



*European Economic and Social Committee*

**The European Citizens'  
Initiative (review)  
Subcommittee SC/043**

Brussels, 20 June 2016

**DRAFT OPINION**  
of the  
European Economic and Social Committee  
on  
**The European Citizens' Initiative (review)**  
(own-initiative opinion)

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Rapporteur: **Antonio Longo**  
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On 21 January 2016, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

*The European Citizens' Initiative (review).*

The subcommittee responsible for preparing the Committee's work on the subject adopted its opinion on 17 May 2016.

At its ... plenary session, held on ... (meeting of ...), the European Economic and Social Committee adopted the following opinion by ... votes to ... with ... abstentions.

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**1. Conclusions and recommendations**

- 1.1 Four years after the ECI regulation entered into force, the European Economic and Social Committee (EESC) points out that Europeans are at the heart of the European venture and this mechanism could help overcome the democratic deficit by promoting active citizenship and participatory democracy.
- 1.2 In line with the views already voiced by the European Parliament, the Committee of the Regions and the European Ombudsman, the EESC considers that the European Citizens' Initiative has not achieved its full potential because of a regulation that should be revised.
- 1.3 The EESC has pinpointed significant technical, legal and bureaucratic problems, along with a clear excess of powers attributed to the Commission, preventing full distribution, implementation and follow-up of successful initiatives.
- 1.4 When it comes to the review of the regulation, the EESC proposes the following:
  - 1.4.1 that citizens' committees be allowed to begin collecting statements of support on the date of their choice;
  - 1.4.2 that legal recognition be accorded to citizens' committees so as to limit the criminal liability of organisers to fraud and serious negligence, in line with the model provided by Directive 2008/99/EC on the protection of the environment through criminal law;

- 1.4.3 that a bricks-and-mortar and online one-stop-shop be set up where Europeans can obtain information and be steered through the process of presenting initiatives;
- 1.4.4 that the proposals to lower the minimum age for supporting and taking part in an ECI be discussed, as proposed by the Parliament and the Committee of the Regions;
- 1.4.5 that the clear conflict of interest within the Commission be resolved by separating the roles of institutional mentor and judge. With this goal in mind, the EESC reiterates that it is willing to continue to support initiatives already under way and would be a natural candidate for the role of facilitator and institutional mentor;
- 1.4.6 that appropriate follow-up be guaranteed for successful initiatives, calling upon the Commission to prepare a legislative proposal within 12 months of the end of the campaign or supplying appropriate justification for the decision not to present a proposal. Should no proposal be presented, the EESC would hope that the European Parliament would bring pressure to bear on the Commission under Article 225 of the TFEU.
- 1.5 The EESC would point out that some problems could be resolved without reviewing the regulation and so should be tackled rapidly to avoid discouraging potential organisers. With a view to making the mechanism more effective and user-friendly, the EESC calls for the following initiatives to be implemented:
  - 1.5.1 in order to make the registration process more transparent, the Commission must adopt clear and straightforward procedures and provide detailed answers and possible solutions when initiatives are declared inadmissible, enabling the committees to amend and present them again;
  - 1.5.2 the Commission must keep up negotiations with the Member States on simplifying, reducing and harmonising the system of national standards laid down for the collection of data. The EESC would propose in particular limiting requests for personal identification documents and enabling all Europeans to sign the initiatives from their countries of residence;
  - 1.5.3 the free OCS system<sup>1</sup> should be established on a permanent basis in order to simplify the collection and cataloguing of statements of support as well as the checking of these statements by the national authorities. The Committee also calls for this tool to be made available to people with disabilities.

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<sup>1</sup>

OCS is the acronym for Online Collection Software, which is a tool provided free of charge by the European Commission for collecting signatures online. This tool simplifies both the collection of data and the checking of those data by the national authorities. OCS complies with Regulation (EU) No 211/2011 of the European Parliament and of the Council and Implementing Regulation (EU) No 1179/2011 of the Commission. <https://joinup.ec.europa.eu/software/ocs/description>.

- 1.6 More generally, with a view to distributing and establishing the ECI, the EESC recommends:
- 1.6.1 providing the public with more information and raising awareness of the ECI mechanism through ad hoc campaigns, enabling citizens' committees to inform signatories about the results achieved and, above all, through greater commitment by the Commission to publicising the follow-up to successful initiatives;
  - 1.6.2 guaranteeing multilingualism and exploring new methods of linking up the online collection of signatures with social and digital media in order to reach out to an ever larger audience;
  - 1.6.3 in principle, enabling every EU citizen to organise an ECI by guaranteeing the option of covering a campaign's unavoidable expenses for registered ECIs.
- 1.7 The EESC proposes to set up an institutional forum on the participation of European citizens, to become a permanent platform for discussion and debate at the Committee along the lines of the European Migration Forum, building on European Citizens' Initiative Day. The Committee could draft a specific, more detailed proposal in an own-initiative opinion.

## 2. **Introduction**

- 2.1 The European Citizens' Initiative was instituted by the Treaty of Lisbon<sup>2</sup> as an innovative instrument for transnational participatory democracy. It allows 1 million Europeans from a minimum of seven Member States to ask the European Commission to propose legislation on areas within EU competence. The intention of this is to involve European citizens actively in the European decision-making process, by providing them with an indirect form of the right to initiate legislation.
- 2.2 The rules and procedures that govern the ECI are set out in an EU regulation adopted on 16 February 2011 and in force since 1 April 2012<sup>3</sup>.
- 2.3 An ECI can be organised or signed by all Europeans who have reached the legal age to vote in the European Parliamentary elections<sup>4</sup>. Initiatives cannot be arranged by organisations. However, organisations may promote or support initiatives, provided they do so with full transparency.
- 2.4 The ECI procedure involves three steps:

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<sup>2</sup> Article 11(4) of the Treaty on European Union (TEU), and Article 24(1) of the Treaty on the Functioning of the European Union (TFEU).

<sup>3</sup> Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative, <http://ec.europa.eu/citizens-initiative/public/welcome>.

<sup>4</sup> The legal voting age is 18 years old in all Member States except Austria, where it is 16.

- 2.4.1 The launch phase, which involves setting up a citizens' committee<sup>5</sup>, registering the initiative<sup>6</sup> subject to an eligibility assessment by the Commission<sup>7</sup> and certifying the system for online collection of signatures<sup>8</sup>.
- 2.4.2 During the collection phase, a minimum of 1 million "statements of support" (signatures) must be collected over a maximum period of twelve months and from at least seven EU countries<sup>9</sup>. The signatures must be certified by the competent national authorities<sup>10</sup>.
- 2.4.3 During the submission phase, the initiative is examined by the Commission, prior to a meeting with the organisers and a public hearing at the European Parliament. The Commission has three months in which to respond with an ad hoc communication and decide whether to adopt the proposal beginning the legislative procedure.

### 3. **The first four years of the European Citizens' Initiative**

- 3.1 To date, more than 6 million Europeans have signed an ECI. Although 56 initiatives have been submitted, only 36 have been registered by the Commission, of which three collected at least 1 million signatures<sup>11</sup>. No successful initiative has led to a new legislative proposal, although in some cases the Commission has taken account of public opinion on some aspects.
- 3.2 The significant technical, legal and bureaucratic difficulties encountered by promoters and the limited legislative impact of successful initiatives have undermined the credibility of the ECI tool. This is illustrated by the drastic decline in initiatives registered (from 16 in 2012 to 5 in 2015<sup>12</sup>) and statements of support (from over 5 million in 2012 to a few thousand in 2015<sup>13</sup>).

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<sup>5</sup> A citizens' committee must be composed of at least seven EU citizens, residing in seven different EU Member States.

<sup>6</sup> The initiative must be described in no more than 800 characters (100 for the title, 200 for the description and 500 for details of objectives).

<sup>7</sup> Article 4(2) of Regulation (EU) No 211 /2011. Before the initiative is officially registered and posted on the Commission's website, the Commission has two months to check: 1) if the citizens' committee has been set up and spokespersons appointed; 2) that the initiative does not fall manifestly outside of the Commission's powers to propose legislation in application of the EU treaties; 3) that the initiative is not manifestly offensive, futile or vexatious; 4) that the initiative is not manifestly contrary to the values laid down by the EU treaties. The decision to register an initiative or not is based on legal grounds and so can be challenged. If the Commission refuses to register the initiative, it informs the promoters of the reasons for the refusal and of all possible judicial or extrajudicial means of appeal available to them. These include the option of referring the matter to the Court of Justice of the EU or lodging a complaint with the European Ombudsman (on grounds of maladministration).

<sup>8</sup> Article 6 of Regulation (EU) No 211/2011. The regulation stipulates that this process is the responsibility of the competent authorities of each Member State in which statements of support are collected.

<sup>9</sup> The regulation stipulates that a minimum number of signatures must be collected per country commensurate with the number of inhabitants <http://ec.europa.eu/citizens-initiative/public/signatories?lg=en>.

<sup>10</sup> Article 15 of Regulation (EU) No 211/2011.

<sup>11</sup> The following proposals were successful: *Water and sanitation are a human right! Water is a public good, not a commodity!*; *Stop vivisection*; and *One of us*: <http://ec.europa.eu/citizens-initiative/public/initiatives/successful>.

<sup>12</sup> The number of initiatives registered has gradually fallen over the years with 16 in 2012, 9 in 2013, 5 in 2014 and 5 in 2015.

<sup>13</sup> The data for the signatures collected supporting an ECI in the last three years clearly show a drop in participation and interest by citizens. 5 402 174 signatures were collected in 2013, 628 865 in 2014 and only 8 500 in 2015.

- 3.3 Over the course of these four years, many organisers and representatives of civil society organisations<sup>14</sup> reported flaws and areas of inflexibility in the ECI, which was supposed to be clear, simple and user-friendly. This trend was confirmed during a public hearing organised by the EESC on 22 February 2016.
- 3.4 In February 2015, three years after the regulation entered into force, the European Parliament produced a study<sup>15</sup> on the state of its implementation, calling for a review. The conclusions of this study were taken up in October 2015 in a resolution<sup>16</sup> in which the Parliament formally forwarded this request to the Commission with clear, specific proposals.
- 3.5 Following an own-initiative inquiry into the proper functioning of the ECI procedure and the Commission's role and responsibility, in March 2015 the European Ombudsman drew up 11 guidelines for further improvement<sup>17</sup>.
- 3.6 In October 2015, the Committee of the Regions also adopted an opinion in favour of a rapid and substantial revision of the regulation<sup>18</sup>.
- 3.7 In response to the many requests to amend the regulation and as required by the regulation, the Commission published a progress report<sup>19</sup> in April 2015 and a follow-up report<sup>20</sup> in February 2016 on the proposals put forward by the Parliament. In both cases, while acknowledging the difficulties encountered by ECI promoters and accepting the possibility of making improvements to the implementation of the current legislative framework, the Commission repeatedly rejected any possibility of revising the current regulation in the near future.
- 3.8 It is now widely accepted by the European institutions, organisers and representatives of organised civil society that, despite achieving some positive results, the ECI is still far from reaching its full potential in terms of policy proposals and enabling Europeans to participate actively.
- 3.9 The main problems identified consistently by both institutions and stakeholders are as follows:

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14 C. Berg, J. Tomson, *An ECI that works! Learning from the first two years of the European Citizens' Initiative*, 2014. <http://ecithatworks.org/>

15 European Parliamentary Research Service, "[Implementation of the European Citizens' Initiative. The experience of the first three years](http://www.europarl.europa.eu/thinktank)", 2015. [www.europarl.europa.eu/thinktank](http://www.europarl.europa.eu/thinktank).

16 European Parliament resolution of 28 October 2015 on the European Citizens' Initiative (2014/2257(INI)). Rapporteur: Schöpflin.

17 Case: OI/9/2013/TN. Opened on 18 December 2013; Decision on 4 March 2015. <http://www.ombudsman.europa.eu/en/cases/decision.faces/it/59205/html.bookmark>.

18 Committee of the Regions; opinion CIVEX-VI/005; *European Citizens' Initiative*.

19 *Report on the application of Regulation (EU) No 211/2011 on the citizens' initiative*, COM(2015) 145.

20 *Follow up to the European Parliament resolution on the European Citizens' Initiative*, adopted by the Commission on 2 February 2016.

- 3.9.1 there is a lack of knowledge and awareness of the ECI tool among Europeans and national institutions<sup>21</sup>;
- 3.9.2 the citizens' committees encountered many technical, legal and bureaucratic obstacles during the registration and collection phases, jeopardising the outcome of their initiatives;
- 3.9.3 citizens wishing to sign an initiative encountered many difficulties relating to individual national data processing laws;
- 3.9.4 the few successful initiatives were not taken into account by the Commission when drawing up new legislative proposals, merely when drawing up legislative initiatives which were indirectly linked.
- 3.10 In detail, the main difficulties encountered by citizens' committees are:
  - 3.10.1 the fact that they are not legally recognised. This has a negative impact on important practical aspects of the ECI, such as fundraising or even the simple opening of a current account. Moreover, the fact that promoters are personally liable for "any damage they cause in the organisation"<sup>22</sup> of an ECI acts as a deterrent;
  - 3.10.2 excessively rigid application of ECI eligibility criteria. Around 40% of initiatives were declared inadmissible by the European Commission during the first – registration – phase of the process<sup>23</sup>. The European Parliament, would like to see further examination of the conflict of interest within the Commission, which is obliged to inform the organisers and make an assessment on the admissibility of the initiative, while also being the recipient of that same initiative<sup>24</sup>;
  - 3.10.3 overlapping activities in the ECI timetable. The time needed to certify online collection systems in each Member State reduces still further what is already a tight 12-month period for collecting signatures;
  - 3.10.4 lack of appropriate support from the Commission, particularly during the launch phase and in managing the initiative. Particular focus should be given to the hosting service and OCS

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<sup>21</sup> Eurobarometer survey *The promise of the EU*, September 2014, p. 51.

<sup>22</sup> Article 13 of Regulation (EU) No 211/2011. For example this may include the risk of errors when handling personal data.

<sup>23</sup> Interpretation of the notion that "the initiative does not fall manifestly outside the competences of the Commission to propose legislation in application of the EU treaties" seems to have been particularly restrictive. As such, all initiatives to amend the treaties have systematically failed. The only exception was *Let me vote*, which aimed to link the rights of European citizens listed in Article 20(2) TFEU to the right to vote in all political elections in the Member State of residence, under the same conditions as apply to citizens of that country.

<sup>24</sup> European Parliamentary Research Service, *Implementation of the European Citizens' Initiative. The experience of the first three years*, 2015. Chapter 3.1.4.

provided free of charge by the Commission, and to the difficulties faced by organisers drawing up and disseminating multilingual versions of documents;

- 3.10.5 managing an ECI is an expensive process. This is demonstrated by the fact that the three successful initiatives were backed by major civil society organisations which provided them with technical, organisational and financial support. Many organisers have highlighted the need – in order to avoid distorting the founding principle of the European Citizens' Initiative – for greater support by the EU to launch the campaign;
- 3.10.6 excessive inflexibility when collecting and handling personal data. In some Member States, legislation in this area has further discouraged the organisation of and support for new initiatives. Moreover, in some countries laws on the collection of data stipulate that only the signatures of citizens residing in the country should be taken into consideration, thereby depriving 11 million people of their right to take part<sup>25</sup>;
- 3.10.7 a lack of involvement of organisers during follow-up activities. The lack of follow-up on successful initiatives would seem to suggest that meetings and hearings are not enough to spur the Commission to take actual legislative action.
- 3.11 2016 is a decisive year in the process that could lead to a review of the ECI. This own-initiative opinion is the EESC's contribution to this process and recognises the enormous untapped potential of this important and innovative tool in the European decision-making process, in the spirit of true European citizenship.

#### 4. **The EESC and the European Citizens' Initiative**

- 4.1 The EESC, as the bridge between the European institutions and organised civil society, has been involved since the beginning of the debate on the ECI. This is demonstrated by the opinions adopted to date<sup>26</sup> and by the establishment of an ad hoc group to monitor the development and implementation of this right<sup>27</sup>.
- 4.2 Moreover, the Committee is actively involved in the ECI process<sup>28</sup> in the dual role of facilitator and institutional mentor. EESC initiatives and competences include:

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<sup>25</sup> European Parliamentary Research Service, *Implementation of the European Citizens' Initiative. The experience of the first three years*, 2015. Chapter 6.

European Parliamentary Research Service, *Disenfranchisement of EU citizens resident abroad*, Executive Summary.

<sup>26</sup> Opinion SCO/001, *Citizen's initiative*; rapporteur: Anne-Marie Sigmund, adopted on 14 July 2010.

Opinion SC/032, *The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11)*; rapporteur: Anne-Marie Sigmund, adopted on 17 March 2010.

<sup>27</sup> The ad hoc group on the ECI was set up in October 2013, and its mandate was renewed in 2015.

<sup>28</sup> <http://www.eesc.europa.eu/?i=portal.en.members-former-eesc-presidents-henri-malosse-speeches-statements&itemCode=35383>.



- 4.2.1 European Citizens' Initiative Day, organised every year to assess the state of implementation and the effectiveness of the ECI with all the players involved. The event also facilitates the exchange of best practice and networking among organisers and other stakeholders;
- 4.2.2 an ECI helpdesk office, set up to provide, *inter alia*, translations of descriptions of initiatives validated by the Commission into the official languages of the EU;
- 4.2.3 making rooms available to help promote campaigns;
- 4.2.4 drawing up a practical guide – now in its third edition – to raise awareness and promote the ECI.<sup>29</sup> The ECI also takes centre stage in another Committee publication, the European Passport to Active Citizenship<sup>30</sup>, which aims to inform Europe's citizens of their rights and to promote transnational participatory democracy;
- 4.2.5 setting up a public archive in 2016 of academic and scientific documentation on the ECI, open to all citizens to consult free of charge;
- 4.2.6 presenting the most successful registered initiatives that do not contradict official Committee policy as outlined in its opinions at the plenary session or, alternatively, at section meetings. This allows the EESC to give them sufficient exposure while taking a neutral position;
- 4.2.7 EESC delegates take part in European Parliamentary hearings on successful initiatives, thus contributing to the Commission's analysis and exploration process.

## 5. General comments

- 5.1 The EESC strongly reiterates its support for the European Citizens' Initiative. Four years after the ECI regulation entered into force, there are encouraging data in terms of participation as well as vast untapped potential. The EESC considers that proper and complete implementation of the ECI could help bridge the growing gulf between Europeans and the EU.
- 5.2 The EESC agrees with the views already expressed by the European Parliament, the Committee of the Regions and the European Ombudsman to the effect that the partial and limited implementation of the ECI is the result of a number of factors. There are technical, legal and bureaucratic limitations, as well as a clear institutional short circuit owing to excess powers and responsibilities being attributed to the Commission.

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<sup>29</sup> <http://www.eesc.europa.eu/resources/docs/qe-04-15-566-en-n.pdf>

<sup>30</sup> <http://www.eesc.europa.eu/resources/docs/qe-04-15-149-en-n.pdf>

5.3 The EESC also considers that the Commission has successfully resolved some of these problems, for instance by providing a free OCS system, while others unfortunately cannot be resolved unless the regulation is revised.

5.4 The EESC therefore calls on the Commission to take action on two fronts: it should act swiftly to resolve and/or simplify the most straightforward and obvious technical and bureaucratic problems, and present a proposal to reform the regulation as rapidly as possible in order to tackle the more complex institutional, legal and organisational issues.

## 6. **Specific comments**

6.1 The EESC would suggest the following proposals for reforming the regulation with a view to making the ECI mechanism simpler and more effective:

6.1.1 citizens' committees should be allowed to begin collecting statements of support when they so choose. This is fundamental to making the 12 months for collecting signatures really count;

6.1.2 citizens' committees should be accorded legal recognition, if necessary special status, so as to limit the criminal liability of organisers to fraud and serious negligent, in line with the model provided by Directive 2008/99/EC on the protection of the environment through criminal law;

6.1.3 a bricks-and-mortar and online one-stop-shop should be set up where Europeans can obtain information and be steered through the process of presenting initiatives. It is crucial to provide citizens' committees with appropriate technical and legal support in order to facilitate the presentation of proposals and increase the percentage of proposals deemed admissible;

6.1.4 the proposals to lower the minimum age for supporting and taking part in an ECI should be discussed, as proposed by the Parliament and the Committee of the Regions, in order to offer young people the chance to take an active part in building the European Union;

6.1.5 the roles of institutional mentor and judge, both of which are currently performed by the Commission, should be separated. This is crucial for resolving the clear conflict of interest in the Commission and enabling the ECI mechanism to be implemented fully and effectively;

6.1.5.1 The EESC confirms its willingness to continue to support initiatives already under way and would be a natural candidate for the role of facilitator and institutional mentor.

6.1.6 appropriate follow-up for successful initiatives must be guaranteed. With due respect for the Commission's right of initiative, the EESC would ask the Commission to prepare a legislative proposal within 12 months of the end of the campaign or supply appropriate justification for the decision not to present a proposal. Should no proposal be presented within the timeframe set, the EESC would hope that the European Parliament would bring pressure to bear on the Commission under Article 225 of the TFEU. The Commission must also establish closer ties

with the supporters of these initiatives, going beyond mere hearings held at the European Parliament, in order to guarantee that the proposal meets its supporters' expectations.

6.2 Furthermore, the EESC notes that the Commission should:

6.2.1 make the registration process more transparent and effective. Specifically, the Commission should be more proactive, providing detailed answers and possible solutions when initiatives are declared inadmissible, enabling the committees to amend them to meet the criteria laid down by the rules in force;

6.2.2 keep up negotiations with the Member States in order to simplify, reduce and harmonise the system of national standards laid down for the collection of data that is necessary to sign a statement of support. The EESC would propose in particular limiting as far as possible requests for personal identification documents and enabling all Europeans to sign the initiatives from their countries of residence<sup>31</sup>;

6.2.3 establish the free OCS system on a permanent basis, since it simplifies the collection and cataloguing of statements of support as well as the checking of these statements by the national authorities. The Committee also calls for this tool to be made available to people with disabilities.

6.3 The EESC recommends in particular:

6.3.1 stepping up procedures for informing people and raising awareness about the ECI. This must be done primarily through ad hoc campaigns promoted by the Commission and the Member States. With this goal in mind, the EESC also proposes enabling citizens' committees to inform interested supporters about developments in and achievements of the campaign (provided that they have authorised this). The same applies to the Commission, which must publicise the follow-up of successful initiatives more effectively, first informing the citizens' committees;

6.3.2 guaranteeing multilingualism as a prerequisite for achieving a high rate of participation and exploring new methods of linking up the collection of signatures online with social and digital media in order to reach out to an ever larger audience;

6.3.3 in principle, enabling every EU citizen to organise an ECI by guaranteeing the option of covering a campaign's unavoidable expenses for registered ECIs.

6.4 Lastly, the EESC proposes to set up an institutional forum on the participation of European citizens, to become a permanent platform for discussion and debate at the Committee along the lines of the European Migration Forum, building on European Citizens' Initiative Day. In

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<sup>31</sup> UK and Irish citizens resident in Bulgaria, France, Austria, the Czech Republic and Portugal are so far deprived of this right.

order to guarantee the participation of highly qualified speakers, the EESC would also invite institutional representatives with a stake in this issue, one representative per citizens' committee with a registered initiative and all interested stakeholders. The Committee could draft a specific, more detailed proposal in an own-initiative opinion.

Brussels, 14 June 2016

The president of the subcommittee on  
The European Citizens' Initiative (review)

Irini Ivoni Pari

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