

Brussels,
SG/C4/OK/CR/rr - Ares(2014)

Mr Michael EFLER

[Personal data deleted following
the consultation of the organisers]

**Subject: Your request for registration of a proposed citizens' initiative entitled
"STOP TTIP"**

Dear organisers,

I refer to your request for registration of 15 July 2014 of a proposed citizens' initiative entitled "STOP TTIP".

Your proposed initiative invites the Commission to recommend to the Council "to repeal the negotiating mandate for the Transatlantic Trade and Investment Partnership (TTIP)" and "not to conclude the Comprehensive Economic and Trade Agreement (CETA)". You refer to Articles 207 and 218 of the Treaty on the Functioning of the European Union (TFEU) as legal bases for such Council decisions.

Article 2(1) of Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the Citizens' Initiative (hereinafter: the "Regulation") defines a citizens' initiative as one which invites the Commission, within the framework of its powers, to submit an appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties.

According to Article 4(2)(b) and (3) of the Regulation, the Commission shall refuse the registration of a proposed citizens' initiative, where the proposed citizens' initiative does not manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties.

The Commission has examined your proposed citizens' initiative to ascertain whether it meets the definition and conditions as laid down in the above-mentioned Regulation.

I regret to inform you that, further to this in-depth examination, the Commission cannot register your proposed initiative for the following reasons:

Regarding TTIP

I understand the subject of the first limb of your proposed citizens' initiative as inviting the Commission to submit a recommendation for a Council decision repealing the Council decision authorising the opening of the TTIP negotiations.

The negotiation of an international agreement precedes and prepares the signature and conclusion of such agreement. The Council decision authorising the opening of negotiations, is therefore a merely preparatory act with respect to the Council decisions authorising the signature of and concluding an international agreement, which are adopted on the basis of Commission proposals. As such, it deploys legal effects only between the institutions concerned without modifying EU law. Such modification occurs only once the result of the negotiations, i. e. the international agreement, is signed and concluded.

According to Article 11(4) TEU, a citizens' initiative can concern "matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties". In the area of international agreements, such legal acts are the Council decisions on signature and conclusion of the agreement. Hence, as a matter of principle, the signature and conclusion of an international agreement with a given subject and content may be requested by a citizens' initiative. Conversely, the – merely preparatory – Council decisions authorising the opening of international negotiations or repealing such authorisation do not fall within the scope of the Regulation. Therefore, the Council decision authorising the opening of negotiations is not a "a legal act of the Union" and the Commission recommendation for such a Council decision does not constitute an "appropriate proposal" within the meaning of Article 11(4) TEU and Article 2, point 1 and Article 4 (2)(b) of the Regulation.

Insofar as the first limb of your proposed initiative could be understood, in essence, as inviting the Commission not to submit proposals for Council decisions on the signature and / or conclusion of TTIP, it should be pointed out that pursuant to Article 2, point 1 of the Regulation a citizens' initiative may only invite the Commission, within the framework of its powers, to submit an appropriate proposal for a legal act considered necessary by the citizens for the purpose of implementing the Treaties. Conversely, a citizens' initiative inviting the Commission not to propose a legal act is not admissible under that provision. The same holds true for a citizens' initiative inviting the Commission to propose a "decision" not to adopt a legal act, since such decision would not deploy any autonomous legal effect beyond the fact of the legal act at issue not being adopted.

Therefore, your proposed citizens' initiative 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, within the meaning of Article 4(2)(b) of the Regulation, read in conjunction with Article 2, point 1, thereof, insofar as it invites the Commission to submit a recommendation to the Council on the repeal of the Council decision authorising the opening of the TTIP negotiations or not to submit proposals for Council decisions on the signature and / or conclusion of TTIP or to submit proposals for "decisions" not to authorise the signature of or not to conclude TTIP.

Regarding CETA

I understand the subject of the second limb of your proposed citizens' initiative as inviting the Commission not to submit proposals for Council decisions on the signature and / or conclusion of CETA or to submit proposals for Council decisions not to authorise the signature of or not to conclude CETA.



As already stated, as a matter of principle, the signature and conclusion of an international agreement with a given subject and content may be requested by a citizens' initiative. ~~However, a citizens' initiative inviting the Commission not to propose a legal act or to propose a "decision" not to adopt a legal act is not admissible under the Regulation.~~

Therefore, your proposed citizens' initiative 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, within the meaning of Article 4(2)(b) of the Regulation, read in conjunction with Article 2, point 1, thereof, also insofar as it invites the Commission not to submit proposals for Council decisions on the signature of and / or conclusion of CETA or to submit proposals for "decisions" not to authorise the signature of or not to conclude CETA.

For those reasons, your proposed citizens' initiative in its entirety 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 within the meaning of Article 4(2)(b) of the Regulation, read in conjunction with Article 2, point 1, thereof.

I would like to draw your attention to the means of redress available against this decision. You may either:

- bring proceedings before the General Court under the conditions specified in Article 263 of the TFEU; or
- if you wish to complain about maladministration, file a complaint with the European Ombudsman under the conditions specified in Article 228 of the TFEU.

This decision is addressed to the organisers (members of the citizens' committee) of the proposed citizens' initiative called "Stop TTIP", represented by Mr Michael EFLER   acting as contact persons.

Please note that this letter will be published on the Commission's website for the citizens' initiative in order to inform the public of this decision in a transparent way.

Yours sincerely,

Catherine Day