



The European Commission turned its back on national and linguistic minorities

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On 15 January 2021, the European Commission published its communication on the Minority SafePack Initiative (MSPI) rejecting the package in its entirety. The Commission decided not to initiate legal acts of the Union with respect to any of the nine proposals of the package. With this decision, the Commission not only ignored the will of more than one million signatories and let down approximately 50 million citizens of the Union who belong to national and linguistic minorities, but also undermined the democracy of the Union by totally discrediting the instrument of the European Citizens' Initiative (ECI), the only instrument of participatory democracy in the European Union (EU). Instead of bridging the gap between the EU and its citizens, the Commission deepened and widened this gap acting precisely in contrary to the main purpose of the ECI.

The Commission decided to ignore the voice of 1,123,422 signatory EU citizens, the call of the European Parliament to propose legal acts expressed in a [resolution](#) with over 75% of the votes cast, the suggestions of several other EU institutions and other stakeholders [asserted](#) in course of the public hearing of the initiative, as well as the exact request of numerous national and regional governments and parliaments to launch the legislative process for the protection of national and linguistic minorities, expressed in unanimously or nearly unanimously adopted resolutions, including the Bundestag of Germany, the Second Chamber of The Netherlands, the Parliament of Hungary, and several other regional endorsements.

In its [communication](#), the Commission examined the nine proposals of the MSPI and concluded for each proposal that the current legislation provides an appropriate legal framework, and thus, no additional legal act is necessary. This conclusion is a clear sign of the fact that the Commission is not seeking to understand the situation and challenges of autochthonous national minorities. However, the Commission concludes that the current legislation constitutes an appropriate legal basis for the challenges emphasized by the initiative with a deliberate misinterpretation of the organizers' objectives. A good example for this is the part of the package dealing with the situation of stateless people. Although the organizers made it [clear](#) that this proposal reflects on the situation of the members of the Russian-speaking community in the Baltics and Roma who are affected by statelessness (several members of these communities do not have a single citizenship), the Commission interpreted the proposal as a request for a further integration of third-country national migrants.

Legal assessment

A fundamental statement of the Commission is that the EU has no general legislative competence specifically on the protection of national minorities. While this statement is true in principle, the virtue of the MSPI lies precisely in the fact that it aims to amend and supplement the current rules of the EU, while respecting the legal framework of primary EU law. As such, the proposals of the package, from a legal perspective, are in compliance with the Treaties. Moreover, in *Case T-391/17, Romania v Commission*, the General Court found that the Commission may register a proposal for specific acts that aim to complement the Union's action, in the areas of its competence, in order to increase the protection of persons belonging to national and linguistic minorities and to support the Union's cultural and linguistic diversity.

Therefore, the Commission did not state that there were legal obstacles to put forward appropriate proposals matching the organizers' request, but argued that the existing EU legal framework is appropriate, and as such, no additional legal acts are necessary. This was the most convenient argument for the Commission, limiting the organizers' opportunities to challenge the communication at the Court of Justice of the European Union (CJEU). The same thing happened in the *One of Us* ECI in 2014, where the Commission decided not to submit a legislative proposal as it [considered](#) the existing EU legal framework to be satisfactory. The decision of the Commission was challenged by the organizers at the CJEU. In December 2019, the Court [ruled](#) against the organizers confirming the Commission's broad discretion with regard to the decision to submit a proposal for the legal act of the Union. The Court underlined that the submission by the Commission of a proposal for an EU act in response to an ECI is only optional. The Commission may therefore refuse to submit the legislative proposals envisaged in the initiative for purely political reasons, even if, from a legal point of view, these measures fall within the framework of EU law. Accordingly, the Commission did not state in its communication that there were legal obstacles to present proposals as required by the organizers (this statement could have been the subject of legal dispute), but it said that the adequacy of the current legal framework did not necessitate the adoption of a new legal acts (this is rather a matter of political assessment not a legal one).

Although the Commission is indeed cannot obliged to submit a legislative proposal as a result of a successful ECI, under the [Regulation](#) on ECI, it shall set out in a communication its legal and political conclusions on the initiative. On the possible separation of the two kinds of conclusions the CJEU, in the case of the *One of Us* ECI, [found](#) that the Commission shall not be obliged to make a formal separation of the these conclusions, however, it must ensure that the legal and political nature of the reasons can be understood. It is debatable to what extent the Commission's current communication meets this requirement, as it is difficult to distinguish between the two types of conclusions even for professionals, not to mention ordinary EU citizens.

Political evaluation

The Commission made it clear that it did not intend to do anything to protect national minorities at EU level, and thus, to preserve its cultural diversity, including the autochthonous European languages, cultures and national characteristics that are part of Europe's cultural heritage. Moreover, by rejecting the package in its entirety, the Commission rather promoted the elimination of the cultural diversity and true European character of the EU. Ignoring the challenges the national and linguistic minorities face each day, and keep talking about the integration of national minorities at the same time could

lead to the disappearance of Europe's autochthonous cultures in a long term. This approach is however in contrary to the EU's obligation under the Treaties, namely, to ensure that Europe's cultural heritage is safeguarded and enhanced.

Under Article 2 of the Treaty on the European Union (TEU), the Union is founded on the values of, among others, the respect for human rights, including the rights of persons belonging to minorities. Therefore, on the one hand, the rights of minorities, including national and linguistic minorities, have to be considered as part of human rights. On the other hand, the respect for the rights of persons belonging to minorities is a fundamental value the EU is built on, and as such, shall be respected by all EU institutions, as well as every single Member State. This fundamental value has the same weight, at least in theory, as the rule of law, just to mention one from the list under Article 2 of the TEU. However, while the Commission, as well as other EU institutions, step up for the protection of the rule of law with great enthusiasms (as we can see in the procedure triggered against Hungary and Poland), the Commission is not that much committed to protect a value of the same level, the rights of minorities, or at least the rights of national and linguistic minorities. Moreover, while limitations of competences in terms of interfering with the powers of Member States have never stopped the Commission to take actions in defending the rule of law, the lack of competence was the fundamental reason of the Commission to turn its back on national and linguistic minorities of Europe.

Although the EU often stands up for the sake of various minority groups, autochthonous national minorities appear to be the only ones on whom the Commission keeps turning a blind eye. The Commission adopted a number of strategic documents in 2020 for the benefit of different minority groups, such as the EU anti-racism action [plan](#), the gender equality [strategy](#), the LGBTIQ equality [strategy](#), and the EU Roma strategic [framework](#) for equality, inclusion and participation. Nevertheless, the same institution rejected the MSPI, a package of proposals for the protection of national and linguistic minorities in its entirety, without putting forward any compromise proposals or a strategic document. Moreover, in its communication the Commission several times reflected on the problems of national minorities raised by the organizers by recalling the steps made for the benefit of the Roma, as if the situation of the Roma, or the measures adopted for the sake of their equality, could be applicable to all autochthonous national minorities. The Commission also does not clarify how such actions would improve the situation of other ethnic or national minorities.

The European Commission, which has the exclusive right to initiate EU legislation, has never before dealt with the protection of national and linguistic minorities. The historical significance of the MSPI lies in the fact that, through the successful signature collection, citizens have forced the Commission to put the issue on its agenda. However, this seems to be the 'glass ceiling' of EU participatory democracy in terms of grassroots movements. The organizers of the initiative, with the support of EU citizens, have been able to influence EU decision-making up to this point. Beyond this point it is only up to the Commission to decide on the expressed will of its citizens. The Commission's communication is therefore needs to be assessed from EU democracy perspective as well, as the ECI was created to bring the EU citizens closer to the Union by allowing them to be part of the EU decision-making process.

By rejecting the MSPI, a package of nine different proposals, in its entirety, without putting forward any compromise proposals, the Commission undermines not only the EU minority protection but the EU democracy as well. It demonstrates that the Commission is not taking

seriously the ECI, and as such, the participatory democracy of the EU. The Commission regularly refers to the ECI as a tool of its democratic openness and inclusion of citizens to the decision-making process. However, in practice, the Commission does not seem to be interested in citizens initiatives. So far, including the MSPI, the Commission examined five ECIs that successfully passed the signature collection, and rejected four of them without taking any action (the *Right2Water* ECI can only be seen as a partial success as the Commission did not follow the organizers wishes in terms of the actions taken). Although the Commission regularly consults with NGOs and other stakeholders from the 'Brussels bubble', grassroots have no chance of effectively influencing EU decision-making processes. The involvement of professional lobby organizations and representatives of organized interests is undoubtedly necessary and useful for sake of good governance, but it cannot replace genuine citizens' participation, for which the only tool in the EU is the ECI. ECI supposed to bring citizens closer to the Union. However, the Commission may reach an opposite effect if it keeps systematically and consistently rejecting successful ECIs without taking any action.

Vera Jourova, who is responsible for the ECI within the Commission, presumably played a significant role in the adoption of the communication. She was the drafter of the document which was later adopted by the College of Commissioners. The Czech Commissioner is not famous for her generous patronage of national and linguistic minorities, and it is not impossible that her [clashes](#) with the Hungarian government influenced the substantive response to the MSPI (the initiative was supported by more than one million ethnic Hungarians from Hungary, Romania and Slovakia, while the organizers also got financial and political support from the government of Hungary, thus, the MSPI could easily be seen as a top priority case of the Hungarian agenda in the EU).

What's next?

According to the [Rules of Procedure](#) of the European Parliament, the Parliament shall assess the Commission's communication on a successful ECI, and if the Commission fails to submit an appropriate proposal on an ECI, the Parliament's committee responsible for the subject may organize a hearing. Furthermore, Parliament may decide whether to hold a plenary debate (and whether to wind up this debate with a resolution). Parliament may also decide to exercise its right under Article 225 of the Treaty on the Functioning of the European Union (TFEU), and call on the Commission to present a proposal for a legislative act. The [rapporteur](#) for ECIs in the European Parliament is Loránt Vincze, the president of the Federal Union of European Nationalities, the organization coordinating the Europe-wide campaign of the MSPI. Therefore, there is a solid hope that the Parliament will take further steps to keep the initiative on the political agenda of EU institutions.

The work of the organizers of the initiative did not end with the Commission's rejecting statement. As mentioned earlier, although the organizers may have limited options in terms of successfully challenging the Commission's communication at the CJEU, it still remains an option. However, taking this way might not be the best choice, as such legal procedures can last for several years, while the issue would practically disappear from the EU's political agenda. Therefore, advocacy and organized representation of the interests of national and linguistic minorities, at which the organizers of the MSPI and FUEN especially made a great progress in the past two-three years, remains the main task for the few upcoming years. The European Parliament backed the MSPI by a three-quarters majority in October 2020, and this political support is a solid foundation on which further actions can be built. As Loránt Vincze [stated](#), the MSPI have created value: brought together

national and linguistic minorities across Europe who have set common goals, and laid the foundations on which they can build together.

The protection of national minorities is an extremely sensitive political issue. However, the European Union, including the Commission, as a community based on certain fundamental values, must not turn a blind eye to the problems arising due to the inadequate EU regulation on the protection of national minorities. The lack of a minimum set of EU rules can give rise to anti-minority manifestations in the Member States, which jeopardize the faith in European integration and the trust in the EU.

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