

**COMMISSION DECISION (EU) 2017/652****of 29 March 2017****on the proposed citizens' initiative entitled 'Minority SafePack — one million signatures for diversity in Europe'***(notified under document C(2017) 2200)***(Only the English text is authentic)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative <sup>(1)</sup>, and in particular Article 4 thereof,

Whereas:

- (1) By Commission Decision C(2013) 5969 of 13 September 2013 registration of the proposed citizens' initiative entitled 'Minority SafePack — one million signatures for diversity in Europe' was refused. The General Court of the European Union in its judgment of 3 February 2017 (case T-646/13) annulled that Decision, on the ground that the Commission has failed to comply with its obligation to state reasons by not indicating those of the measures which, among those set out in the annex to the proposed ECI, did not fall within its competence, nor the reasons in support of that conclusion. In order to take the necessary measures to comply with the judgment of the General Court a new Commission Decision on the request for registration of the proposed citizens' initiative has to be adopted.
- (2) The subject matter of the proposed citizens' initiative entitled 'Minority SafePack — one million signatures for diversity in Europe' refers to the following 'We call upon the EU to improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union'.
- (3) The objectives of the proposed citizens' initiative refer to the following 'We call upon the EU to adopt a set of legal acts to improve the protection of persons belonging to national and linguistic minorities and strengthen cultural and linguistic diversity in the Union. It shall include policy actions in the areas of regional and minority languages, education and culture, regional policy, participation, equality, audiovisual and other media content, and also regional (state) support'.
- (4) The annex to the proposed citizens' initiative mentions specifically 11 legal acts of the Union for which the proposed citizens' initiative aims, in essence, at proposals from the Commission, namely:
  - (a) a recommendation of the Council 'on the protection and promotion of cultural and linguistic diversity in the Union' on the basis of the second indent of Article 167(5) TFEU and the second indent of Article 165(4) TFEU;
  - (b) a decision or a regulation of the European Parliament and of the Council on the basis of the first indent of Article 167(5) TFEU and the first indent of Article 165(4) TFEU, the subject matter of which is to adapt 'funding programmes so that they become accessible for small regional and minority language communities';
  - (c) a decision or a regulation of the European Parliament and of the Council on the basis of the first indent of Article 167(5) TFEU and the first indent of Article 165(4) TFEU, the subject matter of which is to create a centre for linguistic diversity that will strengthen awareness of the importance of regional and minority languages and will promote diversity at all levels and be financed mainly by the European Union;
  - (d) a regulation of the European Parliament and of the Council on the basis of Articles 177 TFEU and 178 TFEU, the subject matter of which is to adapt the common provisions relating to EU regional funds in such a way that the protection of minorities and the promotion of cultural and linguistic diversity are included therein as thematic objectives;

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<sup>(1)</sup> OJ L 65, 11.3.2011, p. 1.

- (e) a regulation of the European Parliament and of the Council on the basis of Articles 173(3) TFEU and 182(1) TFEU, the subject matter of which is to change the regulation relating to the 'Horizon 2020' programme for the purposes of improving research on the added value that national minorities and cultural and linguistic diversity may bring to social and economic development in regions of the EU;
  - (f) a Council directive, regulation or decision on the basis of Article 20(2) TFEU and Article 25 TFEU, for the purpose of strengthening within the EU the place of citizens belonging to a national minority, with the aim of ensuring that their legitimate concerns are taken into consideration in the election of Members of the European Parliament;
  - (g) effective measures to address discrimination and to promote equal treatment, including for national minorities, in particular through a revision of the existing Council directives on the subject of equal treatment, on the basis of Article 19(1) TFEU;
  - (h) the amendment of the EU legislation in order to guarantee approximately equal treatment for stateless persons and citizens of the Union, on the basis of Article 79(2) TFEU;
  - (i) a regulation of the European Parliament and of the Council on the basis of Article 118 TFEU, in order to introduce a unitary copyright so that the whole EU can be considered an internal market in the field of copyright;
  - (j) an amendment of Directive 2010/13/EU of the European Parliament and of the Council <sup>(1)</sup>, for the purpose of ensuring the freedom to provide services and the reception of audiovisual content in regions where national minorities reside, on the basis of Article 53(1) TFEU and Article 63 TFEU;
  - (k) a Council regulation or decision, with a view to the block exemption of projects promoting national minorities and their culture, on the basis of Article 109 TFEU, Article 108(4) TFEU or Article 107(3)(e) TFEU.
- (5) Legal acts of the Union for the purpose of implementing the Treaties can be adopted:
- in the areas of improvement of the knowledge and dissemination of the culture and history of the European peoples; conservation and safeguarding of cultural heritage of European significance; non-commercial cultural exchanges; and artistic and literary creation, including in the audiovisual sector,
  - in the fields of developing the European dimension in education, including inter alia through the teaching and dissemination of the languages of the Member States,
  - in defining the tasks, priority objectives and the organisation of the Structural Funds provided that the actions to be financed lead to the strengthening of the economic, social and territorial cohesion of the Union,
  - on specific measures in support of action taken in the Member States to achieve the objectives of speeding up the adjustment of industry to structural changes, encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings, encouraging an environment favourable to cooperation between undertakings, fostering better exploitation of the industrial potential of policies of innovation, research and technological development,
  - in the area of research and technological development in the form of a multiannual framework programme establishing the scientific and technological objectives to be achieved by the Union's activities and fixing the relevant priorities, indicating the broad lines of such activities and fixing the maximum overall amount and the detailed rules for Union financial participation in the framework programme and the respective shares in each of the activities provided for,
  - in the area of rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States of the EU,

<sup>(1)</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

- for the creation of European intellectual property rights to provide uniform protection of intellectual property rights throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements,
  - for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed person,
  - for determining the categories of aid granted by states exempted from the procedure provided for in Article 108(2) TFEU.
- (6) For those reasons, the proposed citizens' initiative, inasmuch as it aims at proposals from the Commission for legal acts of the Union for the purpose of implementing the Treaties as referred to in points (a)-(e) and (h)-(k) of recital 4 does not fall manifestly 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 in accordance with Article 4(2)(b) of the Regulation.
- (7) A legal act of the Union for the purpose of implementing the Treaties cannot be adopted for the purpose of strengthening within the EU the place of citizens belonging to a national minority, with the aim of ensuring that their legitimate concerns are taken into consideration in the election of Members of the European Parliament. Article 20(2) TFEU provides for the rights of the citizens of the Union. Those rights include the right to vote and to stand as candidates in elections to the European Parliament in the Member State of residence, under the same conditions as nationals of that State. Article 25 TFEU provides that on the basis of a report from the Commission the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may adopt provisions to strengthen or to add to the rights listed in Article 20(2) TFEU. However, the rights strengthened or added by such provisions must be directed against other Member States than that of which the Union citizen concerned is a national or against the Union institutions. Conversely, the legal act envisaged by the proposed citizens' initiative entitled 'Minority SafePack — one million signatures for diversity in Europe' contains no similar qualifications. Accordingly, it would also create rights enforceable against the Member State of which the Union citizen is a national. Therefore Article 25 and Article 20(2) TFEU cannot constitute legal bases for the adoption of a legal act of the Union for the purpose of implementing the Treaties 'for the purpose of strengthening within the EU the place of citizens belonging to a national minority, with the aim of ensuring that their legitimate concerns are taken into consideration in the election of Members of the European Parliament'. Inasmuch the legal act envisaged by the proposed citizens' initiative entitled 'Minority SafePack — one million signatures for diversity in Europe' would in essence regard the provisions necessary for the election of the Members of the European Parliament by direct universal suffrage, it is the latter institution which, in accordance with Article 223 TFEU, shall draw up a proposal to lay down these provisions, in accordance with a uniform procedure in all Member States or with principles common to all Member States. Therefore, the Commission is not empowered by the Treaties to submit a proposal for such a legal act.
- (8) A legal act of the Union for the purpose of implementing the Treaties cannot be adopted either as regards effective measures to address discrimination and to promote equal treatment, including for national minorities, in particular through a revision of the existing Council directives on the subject of equal treatment. Whilst irrespective of their field of action, the Union institutions are bound to respect 'cultural and linguistic diversity' in accordance with Article 3(3) TEU and to refrain from discrimination based on 'membership of a national minority' in accordance with Article 21(1) of the Charter of Fundamental Rights of the European Union none of these provisions constitutes a legal basis for whatever action by the institutions. Article 19 TFEU provides that without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. However, this exhaustive list of grounds of discrimination does not include membership of a national minority. Therefore, Article 19 TFEU cannot constitute the legal basis for the adoption of a legal act of the Union for the purpose of implementing the Treaties proposals for 'effective measures to address discrimination and to promote equal treatment, including for national minorities'.
- (9) For those reasons, the proposed citizens' initiative, inasmuch as it aims at proposals from the Commission for legal acts of the Union for the purpose of implementing the Treaties as referred to in points (f) and (g) of recital 4 manifestly falls outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties in accordance with Article 4(2)(b) of the Regulation.

- (10) The Treaty on European Union (TEU) reinforces citizenship of the Union and enhances further the democratic functioning of the Union by providing, *inter alia*, that every citizen is to have the right to participate in the democratic life of the Union by way of a European citizens' initiative.
- (11) To this end, the procedures and conditions required for the citizens' initiative should be clear, simple, user-friendly and proportionate to the nature of the citizens' initiative so as to encourage participation by citizens and to make the Union more accessible.
- (12) The proposed citizens' initiative entitled 'Minority SafePack — one million signatures for diversity in Europe' should therefore be registered. Statements of support for this proposed citizens' initiative should be collected inasmuch as it aims at proposals from the Commission for legal acts of the Union for the purpose of implementing the Treaties as referred to in points (a)-(e) and (h)-(k) of recital 4,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The proposed citizens' initiative entitled 'Minority SafePack — one million signatures for diversity in Europe' is hereby registered.
2. Statements of support for this proposed citizens' initiative may be collected, based on the understanding that it aims at proposals from the Commission for
  - a recommendation of the Council 'on the protection and promotion of cultural and linguistic diversity in the Union',
  - a decision or a regulation of the European Parliament and of the Council, the subject matter of which is to adapt 'funding programmes so that they become accessible for small regional and minority language communities',
  - a decision or a regulation of the European Parliament and of the Council, the subject matter of which is to create a centre for linguistic diversity that will strengthen awareness of the importance of regional and minority languages and will promote diversity at all levels and be financed mainly by the European Union,
  - a regulation adapting the general rules applicable to the tasks, priority objectives and the organisation of the Structural Funds in such a way that account is taken of the protection of minorities and the promotion of cultural and linguistic diversity provided that the actions to be financed lead to the strengthening of the economic, social and territorial cohesion of the Union,
  - a regulation of the European Parliament and of the Council, the subject matter of which is to change the regulation relating to the 'Horizon 2020' programme for the purposes of improving research on the added value that national minorities and cultural and linguistic diversity may bring to social and economic development in regions of the EU,
  - the amendment of the EU legislation in order to guarantee approximately equal treatment for stateless persons and citizens of the Union,
  - a regulation of the European Parliament and of the Council, in order to introduce a unitary copyright so that the whole EU can be considered an internal market in the field of copyright,
  - an amendment of Directive 2010/13/EU, for the purpose of ensuring the freedom to provide services and the reception of audiovisual content in regions where national minorities reside,
  - a Council regulation or decision, with a view to the block exemption of projects promoting national minorities and their culture from the procedure provided for in Article 108(2) TFEU.

#### *Article 2*

This Decision shall enter into force on 3 April 2017.

*Article 3*

This Decision is addressed to the organisers (members of the citizens' committee) of the proposed citizens' initiative entitled 'Minority SafePack — one million signatures for diversity in Europe', represented by Mr Hans Heinrich HANSEN and Mr Hunor KELEMEN acting as contact persons.

Done at Brussels, 29 March 2017.

*For the Commission*  
Frans TIMMERMANS  
*First Vice-President*

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