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**Subject: Observations on the Commission’s assessment of the European Citizens’ Initiative
“My Voice, My Choice”**

Dear Members of the European Commission,

The *European Centre for Law and Justice* (“ECLJ”) submits the present observations in the context of the Commission’s examination of the European Citizens’ Initiative (“ECI”) *My Voice, My Choice* (“MVMC”), pursuant to Regulation (EU) 2019/788 and in light of the limits of Union competence under the Treaties.¹

The Commission’s assessment of the MVMC Initiative concerns a proposal that would place Union financial instruments at the service of facilitating access to abortion, including through measures that risk circumventing national legislative frameworks adopted through democratic processes. Such an approach would involve using Union action to neutralise or bypass national law in an area of profound moral sensitivity that remains primarily within the responsibility of the Member States.

By pursuing this course, the Commission would risk a loss of credibility with citizens and Member States opposed to abortion. It would amount to instrumentalising Union competences to override national policy choices through financial means and to achieve outcomes that national legislatures have deliberately chosen to regulate differently.

¹ Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 Apr. 2019 on the European citizens’ initiative, 2019 O.J. (L 130) 55; Consolidated Version of the Treaty on European Union art. 5(2), 2016 O.J. (C 202) 13 [hereinafter TEU].

The use of Union financial mechanisms in this manner would raise serious concerns regarding the Commission's neutrality and its commitment to sincere cooperation, and would further erode confidence in the equal and principled treatment of citizens' initiatives in ideologically contested fields.

The MVMC initiative was submitted to the Commission on 1 September 2025 after having gathered 1,124,513 verified statements of support.² In accordance with Regulation (EU) 2019/788, the organisers were received by the Commission, and the European Parliament subsequently held a public hearing on the initiative.³ On 17 December 2025, the European Parliament adopted a resolution (358 votes in favour, 202 against, 79 abstentions) inviting the Commission to consider an opt-in financial mechanism, supported by Union funding, intended to facilitate access to the safe termination of pregnancy in accordance with the domestic law of participating Member States, including for persons travelling cross-border.⁴

Pursuant to Article 15(2) of Regulation (EU) 2019/788, the Commission is required to publish a communication setting out its legal and political assessment of the initiative by early March 2026.⁵ That provision requires the Commission to set out its legal and political conclusions on the initiative and to explain whether it intends to take any action, together with the reasons for doing so or for refraining from action.⁶ It does not oblige the Commission to submit a legislative proposal, nor does it modify the distribution of competences between the Union and the Member States, which remains governed by Article 5(2) of the Treaty on European Union ("TEU").⁷

In addition to its participation in the public consultation, the ECLJ submits the following legal observations, reflecting certain concerns relevant to the Commission's assessment. These observations are offered with a view to ensuring that the Commission's response remains faithful to EU primary law, binding human rights instruments, and established institutional practice, while promoting policies that support women without undermining the protection owed to unborn human life.

This submission addresses five issues of particular relevance: (1) the limits of EU competence and the principle of subsidiarity in matters relating to abortion; (2) the absence of a recognised right to abortion under European and international human rights law; (3) the institutional context and

² European Commission, *My Voice, My Choice: For Safe And Accessible Abortion* (Submission and examination) (stating the initiative "was submitted to the European Commission on 1 September 2025" after "1,124,513 verified statements of support").

³ Regulation (EU) 2019/788, art. 14 (meeting with the Commission and public hearing in the European Parliament); see also European Parliament Research Service, *European Citizens' Initiative – "My voice, my choice: for safe and accessible abortion"* (noting the initiative's submission and procedural steps)

⁴ European Parliament Press Release, *My Voice, My Choice: MEPs support citizens initiative on accessible abortion* (vote totals; call for opt-in EU-funded mechanism).

⁵ Regulation (EU) 2019/788, art. 15(2).

⁶ Regulation (EU) 2019/788, art. 15(2).

⁷ TEU art. 5(2).

impartial assessment in which the MVMC initiative has been developed and promoted; (4) the medical, psychological, and social implications of abortion for women; and (5) consistency and procedural fairness in the Commission's treatment of ideologically opposed ECIs, notably in comparison with the *One of Us* initiative.

1. EU Competence and the Principle of Subsidiarity in Matters Relating to Abortion

Preliminary Observation on the Registration of the Initiative

Prior to any assessment of possible follow-up action, it is necessary to examine the basis on which the Commission registered the MVMC initiative. Although the initiative was accompanied by extensive legal argumentation, it did not put forward a defined legislative or financial mechanism capable of concrete legal assessment. Instead, it invited the Commission to develop a Union-level funding instrument, without specifying its legal form, budgetary framework, operational structure, or the conditions governing its implementation and effects.

Notwithstanding this lack of specification, the Commission proceeded to register the initiative on the premise that a financial support mechanism could, in principle, be devised in a manner that would neither undermine Member States' public order legislation nor interfere with their ethical choices. Where no identifiable and sufficiently defined measure exists, however, such an assessment cannot be grounded in an analysis of actual legal effects. In the absence of a concrete proposal, it is therefore not possible to determine whether a hypothetical mechanism would remain within the limits of Union competence or respect the responsibilities expressly reserved to the Member States under Article 168(7) of the Treaty on the Functioning of the European Union ("TFEU").⁸ A strict examination of competence and subsidiarity is therefore unavoidable.

Union Competence and the Principle of Subsidiarity

As a matter of primary Union law, the regulation of abortion falls within the competence of the Member States and lies outside the scope of any general Union competence. This follows from the principles of conferral and subsidiarity laid down in Article 5 TEU, read in conjunction with the specific provisions on public health policy in Article 168 TFEU.⁹

Under Article 5(2) TEU, the Union may act only within the limits of the competences conferred upon it by the Member States, with all non-conferred competences remaining at national level.¹⁰ The Treaties do not confer on the Union any general competence to regulate abortion or to

⁸ TFEU, art. 168(7)

⁹ TEU, art. 5; TFEU, art. 168.

¹⁰ TEU, art. 5(2).

determine the conditions under which abortion services may be provided within the Member States. Regulation in this area therefore remains, as a matter of primary law, within the sphere of national competence.¹¹

Under Article 5(3) TEU, Union action in areas of shared competence is justified only where Member States cannot sufficiently achieve the relevant objectives.¹² The regulation of abortion, however, does not fall within this condition. On the contrary, abortion laws across the Union reflect deeply rooted constitutional, ethical, cultural, and medical assessments that are addressed through national democratic processes. The existence of divergent national approaches therefore reinforces, rather than weakens, the application of the subsidiarity principle in this field.¹³

These general competence limits are reinforced by the specific provisions governing public health policy. While Article 168(1) TFEU requires a high level of human health protection to be ensured in the definition and implementation of Union policies, Article 168(7) TFEU expressly reserves to the Member States responsibility for defining health policy and for the organisation and delivery of health services and medical care.¹⁴ The regulation of abortion, including conditions of access to abortion services and the ethical judgments underlying such regulation, falls squarely within this reserved domain. Article 168(7) TFEU therefore operates as a substantive limit on Union action and precludes measures that would encroach upon national policy choices in this area.¹⁵

The voluntary or opt-in character of such a mechanism does not remove this concern. While Member States would be free to decide whether to participate in the scheme as recipients of Union funding, the financial resources used to operate such a mechanism would necessarily derive from the general budget of the Union, to which all Member States contribute. As a result, Member States opposed to abortion, or whose domestic legal frameworks deliberately restrict access to abortion, would remain financially bound to support the mechanism irrespective of their decision not to participate in it. Where Union funding is used in this manner to reduce or nullify the practical operation of national abortion laws, the measure must be assessed by reference to what it actually does rather than how it is labelled, and cannot be characterised as a neutral or merely supportive form of Union action.¹⁶

In light of Articles 5 TEU and 168 TFEU, any proposal to establish a Union-funded mechanism facilitating access to abortion services raises serious questions of competence and

¹¹ TFEU, art. 168(7); see also European Commission, Communication on the European Citizens' Initiative "*One of Us*", COM(2014) 355 final, paras 2.1–2.3.

¹² TEU, art. 5(3).

¹³ Case C-84/94, *United Kingdom v Council*, EU:C:1996:431, paras 47–48.

¹⁴ Article 168(1) and (7) TFEU.

¹⁵ *Germany v Parliament and Council* (C-376/98), paras 83–85.

¹⁶ European Commission, Communication on the European Citizens' Initiative "*One of Us*", COM (2014) 355 final.

subsidiarity. The Commission is therefore required, in its communication under Article 15(2) of Regulation (EU) 2019/788, to assess whether the mechanism requested by MVMC can be reconciled with the explicit limits laid down by the Treaties. Where such reconciliation is not possible, the Commission is under no obligation to pursue further action.¹⁷

2. Abortion Is Not Recognized as a Human Right in Law

The legal characterisation of abortion under European and international human rights law is of central relevance to the Commission's assessment of the MVMC initiative. While abortion is frequently presented in political and policy discourse as a fundamental human right, that characterisation is not supported by binding legal instruments or authoritative judicial interpretation.¹⁸

At the level of the European Convention on Human Rights, Article 2 provides that: *"Everyone's right to life shall be protected by law."*¹⁹ The Convention, however, does not contain any provision recognising a right to abortion. The European Court of Human Rights has consistently held that the Convention cannot be interpreted as conferring such a right. In its Grand Chamber judgment in *A., B. and C. v. Ireland* (no. 25579/05, judgment of 16 December 2010), the Court stated unambiguously that: *"Article 8 cannot be interpreted as conferring a right to abortion."* (§214)²⁰ The Court further emphasised the sensitive moral and ethical nature of abortion and the absence of a European consensus on the issue, concluding that States enjoy a wide margin of appreciation in regulating access to abortion and in balancing the protection of unborn life with the rights of pregnant women. While the Court has required States to ensure procedural clarity where domestic law permits abortion in certain circumstances, it has repeatedly reaffirmed that the substance of abortion policy falls within national competence.²¹

This position is mirrored in international human rights law. Neither the International Covenant on Civil and Political Rights ("ICCPR") nor the International Covenant on Economic, Social and Cultural Rights contains any provision establishing a right to abortion. While certain United Nations treaty bodies and special procedure mandate holders have advanced interpretative views suggesting that access to abortion may be required in particular situations,²² such statements

¹⁷ Regulation (EU) 2019/788, art. 15(2).

¹⁸ Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 Apr. 2019 on the European citizens' initiative, 2019 O.J. (L 130) 55, art. 15(2).

¹⁹ European Convention on Human Rights art. 2, Nov. 4, 1950, 213 U.N.T.S. 221.

²⁰ *A., B. and C. v. Ireland*, no. 25579/05, para. 214 (Eur. Ct. H.R. Dec. 16, 2010) (Grand Chamber).

²¹ *A., B. and C. v. Ireland*, no. 25579/05, paras. 214–241 (Eur. Ct. H.R. Dec. 16, 2010) (Grand Chamber).

²² Human Rights Committee, *General Comment No. 36 on Article 6 (Right to Life)*, paras. 8–9, U.N. Doc. CCPR/C/GC/36 (2018).

do not possess binding legal force and cannot create new treaty obligations for States without their consent.²³

In addition, within the legal order of the European Union, the Charter of Fundamental Rights of the European Union does not recognise a right to abortion. Article 2 of the Charter guarantees the right to life, while Article 3 protects the right to the integrity of the person.²⁴ Article 35 recognises a right of access to preventive health care and to medical treatment, but expressly does so under the conditions established by national laws and practices.²⁵ To date, the Court of Justice of the European Union has not interpreted any of these provisions, whether individually or in combination, as establishing a right to terminate a pregnancy or as imposing an obligation on the Union or the Member States to ensure access to abortion services.

Recent political initiatives underscore this legal reality. Calls by the European Parliament to include a right to abortion in the Charter implicitly acknowledge that no such right currently exists under EU primary law and that its recognition would require a revision of the Treaties in accordance with Article 48 TEU.²⁶

Accordingly, from the perspective of binding European and international human rights law, abortion remains a matter for democratic determination by States rather than a pre-existing human right. While human rights language is frequently invoked in support of expanded access to abortion, such characterisations reflect political and policy positions rather than legally established obligations.²⁷

3. Institutional Context of the MVMC Initiative

Any assessment of the MVMC initiative must be conducted in accordance with the purpose and structure of the ECI mechanism as established by Article 11 TEU and Regulation (EU) 2019/788. The ECI is intended to serve as an instrument of participatory democracy, enabling citizens to invite the Commission to consider possible action on matters within Union competence on the basis of a civic initiative originating from society.²⁸

In this context, it is relevant to consider whether the MVMC initiative reflects primarily citizen-driven mobilisation or whether its development and promotion have been substantially supported by established advocacy organisations operating at national and European level. While such

²³ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

²⁴ Charter of Fundamental Rights of the European Union arts. 2, 3, 2012 O.J. (C 326) 391.

²⁵ Charter of Fundamental Rights of the European Union art. 35, 2012 O.J. (C 326) 391.

²⁶ TEU, art. 48, OJ C 202, 7.6.2016, p. 13.

²⁷ *A., B. and C. v. Ireland*, no. 25579/05, paras. 73-74

²⁸ TEU, art. 11, OJ C 202, 7.6.2016, p. 15.

organisational involvement is not problematic in itself, it provides relevant context regarding the institutional environment in which the initiative has been promoted.

From this perspective, it is notable that several organisations which publicly support the MVMC initiative receive substantial “operating grants” under Union funding programmes, most notably the Citizens, Equality, Rights and Values (“CERV”) programme.²⁹ Unlike project-based funding, these grants are intended to support the general functioning of recipient organisations. They may cover core costs such as staff, infrastructure, and ongoing advocacy capacity.³⁰

Although not formally allocated to specific campaigns, this funding model sustains and strengthens selected organisations as permanent actors in the Union policy space.³¹ In doing so, it amplifies their ability to engage in sustained advocacy on issues that lie at the heart of the MVMC initiative, raising serious questions about institutional neutrality in areas of deep ethical and democratic disagreement.

This structural context is reflected in the funding profiles of the organisations involved. Our analytical study indicates that a significant number of organisations supporting the MVMC initiative benefit from substantial public and private funding dedicated to sexual and reproductive health and rights advocacy.³² Of approximately 254 supporting organisations, at least 19 have received funding from European Union programmes, and around 20 have received funding from the Open Society Foundations. Several also maintain operational or strategic links with the International Planned Parenthood Federation (“IPPF”).

More broadly, the support network includes organisations with long-standing financial ties to major private foundations, including the Open Society Foundation, the Gates Foundation, the Ford Foundation, the MacArthur Foundation, and the David and Lucile Packard Foundation, as well as direct EU funding. By way of illustration, IPPF’s European network has received more than €3.2 million in EU funding in recent years. In addition, the MVMC initiative’s principal organiser, Nika Kovač, is linked to an organisation that has reportedly received funding from the Open Society Foundation and support from IPPF.

Taken together, these elements suggest that the MVMC initiative operates within a well-resourced and structured advocacy environment, rather than arising exclusively from decentralised

²⁹ Regulation (EU) 2021/692 of the European Parliament and of the Council of 28 April 2021 establishing the *Citizens, Equality, Rights and Values Programme*, OJ L 156, 5.5.2021, pp. 1–20.

³⁰ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (Financial Regulation), art. 180(2)(b), OJ L 193, 30.7.2018, p. 105.

³¹ European Commission / European Education and Culture Executive Agency (EACEA), *Call for proposals CERV-2025-OG-FPA — Framework partnership agreements to support European networks, civil society organisations active at EU level and European think tanks in the area of Union values*, pp. 4–7.

³² *My Voice My Choice – Study of Support Networks*, analytical report mapping organisations supporting the MVMC initiative and their funding sources, 2024, p. 1-2.

civic mobilisation. This observation does not affect the formal validity of the initiative, nor does it call into question the legality of the funding involved. It nonetheless forms part of the factual context relevant to the Commission's obligation to assess the initiative independently and impartially under Articles 11 and 17 TEU.³³

4. Health and Social Considerations Relevant to Abortion Policy

In assessing initiatives relating to abortion, it is also appropriate for the Commission to take into account the available medical, psychological, and social evidence concerning the potential implications of abortion for women's health and well-being, in accordance with Article 168 of the TFEU.³⁴ This observation is not intended to engage in moral or philosophical evaluation, but to recall that abortion, as a medical intervention, may entail risks and consequences that are relevant when considering policies affecting public health and social welfare.

From a medical perspective, clinical literature identifies several potential physical complications associated with induced abortion. These include incomplete abortion with retained tissue, haemorrhage, infection, and, more rarely, injury to the uterus or cervix, particularly in the context of surgical procedures and at later gestational stages.³⁵ These risks, while varying in incidence, indicate that abortion cannot be regarded as a risk-free medical procedure.

Beyond physical health considerations, a substantial body of research has examined psychological and mental-health outcomes associated with abortion. Systematic reviews conducted for national health authorities report that some women experience adverse psychological effects following abortion, including symptoms of depression, anxiety, post-traumatic stress, and difficulties in interpersonal relationships.³⁶ These reviews further indicate that such outcomes are more frequently observed where abortion occurs in contexts characterised by external pressure, perceived stigma, limited social or partner support, or pre-existing mental-health vulnerabilities.

Recent large-scale empirical research lends further weight to these concerns. A population-based cohort study published in 2025 in the *Journal of Psychiatric Research*, analysing 1,227,807 pregnancies in Quebec with follow-up of up to 17 years, found significantly higher rates of psychiatric hospitalisation among women who had undergone induced abortion compared with those whose pregnancies resulted in birth.³⁷ The study reported elevated adjusted hazard ratios for hospital

³³ TEU, arts 11 and 17(1), OJ C 202, 7.6.2016, pp. 15 and 17.

³⁴ TFEU, art. 168, OJ C 202, 7.6.2016, p. 47.

³⁵ World Health Organization, Abortion care, WHO guideline, 2022, chs 2–3.

³⁶ National Collaborating Centre for Mental Health, *Induced abortion and mental health: a systematic review of the mental health outcomes of induced abortion, including their prevalence and associated factors*, Academy of Medical Royal Colleges, London, 2011.

³⁷ Auger, N. et al., "Induced abortion and implications for long-term mental health: a cohort study of 1.2 million pregnancies", *Journal of Psychiatric Research* 187 (2025), pp. 304–310.

admission due to psychiatric disorders, substance-use disorders, and suicide attempts, with the highest relative risks observed in the first five years following abortion and among women under 25 years of age or with pre-existing mental-health conditions. While the authors emphasised that these findings do not establish a direct causal relationship, they nonetheless identify a clinically significant association relevant to public-health risk assessment.

Quantitative survey data further contextualise these findings. According to a 2020 *Institut français d'opinion publique* (“IFOP”) survey, 92% of women reported that abortion left marks that were difficult or painful to live with, a figure rising to 96% among women aged 25–34.³⁸ The same survey indicates that material and social circumstances constitute a principal factor influencing abortion decisions for approximately half of women surveyed. Testimonies collected by civil-society organisations, including the ECLJ similarly describe experiences marked by isolation, stress, and perceived insufficiency of information or support.³⁹ Qualitative studies across multiple countries corroborate that a proportion of women experiences regret, grief, emotional distress, or difficulty in adjustment following abortion.⁴⁰

Taken together, the available medical, psychological, and social evidence indicates that abortion cannot be regarded as a neutral or consequence-free intervention for all women. For the purposes of the Commission’s assessment, these considerations support the need for careful evaluation of initiatives relating to abortion, with sustained attention to women’s health and well-being and to the social and psychological contexts in which abortion decisions are made, in line with the Union’s public-health objectives and social considerations under Articles 9 and 168(1) TFEU.⁴¹

5. Consistency and Equal Treatment in the Commission’s Handling of European Citizens’ Initiatives

The European Citizens’ Initiative, established by Article 11(4) of the Treaty on European Union and governed by Regulation (EU) 2019/788, is intended to strengthen participatory democracy by enabling citizens to invite the Commission to consider action within the limits of the Union’s competences.⁴² While neither the Treaties nor the Regulation require the Commission to submit a legislative proposal following a successful initiative, they do require that each initiative be examined

³⁸ IFOP, *The French and abortion*, October 2020.

³⁹ European Centre for Law and Justice (ECLJ), *Lack of clear information and regret: women who have had abortions testify to MPs and Senators*, briefing and collection of testimonies presented to members of the French National Assembly and Senate, February 2024.

⁴⁰ World Health Organization, “Women’s experiences of abortion care: a qualitative evidence synthesis”, *Social Science & Medicine* 331 (2024).

⁴¹ TFEU, arts 9 and 168(1), OJ C 202, 7.6.2016, pp. 45–47.

⁴² TEU, art. 11(4), OJ C 202, 7.6.2016, p. 15.

with due care and that the Commission's response be reasoned, transparent, and consistent with the principles of equal treatment and institutional impartiality.⁴³

In this regard, the Commission's prior practice in handling European Citizens' Initiatives addressing comparable subject matter is relevant to its present assessment of the MVMC initiative. In particular, a comparison with the ECI One of Us provides a pertinent reference point for examining consistency in the application of the legal and procedural criteria governing the Commission's follow-up.

The One of Us initiative gathered nearly two million verified statements of support, making it one of the most widely supported ECIs since the entry into force of the Lisbon Treaty.⁴⁴ The initiative invited the Commission to ensure that Union funding was not used for activities presupposing the destruction of human embryos. Following a public hearing, the Commission declined to take further action, taking the view that the matters raised fell outside Union competence and that existing funding frameworks and safeguards were sufficient. That approach was subsequently upheld by the Court of Justice, which confirmed that the Commission enjoys a margin of discretion provided that its reasoning is clear and grounded in objective legal considerations.⁴⁵

The My Voice, My Choice initiative raises a structurally comparable question from the opposite perspective, inviting the Commission to consider the establishment of a Union-funded financial mechanism to support abortion-related services. As such, it directly concerns the use of Union funds in an area that remains primarily within Member State responsibility. In these circumstances, consistency requires the Commission to apply the same legal framework and assessment standards as in comparable initiatives, regardless of the policy objective pursued.⁴⁶

At the same time, the institutional context in which the two initiatives emerged remains relevant. One of Us developed as a broad-based civic mobilization, relying largely on voluntary engagement, whereas MVMC has been promoted within a highly structured and well-resourced advocacy environment. While this distinction does not affect the formal admissibility of the initiative, it reinforces the need to ensure that the ECI mechanism is not perceived as favouring initiatives supported by established networks or significant financial resources. The credibility of participatory democracy at Union level depends on the perception that citizens' initiatives are assessed independently of organisational strength or ideological alignment.

In this context, and without prejudging the Commission's final position on My Voice, My Choice, consistency in the Commission's approach requires that any differences in treatment between initiatives be justified by reference to legally relevant criteria. In its forthcoming communication on

⁴³ Regulation (EU) 2019/788, OJ L 130, 17.5.2019, p. 55, arts 1, 14 and 15.

⁴⁴ Regulation (EU) 2019/788, OJ L 130, 17.5.2019, p. 55, arts 1, 14 and 15.

⁴⁵ Case C-418/18 P, *Puppinck and Others v Commission*, EU:C:2019:640, paras 63–74.

⁴⁶ Regulation (EU) 2019/788, art. 15(2).

MVMC, the Commission may therefore consider clarifying: (i) how its assessment remains within the limits of Union competence, with due regard to Articles 5 TEU and 168(7) TFEU; (ii) how it avoids effects comparable to indirect harmonisation of national abortion laws through financial mechanisms; and (iii) how it ensures neutrality and equal treatment in the application of Union funding principles. Clear articulation of these elements, consistent with the Commission's prior practice, would contribute to legal certainty and help maintain public confidence in the European Citizens' Initiative as a genuinely citizen-driven instrument under the Treaties.

The ECLJ respectfully submits these observations for the Commission's consideration in the context of its assessment of the European Citizens' Initiative *My Voice, My Choice* under Regulation (EU) 2019/788. We trust that these considerations may assist the Commission in its examination of the initiative in light of the Treaties and established institutional practice.