional Treaty in 2003. In the treaty, several sections were devoted to a citizens’ initiative. The ECI as it was drawn up in the constitutional treaty provided the option for citizens that if they could gather a million signatures from a significant number of member-states for a petition that it could be submitted to the EC to consider making a proposal on the subject of the petition. However, the constitutional treaty provisions were limited to addressing the functioning and policy-making of the EU institutions and not of the member-states (Shaw, 2006: 2256).
After the Constitutional Treaty was not ratified, several organizations began lobbying for the idea of a citizens’ initiative. Democracy International was an active force pushing for legislation that would increase the role of citizens in the EU’s decision-making process. After a successful lobbying campaign and building on the idea’s that existed in the Constitutional Treaty of 2003 the ECI would be incorporated in the Treaty of Lisbon in 2009. In article 10 paragraph 3 TEU it states the right for every citizen to participate in the democratic life of the EU (Petrescu, 2014: 1002). The Treaty of Lisbon entered into force in December 2009. It would take more than a year to draft and pass legislation which would make the ECI a fact and would set in motion the necessary movements to create a platform and a system for the collection and verification of signatures. In April of 2012, the regulation entered into force. This was the starting point for citizens to take advantage of the regulation, and start collecting and registration signatures for their initiatives (Sangsari, 2013: 3). The procedure for an ECI consists of seven steps. First, preparation and setting up a committee. Second, registration of the proposed initiative. Third, certification of your online collection system. Fourth, the collection of statements of support on paper or online. Fifth, verification of statements of support. Sixth, submission of the initiative to the commission. Seven, examination, public hearing in the EP and answered by the EC. If the commission decides to act on the proposal the legislative process is initiated (European Commission, 2015a). Citizens first have to set up their citizens’ committee in order to propose a citizens’ initiative. The committee must be composed of at least seven EU citizens that are an eligible age to vote in the EP elections and must live in at least seven different member states. In addition, they have to hold the nationality of an EU member state. After a citizens’ commission is organized the citizens’ initiative needs to confer to several measurements in order to be accepted by the EC. First and foremost, the initiative must concern a policy area where the EU has the competency and that in the specific policy area the EC has the authority such as food safety, civil protection.
and energy to submit a proposal for a legal act (table 2) (European Commission, 2015b). The registration of the proposal is a straightforward process of providing the right documentation, ranging from the format of the proposal to the addresses of the members of the committee. The committee will register the proposal within two months and it will be published on the website of the citizens’ initiative. This step is necessary if the collection of signatures will be registered online. Initiators will need to build a website and host an online signature collection system, which after completion must be inspected and verified by a competent national authority. If the collection system passed the criteria and is certified than the certifications must be sent towards the EC. When the initiative is registered and confirmed the organizers have twelve months to gather one million signatures from at least seven member states, with a threshold of a number of signatures from each country. However, the collection of statements must be according to specific support forms following the format determined by the EC (European Commission, 2016). The difficulty with the collection of statements is that in nine countries they require a copy of the passport to accompany the statement of support (European Commission, 2016). In other countries they might just require the personal identification number. This poses significant problems for the collection of signatures, posing a hurdle for citizens to commit themselves to an initiative. After twelve months the statements of support must be submitted to the commission together with the information on how much support and funding they have received for the initiative. After the submission of the initiative the representatives of the commission will meet the organisers of the initiative to hear the motivation behind their initiative. In addition, the organisers of the initiative will present their initiative in the EP at a public hearing. After the presentation, the EC will adopt a formal response that will detail what action will be taken, or if no action will be taken and their argumentation. The commission is not obligated to propose any form of legislation after an initiative has gathered a million votes. If the EC decides to act upon the
initiative it will start a legislative process (European Commission, 2015). The introduction of
the ECI has initially led to more involvement from EU citizens, however, the number of
registrations are declining every subsequent year after the introduction of the ECI.

Since April 2012 the EC received 51 requests for registration of proposed citizens’
initiatives. 31 of them were registered (16 registrations in 2012, nine in 2013, five in
2014 and one in 2015). Three initiatives are currently collecting statements of support.
(European Commission, 2015c: 3)

The total of 51 requests for registration, 20 requests were denied by the EC due to not
fulfilling the registration criterion. The 31 initiatives were deemed qualified and met the
criterion were registered by the EC and could start the collection period. 18 of those
initiatives reached the end of the collection period, the other ten initiatives were withdrawn
before. Only three initiatives reached the required number of statements of support for their
initiative and could, therefore, be submitted to the EC. The three initiatives that received a
formal response from the EC are ‘Right2Water’ and ‘Oneofus’, and ‘Stop vivisection’
(European Commission, 2015c: 3). The small number of initiatives that actually were able to
acquire the necessary number of signatures, within the designated time and were allowed to
be submitted to the EC is an example of how difficult and extensive the process of an ECI is.

4.1 Agenda Initiative in Austria

The agenda initiative as a tool of direct democracy was included into the Austrian
Constitution in 1920. The agenda initiative in Austria must be used to enact, amend or
abolish a law. Other parliament resolutions or decisions, approval of international treaties or
decision on conducting a national referendum, cannot be the subject of an agenda initiative
(see Table 2). However, creative initiators have formulated several initiatives to circumvent
this issue by devising a law that requires referenda on particular topics. The agenda initiative
must be supported by at least a 100,000 eligible voters. (Giese, 2012: 178). The agenda initiative is constructed out of three phases. First, the formal initiation of an agenda initiative to the Federal Ministry for the Interior. This application has a hurdle which is that it must be supported by a minimum of 0.1 percent of the whole Austrian population. After the acceptance of admissibility of an initiative by the federal ministry of the Interior must start before 6 months after the permission of the agenda initiative is announced by the ministry. In addition, the ministry has to declare whether the registration period will take place in all of Austria’s municipalities or in some states only. Registration is then implemented by the municipalities and they are obliged to provide a number of registration locations (Giese, 2012: 180). After the registration period has ended and is successfully supported by at least a 100,000 eligible voters, the Austrian parliament is only obliged to formal considerations. This means that a formal vote on the initiative is not required. The representatives of the agenda initiative must be heard by during parliamentary discussions (Giese, 2012: 182). The political impact of agenda-initiatives is difficult to measure between, leading to direct legal amendments after a successful initiative, to starting a public debate on a subject which in turn influences politicians and fostering political discussion. However, the author Giese argues that the agenda initiative did not have a significant impact effect on the federal legal system. The main argument is that the initiative is used by opposition parties and that a parliamentary majority is not willing to support the opposition initiated initiative. The successful initiatives that were successful were predominantly of not particular interest to political parties. In addition, citizens have shown a lack of support for agenda initiatives and have not mobilized behind the topics in order to ‘enforce’ change (Giese, 2012: 190).
4.2 Agenda Initiative in Spain

The national agenda initiative was introduced in the Spanish constitution in 1984. There are several restrictions imposed to the legislative in part out for fear ‘demagogic manipulations’ (see Table 2) (Cuesta-López, 2012: 195). Citizens who are of a legal age to vote and are of the Spanish nationality can start an agenda initiative. A national agenda initiative should have the endorsement of at least 500,000 voters as required by the Spanish constitution (Cuesta-López, 2012: 196). The constitution also guarantees that the proposals of an agenda initiative are secondary to the will of the Spanish chambers. The agenda initiative is examined by a board of the parliamentary to test if it holds to the formal, material and procedural requirements set by the constitution (Cuesta-López, 2012: 199). The gathering of signatures starts when the initiative is declared admissible and the promoting committee has received a notification that the campaign may enter the signature gathering period. This collection period lasts nine months. It can be granted an extension of three months. After the collection period has ended the initiative is offered to the Central Electoral Committee, which determines the admissibility of the signatures (Cuesta-López, 2012: 199). The constitution requires that within a six-month period in which the agenda initiative should be included into the agenda of the parliament’s plenary session and a promoter of the agenda initiative has the possibility to defend the initiative before the plenary session (Cuesta-López, 2012: 202).

Only one in nine of the agenda initiatives has been taken into consideration, while most of the agenda initiatives have stranded before reaching the floor of the parliament mainly due to failed legal control (37%) expired (37%) the ones that have been discussed eight of the nine have been rejected (Cuesta-López, 2012: 208). The author names several causes for the failure of the agenda initiative to have an impact. First, the limitations on the scope of the agenda initiative. Second, the difficulty of gathering the required signatures.
before the deadline. Third, the inflexibility and outright rejection of initiatives by the national parliament (Cuesta-López, 2012: 209).

### 4.3 Agenda Initiative in Poland

The agenda initiative was introduced into the Polish constitution in 1997. The constitution provides two forms of citizen’s participation in the legislative process—a referendum and an agenda initiative. It allows 100,000 citizens that have the right to vote in Sejm’ elections to introduce legislation. There are limitations to legislative initiatives (see Table 2). First, constitutional initiatives are not allowed. Second, initiatives, where the issues are the competence and right of legislative initiative, is assigned to particular state bodies. Third, limitations to parliamentary authority (Rytel-Warzocha, 2012: 214). The process of starting a legislative initiative is different as to the previous countries discussed and the EU. Beforehand there is no constitutional check to the legal nature of the initiative and there are no checks on the formal requirements. This created problems for initiatives that collected enough signatures to pass the first hurdle of 1000 signatures and did not fulfil all the formal requirements when it was presented to parliament (Rytel-Warzocha, 2012: 217). The committee that is in charge of the collection of signatures consists of fifteen Polish citizens with voting rights. This commission will collect 1000 signatures to present them to the marshal of the Sejm. After the marshal’s positive recommendation for a promotional campaign the three-month collection period of the 100,000 signature starts. After successfully collecting the required signatures the initiative is submitted again to the Marshall of the Sejm, by the organizing committee. The national electoral commission will validate the signatures given. After the National Electoral Commission deems the initiative successful the initiative will be considered in three steps (Rytel-Warzocha, 2012: 218). The first reading will take place at the plenary session of the Sejm within three months of the submission of the
signatures. In the second reading, the committee representative can participate in the work and answer any questions raised by deputies on the proposal (Rytel-Warzocha, 2012: 219). After this second reading it is put to a vote. The use of the agenda initiative is popular in Poland with 79 started agenda initiatives. As discussed previously the lack of oversight of the agenda initiative for the first hurdle leads to a lot of initiatives lack the formal requirement leading to a negative advice for the second collection phase (Rytel-Warzocha, 2012: 219). Seven citizen’s initiatives have resulted in legislative output. The author identifies the biggest problem of unsuccessful initiatives is the high quorum of 100,000 signatures for citizens and that is too difficult for bottom-up initiatives that do not have the backing of political parties or other organizations (Rytel-Warzocha, 2012: 225).
5. Analysis

In this chapter, I compare the ECI to the agenda initiative in the different countries, and try to identify how the different designs of a citizen’s initiative impact its usability. I have summarized the empirical data on the frequency on the usage of the initiatives, their success rate and the legislative follow-up given to the initiatives. I will look at the procedures of the agenda initiatives to evaluate their functioning and impact. The EU only has the option of a citizen’s initiative, which in the other countries used for analysis have multiple options for direct democracy. Where these options have a more guaranteed outcome for citizens and initiators of direct democracy. When making a one on one comparison between these agenda initiatives, we should be aware of this knowledge.

Table 1
Tools of direct democracy

<table>
<thead>
<tr>
<th>Country</th>
<th>Legal provisions for mandatory referendums at the national level</th>
<th>Legal provisions for optional referendums at the national level</th>
<th>Legal provisions for Citizens initiatives at the national level</th>
<th>Legal provisions for agenda initiatives at the national level</th>
<th>Legal provisions for recall at the national level</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Austria</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Spain</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Poland</td>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>N</td>
</tr>
</tbody>
</table>

Note: Adapted from IDEA Database (IDEA Database, 2016)

The countries compared in this thesis have different requirements for initiatives from issues that can be discussed in the initiative, collection period and quorum. The critical aspects of
direct democracy: design, the institution and the interaction between those two aspects determine the success of a citizen’s initiative (Altman, 2012: 190).

5.1 Element one: Issues excluded from agenda initiatives

The first element discusses, issues excluded from being the subject of an agenda initiative. When comparing the EU to the other countries chosen for comparison we can see that the options for an agenda initiative are more limited in the EU in comparison to the other countries.

Table 2

Issues excluded from agenda initiatives

<table>
<thead>
<tr>
<th>Country</th>
<th>Issues excluded from being the subject of an agenda initiative</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU</td>
<td>The proposed ECI must not &quot;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. It must not be &quot;manifestly abusive, frivolous or vexatious It must not be &quot;manifestly contrary to the values of the Union as set out in Article 2 TEU</td>
</tr>
<tr>
<td>Austria</td>
<td>Adoption of international treaties Transfer of authority to international bodies Conflict between constitutional organs Devolution</td>
</tr>
<tr>
<td>Spain</td>
<td>Taxes and public expenditure commitments Amnesty and pardon</td>
</tr>
<tr>
<td>Poland</td>
<td>Constitutional amendments Adoption of international treaties Transfer of authority to international bodies Taxes and public expenditure commitments Amnesty and pardon Issues concerning organic law</td>
</tr>
</tbody>
</table>


The first element of comparing citizen’s initiatives in Europe is the limitations on the subjects allowed to have a citizen’s initiative on. The reason for this element is that if there are too
many limitations it can destroy the potential of the citizens’ initiative. There are several common restrictions towards citizen’s initiatives:

(a) Restrictions referring to constitutional amendments; (b) those concerning issues of the integrity of the state, matters of war and peace, the transfer of state jurisdiction to supranational and international bodies, and international treaties; and (c) various limitations relating to ordinary legislation and other political decisions. (IDEA, 2008, p. 66)

As indicated previously in this thesis, a part of the democratic deficit originates from voter salience. Indicated as a reason for voter salience is that the most engaging issues in European countries are not part of the competencies of the EU, and therefore citizens are often not interested in the EU or even voting for the EU. This holds true for the ECI as well. The ECI cannot influence the most engaging issues and has even more restriction. This weakens the ECI. If the ECI cannot affect core competencies of the EU or amend treaties it removes a lot of issues that would engage citizens. In addition, two criteria stand out in article 4(2) being ‘It must not be "manifestly abusive, frivolous or vexatious’ and ‘it must not be "manifestly contrary to the values of the Union as set out in Article 2 TEU’. This gives the EC the power to determine if something is frivolous or contrary to the values of the EU. In Poland the organisers need to indicate the legal basis and in the polish case needs to include a draft law. This has the advantage of avoiding agenda initiatives that are not complacent with the existing laws or are inadmissible when reaching the commission, preventing an upsetting situation. However, the ECI severely inhibits citizens to even start a debate on the topic. It ignores the possibility for an agenda initiative to gain traction, and create a situation where the organizers could work with the commission to create legislation that has popular support but requires different framing (EPRS, 2015: 14). In Poland initiators do have the possibility to re-examine their initiative, this is not the case in the ECI. In Spain, the legality of an
initiative, is only examined after the submission of an initiative which leads to a high fall-out rate of proposed initiatives. The strong legal scrutiny placed upon the ECI, in combination with the number of issues an agenda initiative can be held upon creates a vacuum. This prohibits civic engagement and creates significant hurdles for citizen participation. In other countries such as Hungary, citizens have the ability to propose a question which must be discussed by parliament (Schiller & Setälä, 2012: 246). The requirements imposed by the Commission creates a situation where concerned citizens need a legal background to make use of the initiative. The commission could support the direct democracy process by actively help citizens shape their proposals and thereby create a more user-friendly process to create more civic engagement.

5.2 Element two: Requirement of a successful initiative: threshold, quorum and time limit.

An important component for initiative procedures are the limitations set on the quorum of an agenda initiative and its collection period. Referencing to table 3 we can see that the EU demands 1,000,000 signatures for the start of the agenda initiative procedure, which is about 0.20% of the percentage of the population. This is the lowest ‘percentage of the population’ for the countries compared. While Austria requires 100,000 in the second hurdle for initiating an agenda initiative which holds the highest percentage compared to the other countries. The threshold set for the quorum is important for the success rate of an initiative. A high quorum can deter citizens from pushing an agenda initiative and render it ineffective. A low threshold can lead towards extensive use of the agenda initiative, and possibly burdening parliamentary procedures and voter fatigue.
Table 3

*Requirement of a successful initiative: threshold, quorum and time limit.*

<table>
<thead>
<tr>
<th>Country</th>
<th>Signatures required</th>
<th>Population (millions)</th>
<th>Percentage of population</th>
<th>Circulation period</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU</td>
<td>1,000,000 (territorial distribution requirement)</td>
<td>486.3</td>
<td>0.20</td>
<td>12 months</td>
</tr>
<tr>
<td>Austria</td>
<td>100,000 (second hurdle)</td>
<td>8.39</td>
<td>8.39</td>
<td>4 months</td>
</tr>
<tr>
<td>Spain</td>
<td>500,000</td>
<td>41.6</td>
<td>1.20</td>
<td>9 months (+3)</td>
</tr>
<tr>
<td>Poland</td>
<td>100,000 (second hurdle)</td>
<td>38.2</td>
<td>0.26</td>
<td>3 months</td>
</tr>
</tbody>
</table>


The difference between a higher and a lower threshold in signature collection is the difference in access to the decision making process and access to an open democracy. Where a low threshold can lead to abuse a high threshold can lead to deterrence and would only leave bigger corporations or institutions able to make use of a citizen’s initiative (IDEA, 2008: 70). The period of time given to collect the signatures and what methods are allowed will significantly impact the chances of successfully completing the procedure.

The quality or the strength of a direct democracy depends on this combination of elements making it difficult for citizens to introduce an agenda initiative to the legislature. The number of signatures required in combination with the circulation can severely limit the chance of success for a citizen’s initiative. In addition, other factors influence the signature collection process such as the political culture of member states towards direct democracy. A strong participatory culture would, therefore, lead to more successful initiatives (Schiller, 2011: 19). However, this participatory culture also depends on citizens and their willingness and understanding to use the tools available to them.
To the question asked, “I understand how the EU works”, 54% of respondents said that they understand how the EU works, 42% disagrees with this statement and 4% indicated that they ‘don’t know’ (European Commission, 2015d: 128). To the question asked “how likely or not do you think you would make use of this European Citizens’ Initiative?” 27% of the respondents said ‘likely’, 63% said ‘not likely’ and 10% said ‘don’t know’ (European Commission, 2015d: 75). This percentage indicates that citizens are having difficulties with this model of direct democracy and that given the opportunity a large majority of 61% indicates that it would not use it. There are other several troubling factors with the ECI. First is that the territorial requirements of the ECI are logical, however they impose a difficulty which is not found in agenda initiatives in the other member states. The requirement of signature collection across 25 percent of the EU’s member-states create a situation where the initiator needs to set up cross-border organization. That creates a necessity to raise funds to support such an organization. Two out of the three successful ECI’s had large donors that raised contributions for the initiative of over a 100,000 euros. The three citizens initiatives that were successful all gathered signatures from over 25 member-states (European Commission, 2015c). The signature requirement is an important element for how successful a campaign can become. In the case of the EU the signature requirement compared to the percentage of the population is low. The three initiatives that were successful relied on funding. While ‘stop vivisection’ needed only 23,000 euro’s, ‘one of use’ needed 159,000 euro’s and ‘right2water’ needed 140,000 euro’s (EC, 2016). A second difficulty in the collection of signatures for an ECI which is not found in the other examined countries is that the ECI it does not have a uniform signature collection process. The personal data requirement differs from member state to member state. The difficulty of having a non-uniform collection process, is that it is more difficult to collect signatures in some countries. As each law and practice differ the requirement for a valid vote can include a personal ID
number, proof of nationality or other criteria which in other countries may not be required. This poses another hurdle for successfully gathering enough signatures (EPRS, 2015: 17). The relatively low signature requirement of the ECI and its extensive collection period of twelve months would make the ECI an accessible tool for citizens of the European member states. However, the complications of a cross-border signature collection operation inhibits an accessible process for citizens due to a large sum of money which is needed for to successfully complete an ECI. In addition, the difficulty registration process for citizens which differ in each member states complicate it even further. These difficulties which until now were only conquered by interest groups or other collectives, defeat the purpose of given citizens a tool to initiate legislation in the EU. The inability of the EU to create a uniform signature requirement creates significant difficulties for citizens which is already difficult enough for citizens to complete without the backing of a union or interest group.

5.3 Element three: Follow-up to the successful initiatives

The follow-up to initiatives or any form of direct democracy is a crucial element of direct democracy. A lack of follow-up could lead to a notion of a broken system. The ECI could be detrimental to the already existing notion in the member states of the EU is that it is not democratic nor transparent. If the commission does not act upon the successful initiatives it could contribute to the notion that the EU does not listen to its citizens and that the ECI is an irrelevant and broken instrument (Garcia, 2012: 272; Szeligowska & Mincheva, 2012: 282). The main problem of the ECI and other agenda initiatives as discussed previously is that the organizers and citizens behind a successful initiative lack certainty about not even the outcome of the initiative, but if it would be accepted and appropriately handled by the EC. If the EC wants to foster civic debate, it has the responsibility to handle and take seriously every single initiative, even if it goes against their own political agenda (Garcia, 2012: 273).
However, other authors warn for the danger of just looking at the output of the ECI and measure it to a number of initiatives has led to legislation or green papers. This would neglect the other side effects of the ECI such as enabling citizens, making them more involved and radically change the relationship between the EU and its citizens (Monaghan, 2012: 296). The follow-up and interaction of citizens and institutions on direct democracy is essential for its existence. The way this is established is crucial for establishing a cooperative and communicative relationship between citizens and the institution. When the institution does not need to reply to an agenda initiative it does not create a dialogue or debate. When an institution is required it opens up the dialogue, involves citizens and creates a mutual understanding which enables a participatory democracy (Gross, 2007: 69).

In the three countries compared to the ECI with an agenda initiative, the option has frequently been used by party opposition, interest groups and civil society organizations to define the agenda (Schiller & Setälä, 2012: 253). The consequentiality to these initiatives in Spain, Poland and Austria has not been overwhelming. In Spain only ten out of forty initiatives were successful with only one has led to actual legislative output. There the labour unions have predominantly been active in using the agenda initiative to propose regulatory measures for the labour market. In addition, environmental activism also drives the use of initiative campaigns proposing stricter regulation protection the environment and protect urbanization (Cuesta-López, 2012: 205). However, the agenda initiatives have not been very successful with only one initiative leading to direct legislative output.

In Poland, we see the same phenomenon as in the Austria and Spain, where the initiatives that have been successful were proposed by trade unions and political parties. The initiative is a popular measure amongst citizens who have made multiple attempts to make them successful but have often stranded with technical difficulties or opposition in parliament (Rytel-Warzocha, 2012: 222). In Poland, seven agenda initiatives have led to legislative
output. In Austria, the agenda initiative has mostly been initiated by the opposition political parties, as a tool to compensate for the weak legislative abilities it holds (Giese, 2012: 187). The tool of an agenda initiatives has not been very successful in Austria, with only four initiatives being implemented directly as federal law and two agenda initiatives having an impact on later laws. It did cause political attention to issues that were popular amongst the public and instigating public discourse (Giese, 2012: 188).

Table 4

*Follow-up to the successful initiatives*

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of Agenda Initiatives</th>
<th>Successful initiatives</th>
<th>Unsuccessful initiatives</th>
<th>Legislative output</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU (2012-2015)</td>
<td>48</td>
<td>3</td>
<td>45</td>
<td>0*</td>
</tr>
<tr>
<td>Austria (1964-2011)</td>
<td>34</td>
<td>31</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Spain (1984-2007)</td>
<td>40</td>
<td>10</td>
<td>30</td>
<td>1</td>
</tr>
<tr>
<td>Poland (1999-2009)</td>
<td>79</td>
<td>24</td>
<td>55</td>
<td>7</td>
</tr>
</tbody>
</table>

*Note:* Right2Water had a follow-up, however did not lead to any legal binding measures which was the goal of the initiative (EPRS, 2015: 24). Table: (Kaufmann, 2012: 249) Austria (Giese, 2012: 185). Poland (Rytel-Warzocha, 2012: 221) Spain (Cuesta-López, 2012: 208) ECI (EPRS, 2015: 32).

The successful initiatives submitted to the EC, have also been heavily supported by interest groups. ‘Right2water’ was set up by representatives of public service trade unions, which also fully funded the campaign. The goal of the ‘Right2water’ initiative was:
"to propose legislation implementing the human right to water and sanitation, as recognized by the United Nations, and promoting the provision of water and sanitation as essential public services for all” (European Commission, 2014a: 2).

The follow-up to the ‘right2water’ initiative has been minimal. The agenda initiative focused on putting forward legislation that protects water rights in the EU and imposes legislation that would prevent water market liberalization. The EC, however, committed itself to reinforce the implementation of water quality legislation but did not follow up and put legislation in place that would prevent privatization. ‘Oneofus’ was the second successful ECI and focused on:

“Ensure consistency in areas of its competence where the life of the human embryo is at stake, the EU should establish a ban and end the financing of activities which presuppose the destruction of human embryos, in particular in the areas of research, development aid and public health” (European Commission, 2014b: 2).

It was funded by Christian groups in Italy and Spain. It was also heavily supported by other catholic countries such as Poland and France and received the backing of Pope Francis and Pope Benedict. The EC decided that the rules and regulations in place for EU funding in relation to scientific research is sufficient and that no adaptation of the rules is needed.

The third initiative ‘Stop vivisection’ initiative dealt with a ban on animal testing and has received strong support from various animal welfare groups. The goal of the initiative was:

“to abrogate Directive 2010/63/EU1 on the protection of animals used for scientific purposes and put forward a new proposal aimed at phasing out the practice of animal experimentation, making compulsory the use - in biomedical and toxicological research - of data directly relevant for the human species” (European Commission, 2015e: 2).
The commission shared the citizens committee responsible for the initiative concerns on animal testing. However, the directive which the initiative focuses on repealing was the same directive that is committed to phasing out animal research in the EU. The EC decided therefore not to follow up with legislation on this initiative. Comparing the legislative follow-up to the countries chosen, we can see that the ECI as in the other countries has not been an effective tool for citizens or interest groups to initiate legislation. The tool of a citizen’s initiative has only been available for citizens since 2012 and has been used quite frequently with over 51 initiatives started. However, the actual legislative output it has produced is zero. The lack of legislative output resulting from successful citizen’s initiatives should worry the EC. One of the main aspects of the democratic deficit is that there is a feeling amongst citizens that they are not heard, and that they participation in the democratic processes of the EU does not make a difference. The lack of output in legislation from an ECI amplifies this message and could ultimately work as a negative for the EU. We can see that a significant number of initiatives fail to become successful either due to a lack of understanding of the procedure and regulations which caused them to be refused. The process of the citizens’ initiative or the reaction of the EC is not undemocratic. However, the difficulty in completing the initiative process could give rise to the feeling that it is undemocratic and therefore enhance the notion of the democratic deficit. An additional reason for the lack of successful initiatives or maybe even to the lack of legislative follow-up to the initiatives could be that there is a lack of media interest in the citizens initiatives. Which contributes to the lack of understanding and lack of interest of citizens for the citizens’ initiative. This connects to a part of Dolenec’s argument that a measure of direct democracy cannot be implemented directly without political guidance. The EU should choose a route of active participation in the citizens’ initiative process. This could be through a variety of measures. First, it could actively guide initiators in the process consulting them on the use of the correct legislation to
use to initiate an initiative. Second, funding the distribution of information on the initiatives that are taken place in the EU. Third, create more awareness of the process since a lot of citizens are unaware of its existence. If the EU fails to resolve the difficulties with the ECI it would contribute to the existing distrust in the EU and the way its democracy works.

6.0 Conclusion

This thesis sought to identify, if the introduction of the ECI was able to succeed in its mission of reducing the democratic deficit in the EU. This thesis used a comparative case evaluation to examine the design of the ECI and the agenda initiatives instruments of Austria, Spain and Poland. The main research question was:

To what extend is the European Citizens Initiative a solution to the European Union’s democratic deficit?

The ECI was part of a larger set of measures introduced in the Lisbon Treaty to address the democratic deficit. In order to understand what the ECI was trying to accomplish this thesis first sought to explain what the democratic deficit was and which specific aspects of the democratic deficit the ECI was capable of resolving. After this evaluation it was clear that, to successfully solve the democratic deficit the ECI would need to increase civic engagement and make the legislative process more accessible. The second chapter of this thesis concerned with the question if implementing a measure of direct democracy could actually reduce the democratic deficit in the EU. Direct democracy can reduce the democratic deficit and could enhance civic engagement, create a mutual understanding between the EU and its citizens and could provide an opportunity to increase the knowledge of citizens about the EU and its legislative process. After establishing the theoretical framework, I compared the ECI with the selected countries who hold a most similar design to the ECI. Using these countries as a benchmark, I compared the ECI on five elements by the model of Gross & Kaufmann: list of
exclusions, entry hurdles, time limits, quorum and follow-up to agenda initiative. The comparison shows that the agenda initiative in the examined countries and in the EU is unsuccessful in creating civic engagement and make the legislative process more accessible to citizens. The tool of an agenda initiatives in, Austria, Spain and Poland, has been mostly used by political parties and interest groups to propose legislation. The same trend can be seen in relation to the ECI, where only special interest groups have been able to successfully complete the initiative process. The institutional design of the ECI has even more complicating factors than in the examined countries.

First, element was the limitations on the subjects to be used in an ECI. The ECI holds more limitations than the examined countries. This inhibits the ECI of reaching its full potential and create enthusiasm and civic engagement among citizens in the member states. The literature of Follesdal & Hix showed that the lack of voter engagement was in part due to voter salience created by a lack of engaging political topics.

The second element of the quorum in the design of the ECI, required the lowest percentage of the population in comparison to the other countries. However, the nature of the ECI requiring signatures from 25 percent of the member states creates a situation where citizens would need a significant amount of funding to successfully complete the process. In addition, the EU has failed to have a uniform set of requirement in each member state, making the collection process even more complicated. These problems with signature collection and funding in the signature collection process confirms the literature, that direct democracy is appealing but not a good tool to be used in continental sized politics (Mendez et al., 2016).

The third element, discussed the follow up to successful legislation. From the 48 initiatives that have been initiated only three were successful in gathering enough signatures. These three signatures has resulted in zero legislative follow-up, too much dismay of the
initiators. We can also see that the number ECI’s that are being initiated has severely dropped, in the last two years. There are a significant number of initiatives that fail to become successful either due to a lack of understanding of the procedure and regulations which caused them to be refused. This shows that the EU still has a lot to gain with increasing its political guidance to citizen’s initiatives.

Concluding, the institutional design of the ECI is severely flawed and the EC has not successfully combated these issues. The introduction of the ECI was implemented without the proper political guidance it needs to be a success. This is exemplified by the fact that a significant number of citizens do not even know of its existence. The definition of the democratic deficit is that the EU and its various bodies suffer from a lack of democracy and seem inaccessible to ordinary citizens because their method of operating is so complex. These two main accusations have only been partially addressed. The ECI’s method of operating is still very complicated, and the EU has not become more accessible for citizens. The ECI had a difficult challenge from the beginning to become a solution to the democratic deficit. The measure has been proven unsuccessful in the examined countries and the ECI’s institutional design has even more flaws. The significant lack of political ambition to promote the measure, and lack of political will to follow-up on successful agenda initiatives is an example of this. As argued by Dolenec political guidance is essential for a measure of direct democracy to succeed. The ECI has failed to enhance civic engagement and make the legislative process more accessible to citizens, therefore it has not succeeded in its mission to become a solution to the democratic deficit.

This is not to say that the ECI cannot be fixed, it still has a lot of room for improvement. Several measures could be implemented to increase civic engagement and make it more accessible. First, it should allow more ‘political interesting’ topics to become the subject of an ECI. This would reduce the ‘voter salience’ and create more engagement.
Second, the EU should actively promote the ECI and increase its efforts to guide citizens’ initiatives to enter the signature collection process, making it more accessible. A strong participatory culture would lead, as Schiller argued, to more civic engagement and successful initiatives. Third, is that the signature collection period itself could significantly improve by implementing a universal signature collection process. This would solve part of its accessibility issues. Fourth, is that the EC should actively guided ECI’s from the beginning towards a more acceptable legislative proposal which will increase its legislative output. As discussed in the literature implementation of direct democracy is key to its success. The guidance by the EC or the promotion would lead to more citizens being involved, educated and could lead to as Gross describes a collective learning process. These changes will be significant steps for the ECI to actually become a solution to the democratic deficit.

**Limitations of the study**

As mentioned previously, the data used in this thesis is depended on the accuracy and the interpretation of the authors which collected the data in the selected countries. In particular for the element of legislative follow-up this could be subjective, since the authors do not mention what constitutes legislative follow-up. Second, is that this thesis does not take into account the time period after the selection of the authors. It could be that legislation has changed in the chosen countries in recent years which has led to a different agenda initiative process or outcomes than described in this thesis. The validity of this study is predominantly dependent on the element of legislative follow-up to the initiative. This element is particularly difficult to compare since the ECI has only been in effect for four years. This touches upon another difficulty of examining a policy measure which success depends in part on the knowledge of citizens on the measure. For the ECI to be successful citizens need to be able to know of its existence and be accustomed to its functioning. Judging a policy measure
this soon after its implementation before it has been able to become engrained into society, is another limitation of this study.

The ECI needs more time to find its audience and to tweak its institutional design. Therefore it would be interesting to conduct further research on the initiative in another five years. It would also be interesting to study how direct democracy could be implemented more successfully on a continental size and which tool of direct democracy would work best in that setting.
References


