

ARTICLE **OPEN ACCESS**

The Long Road to Rejection: The Minority SafePack Initiative before the European Commission and the Court of Justice of the EU

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Abstract

The Minority SafePack Initiative (MSPI), launched in 2012 and legally concluded in 2025, stands as one of the most significant exercises of participatory democracy in the European Union. As a European Citizens' Initiative (ECI), it mobilised over one million supporters across eleven Member States, successfully placing the protection of national and linguistic minorities on the EU agenda. Despite this achievement, the European Commission rejected the initiative in 2021, declining to propose any legislative measures. This article examines two decisive developments in the MSPI's trajectory. First, it analyses the Commission's 2021 decision to reject the initiative on substantive grounds, thereby using its discretion to halt the political momentum generated by widespread citizen mobilisation. Second, it considers the subsequent legal proceedings brought by the organisers. Spanning more than four years, the litigation concluded in June 2025 with the Court of Justice of the European Union's final judgment, which upheld the Commission's position and formally closed the MSPI's twelve-year journey. The case illustrates both the potential and the limitations of the ECI mechanism: while ECIs can elevate politically sensitive issues to the Union's agenda, their impact ultimately depends on the Commission's willingness to legislate, raising broader questions about the effectiveness of participatory democracy in the EU.

Keywords: minority rights; national and linguistic minorities; European Union; Minority SafePack Initiative

Journal on Ethnopolitics and
Minority Issues in Europe
Vol.25, No.1, 2026

pp.1–19

DOI:

<https://doi.org/10.53779/BATA1711>

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Introduction

Launched in 2012 and brought to a legal close – at least for the time being – in 2025, the *Minority SafePack Initiative* (MSPI) represents one of the most significant, sustained citizen mobilizations in the history of the European Citizens' Initiative (ECI) mechanism. Over the past decade, the MSPI has been the subject of considerable scholarly attention, particularly in the context of EU-level minority protection (Toggenburg, 2018; Manzingger & Vincze, 2014; Barten, 2016), as well as the institutional functioning and democratic potential of the ECI (Toggenburg, 2012; Conrad, Knaut & Böttger, 2016; Dougan, 2011; Bouza García, 2015; Organ, 2014). Earlier analyses have addressed, *inter alia*, the legal dispute between the organizers and the European Commission between 2013 and 2017 (Tárnok, 2017; Toggenburg, 2018), the remarkable success of the signature collection campaign between 2017 and 2018 (Tárnok, 2019), during which the organizers gathered an extraordinary number of declarations of support, as well as the first instance judgment of the General Court of the EU (Case T-158/21) challenging the dismissal of the MSPI (Malkmus, 2024; Jacob-Owens & Willis, 2023). The MSPI thus offers a uniquely rich case study at the intersection of European constitutional law, participatory democracy, and minority rights advocacy.

This study focuses on two critical developments in the MSPI's legal and political trajectory. First, it examines the European Commission's 2021 decision to reject the initiative on substantive grounds, despite its successful qualification under the ECI procedure. In doing so, the Commission opted not to propose any legislative measures in response to the initiative. Second, it analyses the legal proceedings initiated by the organizers in response to this decision, culminating in a final judgment in June 2025, when the Court of Justice of the European Union (CJEU) upheld the Commission's position on appeal. This ruling concluded more than four years of litigation and, more broadly, brought the twelve-year-long legal journey of the MSPI to a close – albeit with an unfavourable outcome for the organizers and the more than one million EU citizens who had endorsed the initiative.

Although the legal chapter of the MSPI may now be closed, the political and normative questions it raised remain unresolved. The rights of minorities, including national and linguistic minorities, are explicitly recognized as part of the EU's foundational values under Article 2 of the Treaty on European Union (TEU). Yet, despite this formal recognition, the European Commission has declined to take concrete action to give effect to these values through secondary legislation. To this day, the EU lacks a single binding legal act specifically dedicated to the protection of national and linguistic minorities. The Commission's refusal to act on the MSPI illustrates a deeper institutional reluctance to address minority rights as a substantive policy area – one that continues to represent a major gap in the EU's commitment to cultural diversity and human rights. Accordingly, the protection of national and linguistic minorities remains not only a legal challenge but also an unresolved political issue at the heart of the European project.

Minority SafePack Initiative (MSPI)

The Minority SafePack Initiative (official name: '*Minority SafePack – one million signatures for diversity in Europe*', MSPI)¹ is an ECI that called on the European Union (EU) to adopt a set of legal acts aimed at improving the protection of persons belonging to national and linguistic minorities and at strengthening cultural and linguistic diversity within the Union.²

Originally comprising eleven proposals, the MSPI included policy actions in the areas of regional and minority languages, education and culture, regional development, political participation, equality, audiovisual and other media content, and regional (state) support (Crepaz, 2020; Willis, 2021). The initiative was launched by the Federal Union of European Nationalities (FUEN), the largest umbrella organization of Europe's national minorities, nationalities, and language groups, at its 2012 Congress, together with the Democratic Alliance of Hungarians in Romania (DAHR), the South Tyrolean People's Party (SVP), and the Youth of European Nationalities (YEN).

The MSPI was submitted to the European Commission in 2013 by seven individuals from different Member States. However, the Commission refused to register the initiative, arguing that several of its proposals manifestly fell outside its competence to submit a proposal for the adoption of a legal act of the Union. As a result, the organizers were unable to begin collecting signatures. They challenged the Commission's decision before the General Court of the European Union, which, in its judgment of 3 February 2017, upheld the applicants' claims and annulled the contested decision (Judgment in Case T-646/13; Tárnok, 2017). Consequently, the Commission adopted a new decision, partially registering the MSPI (Commission Decision (EU) 2017/652). Out of the original eleven proposals, nine were accepted for registration.³

On 3 April 2017, the organizers launched a Europe-wide signature collection campaign coordinated by FUEN. In the various Member States, local campaigns were led by FUEN's member organizations and partners. The initiative ultimately collected 1,128,385 valid signatures across the EU, meeting the minimum threshold in eleven Member States (Bulgaria, Croatia, Denmark, Hungary, Italy, Latvia, Lithuania, Romania, Slovakia, Slovenia, and Spain).

The proposal was formally submitted to the European Commission one-and-a-half years later, in January 2020 (there was no deadline specified for the submission of successful ECIs to the Commission in the former ECI Regulation 211/2011 applicable at that time).

Some argue, however, including Toggenburg (Brezigar, 2024), that the MSPI was submitted too late to maximise its political impact, as its proposals could have been more influential had they arrived during the negotiations of major dossiers such as the MFF or the AVMSD. On the other hand, in the course of those 18 months, the organizers had garnered support from a range of political institutions, including the Bundestag, the Hungarian Parliament, the lower chamber of the Dutch Parliament, and several regional parliaments (FUEN, 2023), thereby strengthening the political backing for the initiative. It is also worth highlighting that such coordinated parliamentary endorsements are highly unusual among ECIs, making the MSPI an exceptional case of multi-level mobilisation. Although some

initiatives have benefited from isolated sub-national support – for example, the involvement of the German federal state of Baden-Württemberg in promoting the *Right2Water* ECI (Panara, 2016) – structured and broad-based parliamentary backing of the kind seen in the MSPI remains rare. This suggests that, if organisers deliberately cultivate similar multi-level alliances in the future, ECIs could play a more significant role in bridging participatory and representative democracy within the EU's multi-level governance system.

In December 2020, the European Parliament adopted a resolution in support of the MSPI by an overwhelming majority (EP resolution of 17 December 2020). The Commission responded with its official communication on the initiative on 14 January 2021 (as a general rule, the European Commission would have six months to examine the proposal and decide whether it wishes to take measures and/or submit a proposal for the legal act of the Union, but due to the coronavirus pandemic the deadlines were prolonged).

The European Commission's rejection of the MSPI in 2021

In its official communication of 14 January 2021, the European Commission rejected the Minority SafePack Initiative (MSPI) in its entirety, deciding not to propose any legal acts of the Union in response to the nine registered proposals.⁴ The Commission argued that, in each case, the existing EU legal framework already provides an adequate basis, and therefore no further legislative action was necessary.

Although the Commission made the general claim that the EU lacks a general legislative competence specifically in the field of national minority protection, this was not the decisive legal basis for rejecting the MSPI. In fact, this argument would not withstand legal scrutiny for two principal reasons. First, the Commission had already approved the registration of nine proposals within the MSPI package, thereby acknowledging that these elements do not fall outside the Union's competences. The initiative itself was carefully crafted to supplement and enhance the existing EU legal framework within the limits of primary EU law. Each proposal was designed to remain within the boundaries of the Treaties, aiming to strengthen the protection of national and linguistic minorities through targeted legal and policy instruments. Second, in *Romania v Commission* (Case T-391/17), the General Court explicitly held that the Commission may register proposals for specific acts intended to complement Union action in areas where it holds competence. This includes proposals that aim to improve the protection of persons belonging to national and linguistic minorities and to promote the Union's cultural and linguistic diversity. The ruling affirmed that such proposals, even if not falling within an area of exclusive EU competence, may still be legally valid if they support or enhance EU objectives in areas where competence exists (Judgment in Case T-391/17, para. 56.). This ruling was also confirmed by the CJEU (Judgment in Case C-899/19 P, paras. 53-55; Hofmann & Malkmus, 2022).

There are four specific proposals within the MSPI package for which the European Commission's reasoning appears particularly unconvincing and problematic. First, with respect to the proposal for a Council Recommendation on the protection and promotion

of cultural and linguistic diversity within the EU (first proposal), the Commission asserted that the Union lacks legislative competence over issues such as the use of regional or minority languages. It further argued that the subject matter is already addressed by existing international instruments –namely, the Council of Europe’s European Charter for Regional or Minority Languages (1992) and UNESCO’s Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005). The Commission also referred to ongoing initiatives under the Council Work Plan for Culture (Council conclusions on the Work Plan for Culture, 2018), including the establishment of a new expert group on multilingualism and translation, expected to issue recommendations under the Creative Europe program. Additionally, it pointed to two existing Council Recommendations developed in cooperation with the Member States – the Council Recommendation (2018/C 195/01) on promoting common values, inclusive education and the European dimension of teaching and the Council Recommendation (2019/C 189/03) on a comprehensive approach to the teaching and learning of languages. According to the Commission, this set of measures already addresses the objectives articulated in the MSPI.

Second, the organizers proposed the establishment of Language Diversity Centres, interconnected and coordinated across Member States, to be funded by the EU (third proposal). These centres would be tasked with promoting awareness of linguistic diversity and supporting language learning. In response, the Commission argued that the Council of Europe’s European Centre for Modern Languages (ECML) – an institution it supports and collaborates with –already performs this function. The Commission thus concluded that continued cooperation with the ECML constitutes an effective means of promoting linguistic diversity and language education.

In connection with these two proposals, the Commission’s reliance on the institutional and normative framework of the Council of Europe is problematic. The Council of Europe, as an entity external to the EU, maintains its own legal instruments and institutions, which do not bind EU Member States unless separately ratified. While the EU does engage in cooperative efforts with the Council of Europe, the practical limitations of this cooperation are well-documented. Furthermore, the European Charter for Regional or Minority Languages – on which the Commission placed particular emphasis – has not been signed or ratified by a significant number of EU Member States, including Belgium, Bulgaria, Estonia, France, Italy, Latvia, Lithuania, Malta, Greece, Ireland, and Portugal. As such, the Charter has no binding legal force in those jurisdictions. The Commission’s reasoning fails to clarify how cooperation with the Council of Europe in these Member States – where the Charter has no legal effect – would meaningfully advance the aims outlined by the MSPI organizers.

Third, the organizers proposed an amendment to existing directives to approximate the rights of long-term stateless persons and their families to those of EU citizens (sixth proposal). Specifically, the proposal sought to extend citizen-related rights to stateless individuals and their families who have resided in their country of origin for their entire lives. In response, the Commission cited the New Pact on Migration and Asylum (2020), noting its intention

to revise Directive 2003/109/EC to establish a more robust EU long-term residence status. It also referred to the Action Plan on Integration and Inclusion 2021–2027, which targets legally residing third-country nationals and EU citizens with a migrant background. According to the Commission, this Action Plan would also address the integration needs of stateless persons and national minorities through improved access to employment, education, and social services. However, the Commission appears to have misunderstood – or perhaps deliberately reframed – the intent of this proposal. The organizers explicitly highlighted specific populations affected by statelessness, such as the Russian-speaking minority in the Baltic states and certain Roma communities, whose members lack any citizenship and are not adequately covered by current EU integration frameworks.⁵ Nevertheless, the Commission interpreted the proposal as one aimed at further integrating third-country migrants, thereby sidestepping its actual objective. Moreover, the policies referenced by the Commission – especially the New Pact and the Action Plan – do not offer tailored solutions to the distinct problems raised by the MSPI and cannot be seen as adequate substitutes.

Furthermore, in its communication, the Commission frequently responded to the MSPI's concerns by referencing policies aimed at improving the situation of the Roma, as if those measures could be universally applied to all national and linguistic minorities. However, it failed to explain how such Roma-focused initiatives would address the distinct challenges faced by other minority groups across Europe.

Fourth, the organizers proposed amending the Audiovisual Media Services Directive (AVMSD) to ensure the freedom to provide and receive audiovisual content in regions inhabited by national minorities (eighth proposal). In its communication, the Commission recalled the recent revision of the AVMSD and acknowledged that the directive promotes the free movement of audiovisual content through the country-of-origin principle and a minimum harmonization approach. It also noted that barriers to cross-border availability may arise from issues beyond the directive's scope, such as intellectual property rights, technological limitations, or financial considerations. Despite these caveats, the Commission concluded that the current legal framework is sufficient to address the objectives of the proposal. This conclusion, however, overlooks the core concerns expressed by the organizers. Rather than engaging substantively with the MSPI's call for improved access to minority-language media across borders, the Commission merely reaffirmed the existing framework without demonstrating how it might be improved to meet the specific needs of national minorities.

While it is true that the Commission cannot be legally compelled to submit a legislative proposal in response to a successful ECI, Regulation (EU) 2019/788 on ECI requires that the Commission set out its legal and political conclusions in a communication. In the *Puppinck and Others v Commission* judgment (*One of Us* ECI), the CJEU held that although the Commission is not required to formally distinguish between legal and political considerations, it must present its reasoning in such a way that the nature—legal or political—of its conclusions is comprehensible (Judgment in Case C-418/18 P., paras. 77–79.). Whether the Commission's 2021

communication on the MSPI meets this standard remains debatable. Even legal professionals have found it difficult to parse the Commission's reasoning, and it is certainly opaque to ordinary EU citizens.

Generally, the Commission "neglected to provide a detailed or convincing analysis in its response document of how its proposed actions would effectively implement the aims of the MSPI" (Ahmed, 2022, p. 154). As Ahmed rightly points out, according to the Commission, existing law and the Commission's actions already meet the aims of the MSPI, however, no action that the Commission currently takes in fact addresses the proposals of the MSPI, or only does so minimally (Ahmed, 2022, p. 154).

Several authors have also suggested that political considerations may have contributed to the Commission's reluctance to embrace the MSPI. Smith (2025, pp. 3-4; p. 14) argues that the prominent role played by Hungarian and other kin-minority actors within the initiative reinforced long-standing tendencies to securitise cross-border ethnic ties, thereby rendering FUEN's calls for greater minority agency at the European level less persuasive. He further notes that around 70 percent of the supporting signatures originated from Hungary and Romania. Toggenburg further notes that the initiative's strong backing by the Hungarian government came at a time when Hungary's prime minister was far from popular in Brussels, adding an additional layer of political sensitivity to the MSPI (Brezigar, 2024).

Legal proceedings before the Court of Justice of the European Union

First instance judgment by the General Court

On 24 March 2021, the organizers of the MSPI submitted an application to the General Court of the EU seeking the annulment of the European Commission's decision not to act upon the successful initiative. On 9 November 2022, the General Court dismissed the application in its entirety (Judgment in Case T-158/21).

A central issue in the proceedings concerned the extent of the European Commission's discretion in determining whether to initiate a legislative procedure following a successful ECI. As noted previously, the Commission did not invoke legal impediments to justify its inaction. Instead, it maintained that the existing legal framework was already sufficient to achieve the objectives outlined in the MSPI, and therefore, no additional legislative proposals were necessary. This line of reasoning strategically narrowed the scope of judicial review, framing the Commission's decision as a matter of political discretion rather than legal obligation. This approach mirrors the Commission's conduct in the *Puppinck and Others v Commission* case (*One of Us* ECI) in 2014, in which it similarly declined to propose legislation on the basis of political reasons.⁶ That decision was also challenged before the Court of Justice of the European Union (CJEU), which ultimately upheld the Commission's broad discretion in December 2019. The Court held that the Commission is under no obligation to submit a legislative proposal in response to a successful ECI, and that it may base its decision on political considerations, provided that the subject matter falls within the scope of EU law (Judgment in Case C-418/18 P.).

In the present case, the MSPI organizers contended that the Commission had failed to provide sufficient reasoning for its refusal to act, thereby violating its legal obligations under EU law. While it is true that the Commission is not legally required to initiate legislation following an ECI, it must nonetheless offer a clear and adequate justification for its decision not to do so. The General Court found, however, that the Commission had sufficiently explained both the legal and political grounds for its rejection of the initiative (Judgment in Case T-158/21, para. 23.).

The organizers further alleged that the Commission had committed a manifest error of assessment in evaluating four specific proposals included in the MSPI package: the first (a Council Recommendation on the protection and promotion of cultural and linguistic diversity), the third (the establishment of a network of Language Diversity Centres), the sixth (approximation of the rights of stateless persons to those of EU citizens), and the eighth (abolition of geo-blocking for audiovisual content). The General Court reviewed the Commission's responses to each of these proposals and concluded that no manifest error had been committed. It further determined that "the action already taken by the European Union to emphasize the importance of regional or minority languages and to promote cultural and linguistic diversity is sufficient to achieve the objectives of that initiative" (Court of Justice of the EU, 2022).

The organizers also alleged a violation of the principle of equal treatment. They argued that the Commission met only once with the representatives of the MSPI – meeting the minimum requirement – while organizers of other ECIs were granted multiple meetings. The General Court dismissed this claim, reasoning that the number of meetings may vary depending on the complexity or nature of the initiative, and that the Commission is under no obligation to hold the same number of meetings with all ECI organizers (Judgment in Case T-158/21, para. 39).

Another contentious issue was the Commission's repeated reliance on the Council of Europe, particularly its European Charter for Regional or Minority Languages, as a justification for rejecting the proposals. The Commission asserted that existing Council of Europe instruments and institutions sufficiently addressed the goals of the MSPI. The General Court accepted this reasoning, noting that the EU regularly refers to the Charter as a normative guide, even though the EU itself – and several of its Member States – are not parties to the Charter (Judgment in Case T-158/21, para. 55). The Court also added that the fact that certain Member States have not yet signed or ratified the Charter is irrelevant to evaluate the EU's action in this field (para. 56).

The Commission's reliance on Council of Europe instruments as a basis for rejecting several MSPI proposals also raises a broader conceptual concern that goes beyond the specific findings of the General Court. By pointing to the European Charter for Regional or Minority Languages or the work of the European Centre for Modern Languages, the Commission portrayed the existing non-EU framework as sufficient to meet the initiative's objectives. Yet this approach sits uneasily with the EU's self-understanding as an autonomous legal order: the

Council of Europe's instruments bind Member States only where individually ratified, and in a significant number of jurisdictions they have no legal effect at all. Conditioning EU action on the availability of such external instruments therefore creates a structural tension, effectively outsourcing the assessment of protection needs to an organisation outside the EU's own legal system. While this may reflect an intention to avoid overlapping with the Council of Europe's work (Ahmed, 2022, p. 154), it nonetheless weakens the conceptual foundation of the Commission's reasoning and underscores the limits of judicial scrutiny in cases where political considerations shape the evaluation of an ECI.

The judgment underscored the Commission's dominant role in the ECI process, reflected in its broad freedom to decide how much attention it chooses to give to organisers' arguments when explaining its decisions (Jacob-Owens & Willis, 2023). This institutional dominance is further reinforced by the fact that the Commission's substantive justification is subject only to minimal judicial scrutiny (Malkmus, 2024).

Second instance judgment by the CJEU

On 23 January 2023, the organizers of the MSPI filed an appeal with the Court of Justice of the European Union in the context of the annulment proceedings brought by the MSPI against the European Commission. Thus, the process continued at the second instance court (Appeal against the judgment in Case T-158/21). On 5 June 2025, CJEU issued its final ruling, rejecting the appeal and reaffirming the European Commission's decision not to put forward any legislative measures in response to the MSPI (Judgment in Case C-26/23 P).

The Citizens' Committee of the MSPI, as plaintiff, advanced nine grounds of appeal, encompassing alleged violations of fair-hearing and equal-treatment rights, misinterpretation of the Commission's discretion, manifest errors in the assessment of specific proposals, inadequacy of reasoning, and purported contradictions in the judgment.

The Court reiterated that an ECI is an instrument that invites, but does not oblige, the Commission to propose legislation; the decision to act remains discretionary and subject only to limited judicial review for adequate reasoning and the absence of manifest error (paras. 77–78, 88–90). In the context of the first proposal – a Council Recommendation on cultural and linguistic diversity – the General Court was entitled to evaluate the Commission's position in light of the proposal's stated objectives and legal bases. Accordingly, the appeal concerning the alleged misinterpretation of the Commission's discretion was rejected (paras. 81–83).

Concerning the substance of the first proposal, the Commission relied on a set of existing international and EU instruments, which, taken together, it considered sufficient to achieve the objectives. The Court confirmed that the General Court correctly accepted that such a collective framework could meet the aims of the proposal, even if no single measure would suffice in isolation (paras. 96–97). Accordingly, no manifest error was identified, and the appeal against the first proposal was dismissed (para. 106).

The plaintiffs' challenges to the other proposals were also dismissed. With respect to the establishment of Language Diversity Centres (proposal 3), the appeal merely reiterated

arguments already advanced at first instance and was therefore held inadmissible (paras. 116–117). Regarding the protection of the rights of stateless persons (proposal 6), the Court found no manifest error in the General Court’s assessment; the appellants failed to demonstrate any misapplication of the relevant standard (paras. 118–124). In relation to the abolition of geo-blocking for audiovisual content (proposal 8), the Court emphasized that the burden of proof rested with the appellants and concluded that the General Court had sufficiently considered the Commission’s rationale, including its potential impact on cultural diversity and cross-border access (paras. 125, 127–129).

The appellants also raised procedural objections. They argued that the reassignment of the Judge-Rapporteur violated their right to a fair hearing. The Court rejected this claim, noting that Article 27(3) of the General Court Rules of Procedure permits reassignment in the interest of the proper administration of justice. Reassignment prior to the preliminary report does not prejudice the parties, and the Judge-Rapporteur’s prior experience with the Commission does not, in itself, constitute evidence of bias (paras. 47–55). The organisers further contended that they were treated less favourably than other ECI organisers. The Court held this plea largely inadmissible, as it challenged the Commission’s conduct rather than the reasoning of the General Court. Even on the merits, the appellants failed to demonstrate sufficient comparability with other initiatives (paras. 61–66).

From a conceptual perspective, the appellate judgment in the MSPI confirms and consolidates three key elements of the Court’s emerging case law on the ECI. First, by reiterating that a successful ECI merely “invites” the Commission to act and does not impose any obligation to table a legislative proposal, the Court aligns its reasoning with Puppinck and Others (*One of Us*, C-418/18 P). This reflects a broader understanding in the literature that the ECI operates primarily as an agenda-setting mechanism rather than a justiciable right to legislative follow-up (Vogiatzis, 2020).

Second, in C-26/23 P the Court confirmed a highly deferential standard of review. It reiterated that when the Commission exercises its legislative initiative under Article 17 TEU, it enjoys broad discretion, and judicial control is limited to verifying the adequacy of reasoning and the absence of manifest error (paras. 88–89). This mirrors the broader pattern highlighted by Alemanno, who notes that “even successful ECIs remain mere invitations that can be dismissed with limited judicial scrutiny, confined to checking for ‘manifest errors’.” (Alemanno, 2025). The MSPI judgment fits squarely within this trend: by accepting the Commission’s reliance on an assortment of existing EU and international measures as “sufficient,” the Court applied a standard closer to a plausibility check than to a substantive review. As a result, it becomes structurally difficult for ECI organisers to demonstrate that further EU action is legally necessary, even when their initiative has met all formal democratic thresholds.

Third, the appellate judgment effectively places a heavy argumentative burden on ECI organisers. In its analysis of the eighth proposal, the Court made clear that it was for the appellants to put forward sufficiently specific arguments and evidence capable of calling into question the Commission’s assessment of existing audiovisual rules, while the Court itself

confined its role to checking for manifest error. Read together with Puppink and Others and the commentary that describes follow-up decisions on ECIs as subject only to “marginal” or “limited” judicial review, mainly focused on procedural guarantees rather than substance, this confirms that successful ECIs can trigger only very deferential scrutiny of Commission inaction, with organisers carrying most of the evidentiary and argumentative load (Vogiatzis, 2020; Cuyvers et al., 2022). For future initiatives, this means that any challenge to a negative Commission communication must address not only the substance of the measures invoked by the Commission, but also the Court’s consistent view that broad Commission discretion and a relatively light duty to give reasons are compatible with the democratic aims of the ECI.

Potential legal and political impact following the binding judgment

Although the European Commission rejected the MSPI, this decision does not preclude the initiative from having future legal or political effects (Brezigar, 2024; Malkmus, 2024). A successful ECI that manages to place its objectives on the EU agenda can exert long-term political pressure on EU institutions and policymakers, potentially contributing to legislative or policy changes over time.

A Commission decision not to propose legislation in response to a successful ECI does not necessarily signify the permanent rejection of the initiative’s goals. There are precedents indicating that the Commission may choose to revisit an initiative at a later stage. One such example is the *Right2Water* ECI.⁷ Although the Commission initially declined to act on the initiative – similarly to its response to the MSPI – it later submitted a legislative proposal six years afterwards. In doing so, the Commission explicitly acknowledged the political will of EU citizens as expressed through the ECI process. A comparable outcome cannot be ruled out in the case of the MSPI and the broader objective of protecting national minorities within the EU. Similarly, the *Stop Vivisection* ECI illustrates how an initiative can influence political and scientific discourse despite the absence of a formal legislative proposal. Although the Commission rejected the initiative,⁸ it sparked widespread political debate and media coverage, ultimately raising awareness and contributing to the promotion of animal welfare and protection across the EU. (Menache, 2016, p. 386.)

In the case of the MSPI, the issue of protecting national minorities has not only entered the institutional discourse of the European Commission but has also emerged as a critical reference point in broader EU discussions concerning minority rights. In this respect, the MSPI has achieved a milestone status in the development of EU policy on national minorities. It has established a normative and political benchmark that may inform future legislative or policy decisions, even in the absence of immediate legal outcomes.

Protection of national and linguistic minorities – an unresolved political issue and the Commission’s selective approach

The European Commission’s conclusion – that the existing EU legal framework adequately protects national and linguistic minorities – demonstrates a reluctance to engage

with the actual challenges confronting Europe's national and linguistic minorities. This inaction undermines efforts to preserve cultural and linguistic diversity, including Europe's minority languages, distinct cultural traditions, and national minority identities, all of which constitute integral parts of Europe's shared cultural heritage. By rejecting the MSPI in its entirety, the Commission appears to have missed a historic opportunity to strengthen the Union's pluralistic cultural character. This approach may, in the long term, contribute to the erosion of autochthonous cultures across Europe. Such a trend stands in direct contradiction to the EU's obligations under the Treaties, which require the Union to safeguard and enhance its cultural heritage (Article 3(3) TEU, Article 167(1) of the Treaty on the Functioning of the European Union).

Moreover, the European Commission's rejection of the MSPI – described as a “prime example of successful European civil society collaboration through ‘bottom-up’ Europeanization” (Crepaz, 2020, p. 32) and as a “vehicle of the inclusion of minorities” (Láncos, 2022, p. 201) – without introducing even a single legislative proposal, despite the initiative's successful collection of the required statements of support, can also be seen as undermining EU democracy. Such a refusal, contrary to the very purpose of the ECI mechanism, risks widening rather than narrowing the gap between EU citizens and institutions. It conveys the impression that the Commission does not take the ECI seriously, thereby weakening the credibility of participatory democracy within the Union.

Even though the European Commission often advocates for the rights of racial or ethnic minorities,⁹ especially the Roma,¹⁰ it appears to consistently overlook national and linguistic minorities by focusing solely on anti-discrimination. Instead of applying a more expansive approach towards minority rights, and thus, as explained by Ahmed, implements “bias towards the topic of race and ethnicity, over religion, or membership of a national minority explicitly.” (Ahmed, 2022, p. 150).

However, it is important to emphasise that the legal framework governing national and linguistic minorities differs significantly from that applicable to racial or ethnic minorities. Article 19 TFEU empowers the Union to combat discrimination based on protected characteristics, including “racial or ethnic origin.” According to the EU Agency for Fundamental Rights (2010), this provision does not, however, extend to discrimination on the ground of belonging to a national minority. EU primary law refers separately to “ethnic origin” and “membership of a national minority,” implying that the two concepts are not synonymous – although some scholars advance differing interpretations (Varga, 2014, p. 140). The principal references to national and linguistic minorities in EU law appear in the Charter of Fundamental Rights of the European Union (CFREU), namely the prohibition of discrimination based on membership of a national minority (Article 21) and the obligation to respect cultural and linguistic diversity (Article 22). Yet the applicability of the Charter is limited: its provisions bind EU institutions and bodies and the Member States only when they are implementing Union law. Consequently, the Charter cannot be invoked in many of the situations in which the rights of national and linguistic minorities are most commonly

affected within Member States, specifically to violations or deprivations of their rights in the Member States. This raises the question of whether the European Commission is legally able to address the concerns of national/linguistic minorities and those of racial/ethnic minorities on an equal footing.

Nevertheless, despite the divergences between their respective legal regimes, the MSPI offered – at least politically – a genuine opportunity to advance the protection of national and linguistic minorities in several areas where EU-level action is not legally precluded. Its rejection therefore represented a missed opportunity to begin moving away from the enduring pattern of selective treatment among different minority groups, while also preventing the Commission from capitalising on the initiative's bottom-up democratic character.

The decision on the MSPI demonstrates that the Commission's reluctance to act stemmed more from political considerations than from genuine legal constraints. This reasoning aligns with the view that the EU should avoid addressing minority protection – seen as a politically sensitive and divisive issue – and instead leave such matters to international organisations, notably the Council of Europe or the OSCE, while focusing its own efforts on policy areas that foster unity. From this perspective, inaction is framed as a way of preventing fragmentation, avoiding conflict with Member States. Yet such an approach is ultimately short-sighted. Art 2 TEU establishes that the Union is founded on values such as human dignity, freedom, democracy, equality, the rule of law, and respect for human rights – including the rights of persons belonging to minorities. Respect for these rights is therefore not a discretionary aspiration but a fundamental value binding on all EU institutions and Member States alike. If the EU accepts that its foundational values, including the protection of minorities, require no meaningful implementation, it risks undermining its credibility and weakening the legitimacy of the integration project itself.

Conclusion

The MSPI stands as a landmark in the longstanding quest to extend the protection of national and linguistic minorities to the EU legal framework. Although the respect for the rights of minorities, including national and linguistic minorities, is recognised as a fundamental value of the EU, there remains no secondary legislation designed to promote this aim. The European Parliament has repeatedly called for such legislation, yet the European Commission – under no legal obligation to act – has consistently refused to do so. The MSPI represented a significant step in this historic endeavour, as it sought, through the successful collection of signatures, to compel the Commission to place the protection of national and linguistic minorities on its political agenda.

The General Court of the European Union confirmed that there is a legal possibility to initiate legislative measures to enhance the protection of persons belonging to national and linguistic minorities within the EU, thereby demonstrating that no genuine legal obstacle existed to the initiative's objectives. The barrier, rather, was political. Despite the unprecedented level of citizen engagement, the European Commission ultimately declined

to propose legislative acts addressing the concerns of national and linguistic minorities. The MSPI offered numerous ways in which the Commission could take a more expansive approach to its powers, which would have met EU Treaty aims (Ahmed, 2022, p. 155). Nevertheless, the Commission chose to maintain a restrictive stance, refraining from exercising its full powers to advance one of the Union's fundamental values. The organisers challenged this decision before the General Court and later the CJEU, which, in its final ruling on 5 June 2025, closed the legal chapter of the MSPI, affirming the Commission's discretion in initiating legislation.

From a legal perspective, the MSPI may, for the time being, appear to be a defeat. However, this does not preclude its potential to serve, at a more favourable political juncture, as a foundation for developing the EU's legal framework in this area. The MSPI is undeniably a milestone in advancing the cause of EU-level protection for national and linguistic minorities. Its legal setback does not diminish its political significance: it demonstrated the capacity of citizens to bring politically sensitive issues onto the EU agenda and to draw unprecedented attention to the situation of these communities.

The conclusion of the legal proceedings leaves unresolved the underlying political and societal challenges. The absence of any EU secondary legislation dedicated to safeguarding the rights of national and linguistic minorities persists, despite their recognition under Article 2 TEU as a fundamental value of the Union. The Commission's continued reluctance to address this issue stands in stark contrast to its proactive approach in promoting the rights of other minority groups. This disparity raises serious questions about the equal treatment of all categories of minorities and the credibility of the EU's commitment to its foundational values.

The trajectory of the MSPI underscores a deeper structural problem: the gap between the Union's proclaimed principles and the political will to translate them into action in sensitive policy areas. While the EU often presents cultural and linguistic diversity as a core component of European identity, the absence of concrete measures to protect autochthonous minorities risks eroding this diversity over time. This disconnect not only undermines public trust in EU institutions but also threatens the long-term cohesion of European integration, as citizens may come to regard the ECI mechanism as symbolic rather than effective.

Endnotes

- 1 Minority SafePack Initiative website. See: <https://minority-safepack.eu>
- 2 Minority SafePack ECI information page on the European Commission's website. See: https://europa.eu/citizens-initiative/initiatives/details/2017/000004_en
- 3 The registered proposals of the package:
 - 1) a recommendation of the Council 'on the protection and promotion of cultural and linguistic diversity in the Union';
 - 2) a proposal for a decision or a regulation, to adapt 'funding programmes so that they become accessible for small regional and minority language communities';
 - 3) a proposal for a decision or a regulation, 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;
 - 4) a proposal for a regulation, 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;
 - 5) a proposal for a regulation, to amend 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;
 - 6) a proposal for a directive, regulation or decision, for 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 EP;
 - 7) proposals for effective measures to address discrimination and to promote equal treatment, including for national minorities, in particular through a revision of existing Council directives on the subject of equal treatment;
 - 8) a proposal for the amendment of Directive audiovisual media services, for the purpose of ensuring the freedom to provide services and the reception of audiovisual content in regions where national minorities reside;
 - 9) a proposal for a regulation or a proposal for a decision, with a view to the block exemption of projects promoting national minorities and their culture.
- 4 Communication from the Commission on the European Citizens' Initiative 'Minority SafePack – one million signatures for diversity in Europe'. C(2021)171. [https://ec.europa.eu/transparency/documents-register/detail?ref=C\(2021\)171&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=C(2021)171&lang=en)
- 5 Minority SafePack Initiative website. See: <http://www.minority-safepack.eu/#about>
- 6 One of Us ECI information page on the European Commission's website. See: https://citizens-initiative.europa.eu/initiatives/details/2012/000005/one-us_en
- 7 *Water and sanitation are a human right! Water is a public good, not a commodity!* ECI information page on the European Commission's website. See: https://europa.eu/citizens-initiative/initiatives/details/2012/000003_en
- 8 *Stop Vivisection* ECI information page on the European Commission's website. See: https://europa.eu/citizens-initiative/initiatives/details/2012/000007_en
- 9 In 2020, the European Commission adopted several strategic documents addressing minority-related concerns, such as the EU Anti-Racism Action Plan (COM/2020/565 final), and the EU Roma Strategic Framework for Equality, Inclusion and Participation (COM/2020/620).
- 10 As Ahmed (2022, p. 151) demonstrates, not all minority groups receive equal attention from the European Commission. Particular focus has been given to the situation of the Roma, justified on the basis that they constitute the largest and most disadvantaged minority in Europe.

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