

Activities of the Committee on Petitions (2011)

European Parliament resolution of 21 November 2012 on the activities of the Committee on Petitions 2011 (2011/2317(INI))

The European Parliament,

- having regard to previous resolutions on the deliberations of the Committee on Petitions,
 - having regard to Articles 10 and 11 of the Treaty on European Union (TEU),
 - having regard to Articles 24, 227, 228, 258 and 260 of the Treaty on the Functioning of the EU (TFEU),
 - having regard to Rules 48 and 202(8) of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A7-0240/2012),
- A. whereas, subject to Protocol 30 of the Treaty, the Charter of Fundamental Rights of the European Union has already acquired legally binding force through the entry into force of the Treaty of Lisbon; and whereas the same Treaty also establishes the legal basis for the EU to accede to the European Convention on Human Rights, as well as the European Citizens' Initiative;
- B. whereas the Regulation on the European Citizens' Initiative¹ entered into force on 1 April 2012, and whereas Parliament has the responsibility for the organisation of public hearings for successful initiatives which have secured more than one million signatures from a minimum of seven Member States;
- C. whereas the Committee on Petitions has a duty to constantly review and, where possible, to enhance its role, notably with regard to the development of democratic principles, such as the increased participation of citizens in the EU decision-making process and the enhancement of transparency and accountability; and whereas in its regular activity the Committee works closely with Member States, the Commission, the European Ombudsman and other bodies in order to ensure that EU law is fully respected in both letter and spirit;
- D. expresses its satisfaction concerning the creation of a single service for citizens looking for information or wanting to lodge an appeal or lawsuit via the 'Your Rights in the European Union' portal;
- E. welcomes the case law of the European Court of Justice on the interpretation of Article 51 of the Charter of Fundamental Rights of the European Union, which in the ERT ruling, emphasises that the institutions of the Member States shall be bound by the overriding fundamental rights of the Union even if they wish to use national measures to restrict the fundamental freedoms guaranteed by TFEU;
- F. whereas European citizens and residents have legitimate expectations that the issues that

¹ Regulation (EU) No 211/2011 (OJ L 65, 11.3.2011, p. 1).

they raise with the Committee on Petitions may find a solution without undue delay within the legal framework of the European Union, which they look upon to uphold their rights as citizens of the Union, and in particular to defend their natural environment, health, freedom of movement, dignity and fundamental rights and freedoms;

- G. whereas the European institutions ought to supply more information and be more transparent with regard to EU citizens;
- H. whereas 998 petitions were declared admissible, and of those 649 were forwarded to the Commission for further investigation pursuant to Articles 258 and 260 of the Treaty; and 416 petitions were declared inadmissible;
- I. whereas the petitions process can be complementary to other European instruments available to citizens, such as the option to address complaints to the European Ombudsman or to the European Commission;
- J. whereas the number of inadmissible petitions continued to be significant in 2011, once more indicating that Parliament should increase its effort to inform citizens of the limits of its field of action with regard to the right of petition; whereas considering that individuals, local communities, and voluntary, charitable and professional associations are well placed to assess the effectiveness of European legislation as it applies to them, and to signal to citizens possible loopholes that need to be analysed in order to ensure better and more comparable implementation of EU law in all the Member States;
- K. whereas, regarding the statistical analysis contained in this report, German citizens continue to submit the highest number of petitions, though decreasing proportionally, followed by Spanish and Italian petitioners;
- L. whereas the field of action, and the *modus operandi*, of the right to petition granted to all EU citizens and residents under the terms of the Treaty differs from other remedies available to citizens, as for instance the submission of complaints to the Commission or to the Ombudsman, and whereas the Member States, using the crisis as a pretext, are increasingly choosing to neglect this right, which is an important concern for European citizens;
- M. whereas main concerns relating to the general theme of the environment are the poor and often misguided application by Member States and their sub-national entities of the Environmental Impact Assessment (EIA) Directive¹ and the Waste Framework Directive²; whereas petitions alleging breaches of the Birds and Habitats Directives often raise concerns of serious biodiversity loss as a result of major projects planned in Natura 2000 sites, and petitions on water management have revealed grave cases of pollution as well as raised concerns over possible impacts of projects on the sustainability and quality of aquatic resources;
- N. whereas the EIA Directive is presently under review and that the report by the Committee on Petitions on waste issues exposes serious shortcomings in several Member States, whereas the implementation of this Directive remains insufficient and whereas this problem

¹ Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

² Directive 2008/98/EC on waste (OJ L 312, 22.11.2008, p. 3).

will not be solved by a review but by more effective control by the Commission;

- O. whereas the right of European citizens and residents to their legitimately acquired property continues to be an issue of grave significance for many thousands of people, as demonstrated by the petitions which are still being received on this subject, and whereas without a resolution of this problem by the competent authorities there is no likelihood of legal certainty of, or trust in, assurances that cross-border housing markets will be restored, which has serious consequences for the prospects of economic recovery, and whereas in particular in 2011 there were 70 petitions outstanding relating to the Spanish Ley de Costas, with 51 petitions identifiable as coming from Spanish citizens or groups of Spanish citizens and the remaining 19 coming from citizens of other nationalities;
- P. whereas in its previous Annual Report, the Committee on Petitions highly appreciated the cooperation with the Commission and the European Ombudsman with regard to the treatment of petitions and complaints, and whereas the Committee on Petitions repeatedly requested that it be kept informed by the Commission of developments in pending infringement proceedings, the subject of which is also covered by petitions;
- Q. whereas many petitions claim that EU funds have been misused or misappropriated while others allege malfunctioning in the EU's administration, including conflicts of interest within influential agencies, or call for changes in EU policies;
- R. whereas the shortcomings and problems faced by people as a result of the malfunctioning of the internal market, as illustrated by petitions, are confirmed by the Commission's European Citizenship Report 2010¹, in particular as regards free movement of EU citizens and their family members, provided they are completely legitimate, access to social security entitlements, mutual recognition of qualifications, obstacles faced by the disabled, family law issues and mass expulsions on the basis of ethnic or national origin such as those affecting the Roma, including also double-taxation issues;
- S. whereas also in 2011, a significant number of petitions were submitted by citizens pointing to the importance of preventing irreparable losses in biodiversity, with regard to Natura 2000 sites, as well as of ensuring the protection of areas defined under the Habitats Directive;
- T. whereas the judgment of the General Court of 14 September 2011 in case T-308/07 upheld the petitioner's complaint against the Committee's decision to declare his petition inadmissible, and in doing so made it clear that in declaring petitions inadmissible, Parliament must give good reasons for doing so;
- U. whereas the efficiency of the Committee's work is largely the result of swiftness and thoroughness, but could be improved further, in particular by optimising the time taken to process petitions and by systematising the procedure for their assessment;
- 1. Notes that the petitions received in 2011 continued to focus on alleged breaches of EU law in the fields of the environment, justice and the internal market, reflecting citizens' views on whether European legislation, as transposed and implemented by the Member States, actually delivers the expected result and responds to EU law;

¹ European Citizenship Report 2010: Dismantling the obstacles to EU citizens' rights (COM(2010)0603).

2. Notes the increasing number of petitions and other submissions from citizens seeking legal and financial redress on issues that fall outside the EU's area of competence pursuant to Article 227 of the Treaty as well as Article 51 of the Charter of Fundamental Rights, such as, for example, requests to review the calculation of national pensions, overrule decisions by national courts, support proposals to re-draw Europe's frontiers, force a bank to grant a personal loan, etc.; fully supports the action taken by Parliament's responsible Directorates-General to find a solution for dealing with these submissions from citizens while taking into account Parliament's obligations with regard to its correspondence with citizens;
3. Believes that the role and responsibilities of the Petitions Committee would be best performed, and its visibility, efficiency, accountability and transparency best enhanced, if its means of being able to bring issues of importance to European citizens to plenary were improved, and if its abilities to call witnesses, conduct investigations and organise on-site hearings were enhanced;
4. Recalls that, as regards the procedures for organising public hearings on successful European Citizens' Initiatives, as set down in Article 11 of Regulation (EU) No 211/2011, Parliament has decided that the Committee on Petitions is automatically associated with each hearing alongside the lead Committee with legislative competence for the subject concerned; considers this a confirmation of its role as the body with the most experience of direct contacts with citizens, ensuring a uniform procedure for all successful Citizens' Initiatives; calls on the Conference of Presidents to approve a clarification of the Committee's competences in this respect in Annex VII, point XX of the rules of procedure; emphasises, at the same time, that the difference between a petition according to Article 227 TFEU and a Citizens' Initiative must be clearly explained to the public;
5. Welcomes Parliament's decision to develop a much more practical and visible petitions portal on its website, which will facilitate, within the limits of Article 227 of the Treaty and Article 202 of Parliament's Rules of Procedure and Article 51 of the Charter of Fundamental Rights, access for citizens to the petitions process, provide them with information and allow them to submit petitions in a more user-friendly environment and sign electronically in support of petitions; considers that this portal should also provide practical links to other forms of redress which are available at European and national or regional level, as well as a comprehensive overview of the competence of the Petitions Committee, and should at the same time set a framework of practices for public administrations based on the CURIA portal, the official portal for ECJ judgments;
6. Confirms its determination to continue to promote and defend citizens' fundamental rights and freedoms by making use of its political influence regarding such admissible cases as may be raised with the Committee, in close cooperation with the Commission and relevant authorities within the Member States of the Union;
7. Calls on the Committee on Petitions to examine the effects of the ERT case law on the reliability of petitions, and to investigate the question of what actual obstacles lie in the way for EU citizens applying for a preliminary ruling from the European Court of Justice in order to obtain reliable interpretations of central issues under European legislation in cases before the national courts;
8. Considers it important to enhance cooperation with Member States' parliaments and governments, based on reciprocity, and, where necessary, to encourage Member States' authorities to transpose and apply EU legislation in full transparency;

9. Stresses the importance of the Commission cooperating with the Member States, and deplores the negligence of some Member States with regard to transposing and enforcing European environmental legislation;
10. Considers that the petitions procedure should not be exploited and used to achieve objectives on the political agenda in Member States, but should be carried out objectively, reflecting the position of the European Parliament;
11. Welcomes the constructive cooperation between the Petitions Committee and the services of the European Ombudsman, and reaffirms its determination to support the Ombudsman in identifying maladministration by and acting against EU institutions;
12. Calls upon the Commission to provide the Petitions Committee with details, and a statistical analysis, of the complaints it investigates from European citizens, including the results obtained and the place of origin of the complainant;
13. Believes that, as regards the functioning of the infringement procedures under Article 258 and 260 of the TFEU, the Commission should ensure that petitions to the Parliament and complaints to the Commission are treated with equal consideration;
14. Considers that more precise, written procedural rules in relation to the preparation, implementation and evaluation of delegation visits within the Committee could lead to greater efficiency and consistency in the work of the Committee on Petitions;
15. Considers the correct implementation of the Waste Framework Directive in all Member States to be of the utmost importance, and asks, therefore, Member States with waste management trouble spots to act decisively and swiftly;
16. Reiterates its numerous calls on the Member States to comply with their obligations under the Free Movement Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the EU; reminds Member States of their obligation to facilitate entry and residence without any discrimination, including for same-sex couples and their children, Roma people, and other minority groups;
17. Supports wholeheartedly the underlying objective of the Ley de Costas, namely that the environment of the Spanish coast be protected from overdevelopment so as to preserve it for wildlife and for future generations; notes with concern, however, that the issue of that law continues to be a problem for petitioners, and for Spanish citizens in particular; supports the efforts of petitioners to resolve the problems surrounding the law and its application, taking note in particular of the decision of the Committee on Petitions to establish a working group to consider the issue in more depth;
18. Believes that it is in the current economic interest of everyone to ensure the resolution of the legal uncertainty which surrounds property potentially affected by the Ley de Costas; welcomes the Spanish Government's announcement that it intends to revise the Ley de Costas in order to reconcile the future protection of the Spanish coastline with economic growth, and thus to provide greater legal certainty for property owners; urges the Spanish Government to reassure the interests of those who have acquired property in good faith and of those communities which have always shared a sustainable coexistence with the sea; urges them, in particular, to address the specific question of the application of the law, so that it does not encourage decisions that are arbitrary, retrospective or asymmetric, but

instead ensures due process, a right of appeal, proper compensation and access to information;

19. Recalls that Parliament has held¹ that the Ley de Costas has had a disproportionate impact on individual property owners while at the same time having insufficient impact on the real perpetrators of coastal destruction, who have been responsible in many instances for excessive urban development along the coasts; urges the Spanish Government to ensure that those whose fraudulent actions have put numerous EU citizens in an intolerable situation through the loss or risk of loss of their homes are duly pursued and required to pay for the damage they have caused;
20. Invites the Commission to ensure that the Environmental Impact Assessment Directive is strengthened by providing clearer parameters as regards the independence of expert studies, common EU thresholds, a maximum timeframe for the process, including effective public consultation, the requirement to justify decisions, the mandatory assessment of reasonable alternatives and a quality control mechanism;
21. Calls on the Commission, furthermore, to ensure implementation and enforcement of the Habitats and Birds Directives by the Member States as well as the better transposition and application of Directive 2004/38/EC on the right of EU citizens and their families to move and reside freely within the territory of the Member States;
22. Recalls the large number of petitioners who contact the Committee on Petitions with their individual complaints regarding youth and family welfare matters in Germany in general, and Germany's youth welfare offices in particular, and emphasises the determination of the Committee to make a constructive contribution to the investigation of the complaints between the petitioners and the authorities within its own area of competence and that of the European Union; points out that this must not involve any intervention in internal independent administrative procedures in Member States;
23. Is determined to make the petition procedure more efficient, transparent, and impartial, while preserving the participatory rights of the Members of the Committee on Petitions, so that the handling of petitions will stand up to judicial review even at a procedural level;
24. Emphasises the need for continuity in processing petitions, despite changes in legislative periods and the resulting changes in personnel;
25. Regards the participation of Members of Parliament in fact-finding missions not just as a participatory parliamentary right, but also as an obligation in relation to petitioners;
26. As part of the efforts to improve the work of the Committee, calls for a procedure involving fact-finding missions that, on the one hand, ensures the right of all members of a fact-finding mission to present the facts from their point of view while, on the other hand, guarantees all Committee Members the opportunity to participate in the decision-making process in regard to the conclusions to be drawn by the Committee on Petitions;
27. Emphasises that the Committee on Petitions, along with other institutions and bodies, such as the committees of inquiry, the European Citizens' Initiative and the European

¹ See resolution of 26 March 2009, recital Q and paragraph 17 (OJ C 117 E, 6.5.2010, p. 189.)

Ombudsman, play an independent and clearly defined role as points of contact for each individual citizen;

28. Calls on the Conference of Presidents to examine the extent to which an amendment to the Rules of Procedure would seem appropriate for the implementation of these formal requirements in relation to the petitioning procedure;
29. Instructs its President to forward this resolution and the report of the Committee on Petitions to the Council, the Commission and the European Ombudsman, and to the governments and parliaments of the Member States, their committees on petitions and their ombudsmen or similar competent bodies.