COMMISSION DECISION (EU) 2018/1471

of 19 September 2018

on the proposed citizens' initiative entitled 'STOP FRAUD and abuse of EU FUNDS — by better control of decisions, implementation and penalties'

(notified under document C(2018) 6077)

(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 ([1]), and in particular Article 4 thereof,

Whereas:

(1) The subject-matter of the proposed citizens' initiative entitled 'STOP FRAUD and abuse of EU FUNDS — by better control of decisions, implementation and penalties' refers to the following: 'European Institutions should be entitled to apply enhanced (including *ex-ante*) control and stricter sanctions in those Member States of the EU which are not members of the European Prosecutor's Office.'

(2) The objectives of the proposed citizens' initiative refer to the following: 'To prevent and penalise fraud and abuse of EU funds the European Institutions should be entitled to apply enhanced control in Member States which are not part of the European Prosecutor's Office cooperation. This would include *ex-ante* control of funding and procurement decisions in risky areas. We propose that such deepened control should cover complete exploration of all circumstances and also publication of fraudulent activities and other offences harming the financial interests of the EU.'

(3) The citizens' committee has been formed and the contact persons have been designated in accordance with Article 3(2) of the Regulation and the proposed citizens' initiative is neither manifestly abusive, frivolous or vexatious nor manifestly contrary to the values of the Union as set out in Article 2 of the Treaty on European Union (TEU).

(4) Legal acts of the Union for the purpose of implementing the Treaties can be adopted

(a) in order to define the tasks, priority objectives and the organisation of the Structural Funds which may involve grouping the Funds, in accordance with Article 177 of the Treaty on the Functioning of the European Union (TFEU);

(b) for the adoption of a multiannual framework programme setting out all the activities of the Union in the field of research and technological development; the specific programmes developed within each activity of the multiannual framework programme; and the implementation of the multiannual framework programme, in accordance with Articles 182 and 183 TFEU;

(c) on the financial rules which determine in particular, inter alia, the procedures for implementing the budget of the Union, in accordance with Article 322 TFEU;

(d) in the fields of the prevention of and the fight against fraud affecting the financial interests of the Union with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies, in accordance with Article 325 TFEU.

(5) Deciding on whether or not to participate in an enhanced cooperation, such as the enhanced cooperation that established the European Public Prosecutor's Office, is a voluntary choice for each Member State. Therefore, legal acts of the Union for the purpose of implementing the Treaties should not, as a matter of principle, differentiate between Member States solely according to their participation or non-participation in an enhanced cooperation. Nevertheless, the implementation of legal acts of the Union may differentiate between Member States when this is objectively justified, for example when, all relevant elements taken into account, there would exist, in practice, a different level of protection of the financial interests of the Union between Member States.

([1]) OJ L 65, 11.3.2011, p. 1.

(6) The 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.

(7) 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.

(8) For those reasons, the proposed citizens' initiative entitled 'STOP FRAUD and abuse of EU FUNDS — by better control of decisions, implementation and penalties' does not fall manifestly outside of the framework of the Commission's powers to submit a legal acts of the Union for the purpose of implementing the Treaties in accordance with Article 4(2)(b) and 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 which — while enhancing the protection of the financial interests of the Union — do not differentiate between Member States solely according to their participation or non-participation in the enhanced cooperation on the establishment of the European Public Prosecutor's Office.

HAS ADOPTED THIS DECISION:

Article 1

1. The proposed citizens' initiative entitled 'STOP FRAUD and abuse of EU FUNDS — by better control of decisions, implementation and penalties' 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 legal acts of the Union for the purpose of implementing the Treaties which — while enhancing the protection of the financial interests of the Union — do not differentiate between Member States solely according to their participation or non-participation in the enhanced cooperation on the establishment of the European Public Prosecutor's Office.

Article 2

This Decision shall enter into force on 27 September 2018.

Article 3

This Decision is addressed to the organisers (members of the citizens' committee) of the proposed citizens' initiative entitled 'STOP FRAUD and abuse of EU FUNDS — by better control of decisions, implementation and penalties', represented by Mr Zoltán KERESZTÉNY and Mr Balázs FEHÉR acting as contact persons.

Done at Brussels, 19 September 2018.

For the Commission
Frans TIMMERMANS
First Vice-President