

Inter-institutional relations in the treatment of petitions: the role of the Commission¹

This study was commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the PETI Committee. It presents an analysis of the EU right to petition, as a key element of participatory democracy, and its procedure with a focus on the cooperation between the Committee on Petitions and the Commission. It examines the procedures to deal with petitions and infringements of EU law, in particular EU environmental law. It provides an overview of key features of national petition systems in relation to the EU system and proposes recommendations for action by the EP and the Commission to improve the way petitions are handled.

Background and aim of the study

The Committee on Petitions of the European Parliament requested a study on the Inter-institutional relations in dealing with petitions, with a specific focus on the role of the European Commission in the process. This project responds to the Committee on Petitions' interest to improve the way petitions are treated by the EU Institutions in order to fulfil this citizens' right which is critical for the functioning of the participatory democracy.

The purpose of the study is to analyse the petitions' procedure in relation to the cooperation between the Committee on Petitions of the European Parliament and the European Commission, as guardian of the Treaties. Most petitions deal with issues subject to EU Union law, with a high number related to the implementation of environmental legislation. The European Parliament has requested a particular focus of the study on petitions dealing with environmental matters.

Key findings and recommendations

Citizens of the EU and any natural or legal person residing in or with a registered office in a Member State have the right to submit **petitions** to the European Parliament under Article 24 TFEU and Article 227 TFEU whenever the matter affects them directly and falls within the EU fields of activity. The European Parliament as a representative of EU citizens (Article 14 TEU), makes it the natural receptor of petitions and has a specific responsibility to ensure the follow up of petitions as a key element of participatory democracy in the European Union².

The recognition of EU citizenship rights has also been reinforced with the adoption of the Charter of Fundamental Rights³. In particular, its Article 44 states that any 'citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition the European Parliament'.

Petitions represent an opportunity to bring the EU closer to the citizens, conveying citizens' concerns to the EU Institutions thereby allowing for the examination and resolution of petitioners' requests wherever possible.

The **Committee on Petitions** holds the fundamental role of acting as a bridge between EU citizens and the EU institutions⁴. The number of petitions received by the European Parliament every year is substantial and requires the effort

¹ Full study in English: [http://www.europarl.europa.eu/RegData/etudes/STUD/2021/659507/IPOL_STU\(2021\)659507_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2021/659507/IPOL_STU(2021)659507_EN.pdf)

² Article 10 (3) TEU.

³ The Charter of Fundamental Rights of the European Union also recognises a range of civil, political, economic and social rights granted to EU citizens.

⁴ European Parliament resolution, 13 December 2018 on the deliberations of the Committee on Petitions during 2017 (2018/2104(INI)).



of the Committee on Petitions to handle them properly and provide timely solutions to citizens' concerns⁵. According to the Guidelines of the Committee on Petitions adopted in 2015⁶, the Committee may ask for other EU institutions, bodies and agencies' information or opinion on the issues of petitions. In addition, the Guidelines state that 'if a petition concerns a specific situation in a Member State, the Committee should send the petition together with concrete questions to the Member State concerned.'⁷ The European Parliament calls on the EU institutions and Member States to do their utmost to provide prompt and effective solutions to issues raised by petitioners⁸.

The Committee does not refer petitions to the European Ombudsman directly, as it is the petitioner's choice whether or not to submit a complaint to the Ombudsman. However, the Committee may advise the petitioner to do so if it considers the subject matter to fall under the Ombudsman's remit⁹.

The issues and questions raised by petitioners often relate to either EU-wide issues or call for common measures to be implemented throughout the EU. Petitions concerning an EU field of activity may relate to one or more Member States regarding their implementation of EU measures or policies, falling within the remit of the European Commission's power to oversee the application of EU law¹⁰.

The role of the **Commission**, as guardian of the Treaties, is to promote the general interest and ensure the correct application of the Treaties and the measures adopted pursuant to them (Article 17(1) TEU). For a substantial number of petitions, the cooperation of the Commission is required and the Committee on Petitions sends it a request for opinion¹¹. Proper cooperation between the Committee on Petitions and the European Commission is needed to ensure that petitions are properly dealt with and that EU law is fully implemented strengthening the credibility of the EU institutions to ensure the protection of the fundamental rights of citizens¹². The Commission may either provide an opinion and bring observations describing ongoing actions or decide to take action triggered by the input from the petition, such as, in rare cases, a proposal of new legislative measures.

Vice-President on Inter-institutional Relations, Commissioner Maroš Šefčovič, made a number of commitments at his introductory hearing in November 2019 before the European Parliament, related to his portfolio which included a reference to petitions. A year later, the circumstances of the COVID-19 crisis make it very difficult to determine if these pledges have become reality but the following points can be made:

- **The procedure followed by the Commission to deal with requests for opinions on petitions** is not publicly available nor subject to transparent rules. The Commission's annual reports on monitoring the application of EU law refer to petitions in a very general way which evidences a lack of a proper system to collect information on petitions and how they link with infringement procedures or EU acts. Clearer rules on the handling of petitions by the Commission would improve the transparency of the system.
- The **quality** of the Commission responses to requests for opinion on petitions is a challenge often raised by the European Parliament, including the tendency for the Commission to consider itself not **competent** to take action on the issue raised by the petition. There seems to be a difference in terminology affecting the effectiveness to deal with petitions. **Article 227 TFEU** frames the possibility to submit petitions on matters which are within **the Union's fields of activity and which affect petitioners directly**. That includes areas where the Commission has legislative competence or areas where the EU has competence to 'support, coordinate or supplement' Member States' actions. The Commission seems to interpret that it can act on petitions that raise issues related to the application of EU law on which the Union has legislative competence and, therefore, could act by amending or proposing a legislative act or initiating an infringement procedure for lack of compliance. However, in many instances, the Commission could take action by initiating general information and awareness actions or promoting discussion for a coordinated action amongst Member States. The EP should consider requesting a clarification on the competence of the Commission in relation to petitions including those raising issues that fall under a field of activity of the EU but not under a policy where the EU has legislative competence.
- Commission's actions to deal with petitions are subject to the Commission priorities to deal with infringements of EU law. According to DG ENV, **two thirds of petitions received are individual petitions relating to a specific issue or in a specific locality**¹³. The **Commission has discretionary power** to decide on the action to be taken in relation to the breaches of EU law. Within this power, the Commission decided to prioritise and focus its actions to cases reflecting

⁵ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

⁶ Guidelines Committee on Petitions, December 2015 updated in January 2018, PE575.044v05-00.

⁷ Idem.

⁸ European Parliament resolution of 13 December 2018 on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)) p.1 and 2.

⁹ Guidelines Committee on Petitions, December 2015 updated in January 2018, PE575.044v05-00, p. 12.

¹⁰ Idem.

¹¹ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

¹² European Parliament resolution, 14 December 2017 on the deliberations of the Committee on Petitions during 2016 (2017/2222(INI)), p. 4.

¹³ Interview to Commission services, November 2020.

serious systemic shortcomings, excluding individual cases and, thus, individual petitions. The Committee on Petitions' 2017 report criticised the **discretionary power** arrogated by the Commission in individual cases when dealing with citizens' complaints and it noted that the Commission's refusal to investigate citizens' complaints based on individual cases, may have negative consequences such as preventing the 'understanding of possible serious systemic shortcomings, thereby perpetuating multiple rights infringements at the expense of numerous citizens'¹⁴. In addition, this Commission strategic decision leaves the bulk of the responsibility to monitor possible breaches of EU legislation to the national courts. The Committee considered such an approach within the domain of environmental legislation to be harmful and an 'overall inhibition from its duties of guardian of the Treaties'¹⁵. It can also be argued that some individual petitions might raise issues that are shared by other citizens and would require a common approach. In addition, **not dealing with individual petition issues could be considered a breach of the citizens' right to petition**, which is not limited to issues of strategic importance or reflecting structural problems.

The European Parliament should continue calling on the European Commission to consider any issues related to the breach of EU law that are raised through petitions as a priority for initiating an infringement procedure. This should be even more important when the issues relate to environmental legislation and policy since it is of major concern for EU citizens. This would equally be in line with the current Commission Green Deal Initiative.

- The Committee on Petitions has repeatedly asked the Commission to improve the handling of petitions¹⁶. The Commission services have confirmed the existence of a specific Commission IT tool to ensure a coordinated response to the European Parliament through the Secretariat General. However, this database is not accessible to the public, and does not provide comprehensive information on the Commission procedure in handling petitions, responses to the requests for opinion or on the number of petitions that led to the initiation of an infringement procedure per policy area or to any other action, being legislative or non-legislative.

The European Parliament databases on petitions, either the one linked to the public WebPortal or the internal e-petitions database, do not include information on the link between petitions and infringements. Both institutions could cooperate in developing compatible IT tools that could share information on petitions and the links with Commission actions on the issues raised by them, including the initiation of infringement procedures.

- The link between the Commission handling of petitions and infringements is not properly recorded or defined and information about the number of petitions that deal with the same issues as infringements or that give rise to Commission action through infringements is not always available. There is **no systematic register of the link between petitions and infringements or any other action taken by the Commission**. The Committee on Petitions should continue calling on the Commission to provide it with systematic information related to ongoing EU pilots and infringement procedures that are linked to issues raised by a petition.

Commission pledges and commitments show its willingness to seriously take into consideration citizens' petitions but they do not bind the Commission to take any specific action. **The Commission and the European Parliament might want to consider the option of framing their relationship for the handling of petitions with a binding agreement.**

- The need for **raising awareness** on the right to petition, its process and the scope of EU competences has been fully recognised by the European Parliament¹⁷. On several occasions, the European Parliament has highlighted the opportunity petitions offer to the European Parliament and other EU institutions to enter into dialogue with EU citizens who are affected by the application of EU law¹⁸. Therefore, measures to increase public awareness and achieve a substantial improvement on the exercise of this right are needed.

¹⁴ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

¹⁵ Idem.

¹⁶ Report on the outcome of the Committee on Petitions' deliberations during 2019 (2020/2044(INI)).

¹⁷ European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions' deliberations during 2018 (2018/2280(INI)).

¹⁸ Idem.

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External Authors:

Maxime MOULAC, Consultant for Milieu Consulting SRL.

Marta BALLESTEROS, Senior Lawyer and Manager for Milieu Consulting SRL.

Research Administrator responsible: Martina SCHONARD

Editorial assistant: Ginka TSONEVA

Contact: poldep-citizens@europarl.europa.eu

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