

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

Abstract

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.

This document was requested by the European Parliament's Committee on Petitions.

AUTHORS

Maxime MOULAC, Consultant for Milieu Consulting SRL.

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

ADMINISTRATOR RESPONSIBLE

Martina SCHONARD

EDITORIAL ASSISTANT

Ginka TSONEVA

LINGUISTIC VERSION

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ABOUT THE EDITOR

Policy departments provide in-house and external expertise to support EP committees and other parliamentary bodies in shaping legislation and exercising democratic scrutiny over EU internal policies.

To contact the Policy Department or to subscribe for updates, please write to:

Policy Department for Citizens' Rights and Constitutional Affairs

European Parliament

B-1047 Brussels

Email: poldep-citizens@europarl.europa.eu

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LIST OF ABBREVIATIONS

CJEU	Court of Justice of the European Union
DG	Directorate(s) General of the European Commission
EP	European Parliament
EU	European Union
DG ENV	Directorate General on Environment
MEP	Members of the European Parliament
NGO	Non-governmental organisation
RMCEI	Recommendation on Minimum Criteria for Environmental Inspections
SEC GEN	Secretariat General of the European Commission
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union
EIR	Environmental Implementation Review

EXECUTIVE SUMMARY

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 Union¹.

The recognition of EU citizenship rights has also been reinforced with the adoption of the Charter of Fundamental Rights². 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 institutions³. The number of petitions received by the European Parliament every year is substantial and requires the effort of the Committee on Petitions to handle them properly and provide timely solutions to citizens' concerns⁴. According to the Guidelines of the Committee on Petitions adopted in 2015⁵, 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

¹ Article 10 (3) TEU.

² The Charter of Fundamental Rights of the European Union also recognises a range of civil, political, economic and social rights granted to EU citizens.

³ European Parliament resolution, 13 December 2018 on the deliberations of the Committee on Petitions during 2017 (2018/2104(INI)).

⁴ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

⁵ Guidelines Committee on Petitions, December 2015 updated in January 2018, PE575.044v05-00.

to the Member State concerned.⁶ 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 petitioners⁷.

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 remit⁸.

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 law⁹.

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 opinion¹⁰. 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 citizens¹¹. 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

⁶ Idem.

⁷ 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.

⁸ Guidelines Committee on Petitions, December 2015 updated in January 2018, PE575.044v05-00, p. 12.

⁹ Idem.

¹⁰ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

¹¹ European Parliament resolution, 14 December 2017 on the deliberations of the Committee on Petitions during 2016 (2017/2222(INI)), p. 4.

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**¹². 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 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'¹³. 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'¹⁴. 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 or 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 petitions¹⁵. 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

¹² Interview to Commission services, November 2020.

¹³ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

¹⁴ Idem.

¹⁵ Report on the outcome of the Committee on Petitions' deliberations during 2019 (2020/2044(INI)).

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 Parliament¹⁶. 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 law¹⁷. Therefore, measures to increase public awareness and achieve a substantial improvement on the exercise of this right are needed.

¹⁶ European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions' deliberations during 2018 (2018/2280(INI)).

¹⁷ Idem.

1. OBJECTIVE OF THE STUDY

The Committee on Petitions of the European Parliament (PETI Committee) 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.

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. The study explores options for an enhanced traceability of a petition's journey and evolution, including petitions leading to EU Pilots and infringement proceedings, managed by the Commission. An additional feature of the study is the lessons learnt from the experiences of other petitions' committees at national or regional level that could be applicable to the Parliament's petitions' process.

The study addresses institutional, legal, and administrative tools for the Committee on Petitions and the EP to maximise the impact of petitions to achieve real change regarding issues of citizens' concern. The study includes recommendations providing expert advice on possible ways to strengthen the role and impact of petitions and to obtain greater commitment and increased action from the Commission.

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 participatory democracy. A particular focus on those petitions related to environmental matters has been requested given that most citizens' petitions submitted to the European Parliament concern environmental matters¹⁸. This trend is consistent from previous years¹⁹.

2. INTRODUCTION

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), has a specific responsibility to ensure the follow up of petitions as a key element of participatory democracy.

The Committee on Petitions holds the fundamental role of acting as a bridge between EU citizens and the EU institutions²⁰. Petitions represent an opportunity to bring the EU closer to the citizens bringing citizens' concerns to the attention of EU Institutions thereby allowing for the timely examination and resolution of petitioners' requests wherever possible. The European Parliament has stressed on several occasions that the manner in which the concerns of petitioners are addressed has a major impact on citizens regarding effective respect for the right to petition as enshrined in EU law and on their opinions of the EU institutions²¹. Petitions offer a unique means to identify situations in which EU law is not upheld

¹⁸ European Parliament, Report on the outcome of the Committee on Petitions' deliberations during 2019 (2020/2044(INI)) Committee on Petitions, Rapporteur: Kosma Złotowski, 23 November 2020.

¹⁹ European Parliament resolution of 13 December 2018 on the deliberations of the Committee on Petitions during 2017 (2018/2104(INI)).

²⁰ European Parliament resolution, 13 December 2018 on the deliberations of the Committee on Petitions during 2017 (2018/2104(INI)).

²¹ European Parliament resolution, 13 December 2018 on the deliberations of the Committee on Petitions during 2017 (2018/2104(INI) p.1.

and to investigate such situations by means of the political scrutiny of the European Parliament²². They allow EU Institutions to detect possible breaches of EU law and to remedy them by taking the most appropriate action.

In relation to petitions, the European Parliament 'considers that the ability to ensure transparency, direct citizen involvement, full protection of fundamental rights, a clear improvement in the response from the EU institutions in terms of addressing and resolving the problems brought to their attention by citizens, in addition to enhanced cooperation of EU institutions and other EU bodies with national, regional and local authorities, are a vital means of strengthening the democratic legitimacy and accountability of the Union's decision-making process.'²³ Furthermore, the European Parliament recognises that each petitioner has the right to receive a first reply from the Committee on Petitions that fully addresses the issues raised in full accordance with the right to good administration enshrined in Article 41 of the Charter of Fundamental Rights of the European Union²⁴. Obviously, subsequent exchanges and replies are often needed as a result of the initial examination of petitions or the interaction with the Commission and national authorities as further follow-up to seek for solutions²⁵.

While the examination of petitions in search for a solution is led by the Committee on Petitions, it may require interaction with other EU institutions and bodies, in particular the Commission, other Committees of the European Parliament and national authorities through Member States' representatives and/or with the Ombudsman. In fact, all EU Institutions have certain responsibilities in ensuring implementation and enforcement of EU law. Under the signed Inter-institutional Agreement on Better Law-Making²⁶, the European Parliament, the Council and the Commission reiterate their commitment to promote the proper implementation and enforcement of existing legislation.

According to the Guidelines of the Committee on Petitions adopted in 2015, the Committee may ask for other EU institutions, bodies and agencies for information or opinion on the issues of petitions. 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 remit²⁷.

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.'²⁸ The request is typically sent via the Permanent Representation towards the EU, which will then dispatch the request to the competent national or local authorities, which may be indicated by the Committee itself.

Petitions may lead to action from different EU Institutions including the initiation of infringement procedures led by the Commission and triggering rulings of the Court of Justice of the European Union.

The effective treatment of petitions is linked to the capacity of both the Commission and Parliament to react to and resolve problems related to the transposition and application of EU law. The role of the

²² Idem.

²³ European Parliament resolution, 14 December 2017 on the deliberations of the Committee on Petitions during 2016 (2017/2222(INI)) p.3.

²⁴ European Parliament resolution, 14 December 2017 on the deliberations of the Committee on Petitions during 2016 (2017/2222(INI)) p.N.

²⁵ Idem.

²⁶ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123 of 12.5.2016).

²⁷ Guidelines Committee on Petitions, December 2015 updated in January 2018, PE575.044v05-00, p. 12.

²⁸ Idem.

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). 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 citizens²⁹. The Commission has repeatedly stated that it considers the implementation of EU law as a priority; however, the European Parliament has called on the Commission on several occasions ‘to improve the quality of its replies, including during committee meetings, in substance as well as depth, to ensure that the concerns of European citizens are properly addressed’³⁰. Furthermore, the European Parliament insists that the Commission should ‘identify the means of enhancing cooperation with Member States’ authorities when it comes to responding to inquiries regarding the implementation of, and compliance with, EU law’³¹. The EP insists on the need for the Council and the Commission representatives of the highest possible rank to be present at meetings and hearings of the Committee on Petitions where the content of the issues discussed requires the involvement of the aforementioned institutions and to engage in a proper dialogue with the petitioners and not limit themselves to reading the answer already established and sent out prior to the meeting³².

While it is acknowledged that Commission officials participate systematically when they are invited to the Committee meetings, their role and capacity to effectively respond to questions and petitioners’ requests during the meetings is discussed in section 3.3³³.

Within this framework and at the time when the new European Commission was presenting itself to the European Parliament in November 2019, Vice-President on Inter-institutional Relations, Commissioner Maroš Šefčovič, made a number of commitments related to his portfolio which included the improvement of the Commission’s handling of petitions and the submission of accurate answers within the three-month deadline³⁴, which we further discuss under section 3.3.

The European Parliament has requested a particular focus of the study on petitions dealing with environmental matters. Most petitions deal with issues subject to EU law, with a high number related to the implementation of environmental legislation. For example, the 2020 report on the Deliberations of the Committee on Petitions during the year 2019 states that ‘...the main subjects of concern raised in petitions submitted in 2019 pertained to environmental matters (in particular, issues concerning pollution, protection and preservation and waste management)...’ Other relevant issues are fundamental rights (e.g. rights of the child, voting rights and EU citizens’ rights), constitutional affairs, health (related to the environmental problem of health impacts of toxic substances), transport, internal market, employment, culture and education³⁵.

This trend is consistent with previous years, for example, the main subjects of concern raised in petitions in 2017 pertained to environmental matters (notably issues concerning water and waste management,

²⁹ European Parliament resolution, 14 December 2017 on the deliberations of the Committee on Petitions during 2016 (2017/2222(INI)), p. 4.

³⁰ *Idem*, p. 8.

³¹ *Idem*.

³² *Idem*.

³³ Opinion from the Commission delivered at the Interview by the project team to the Commission services in November 2020.

³⁴ European Parliament, 2019 Briefing Commissioners-designate hearings, Maroš Šefčovič, Vice-President-designate Interinstitutional Relations and Foresight, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/621918/IPOL_BRI\(2019\)621918_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/621918/IPOL_BRI(2019)621918_EN.pdf).

³⁵ European Parliament, Report on the outcome of the Committee on Petitions’ deliberations during 2019 (2020/2044(INI)) Committee on Petitions, Rapporteur: Kosma Złotowski, 23 November 2020.

and preservation), fundamental rights, free movement of persons, various forms of discrimination, and immigration³⁶.

Next section of this study, **section 3** describes the right to petition in the European Union and the procedure to deal with petitions, involving EU institutions and bodies with a particular focus on the relation with the Commission.

Section 4 focuses on the link between petitions and infringement procedures within the framework of inter-institutional relations to ensure the implementation of EU environmental law.

Section 5 provides a comparative overview of key procedural features in national petitions' systems that could be used as examples to improve the current EU petitions' system.

Finally, **section 6** suggests some concrete recommendations for the European Parliament's Committee on Petitions and the Commission to deal with petitions more effectively.

³⁶ European Parliament resolution of 13 December 2018 on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

3. THE RIGHT TO PETITION IN THE EUROPEAN UNION

Citizens' right to address a petition to their democratic representatives is recognised not only at EU level but also in most EU Member States. This section of the study analyses the legal and procedural basis of the right to petition at EU level including the cooperation with the Commission and other EU Institutions.

3.1. The current legal framework for petitions in the European Union

According to Article 24 TFEU, every citizen of the Union has the **right to petition** the European Parliament, reflecting a key element of participatory democracy. However, Article 227 TFEU goes beyond and grants this right not only to 'any citizen of the European Union' but also to 'any natural or legal person residing or having its registered office in a Member State'. Every resident and legal person registered in the EU have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.

The TEU, as adopted in Maastricht in 1992, introduced for the first time, the concept of Union citizenship providing it with constitutional status. According to the Treaties, every person holding the nationality of a Member State is a citizen of the Union. EU citizenship involves the recognition of certain rights and duties that are triggered by being part of the EU and complement those stemming from citizenship of a Member State. Articles 18 to 25 of the TFEU as adopted by the Lisbon Treaty³⁷ list those rights and develop their content and scope, including the right to move and reside within the EU territory, the right to vote and to stand as a candidate in the elections to the European Parliament, the right to diplomatic and consular protection in any Member State on the same conditions as the nationals of that State and the right to petition the European Parliament.

The recognition of EU citizenship rights has also been reinforced with the adoption of the Charter of Fundamental Rights³⁸. 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'.

The European Parliament's role of representing the 'Union's citizens' (Article 14 TEU) makes it the natural receptor of petitions by the EU citizens, and with the same rationale, it is the body in charge of organising the relevant hearings with the proponents of successfully registered European Citizens' Initiatives under the auspices of the Committee on Petitions. The Committee on Petitions holds the fundamental role of acting as a bridge between EU citizens and the EU institutions³⁹.

The proper treatment of petitions is critical for the functioning of participatory democracy in the EU as recognised by the Treaty of the European Union⁴⁰, bringing the citizen closer to the EU. The European

³⁷ Article 9 of the Treaty of the European Union (TEU) provides a constitutional status to EU citizenship, whereas Articles 10 and 11 strengthen the representation and participation of citizens in European decision-making processes. Articles 20-24 TFEU specify provide the framework and content of the specific rights linked to EU citizenship.

³⁸ The Charter of Fundamental Rights of the European Union also recognises a range of civil, political, economic and social rights granted to EU citizens.

³⁹ European Parliament resolution, 13 December 2018 on the deliberations of the Committee on Petitions during 2017 (2018/2104(INI)).

⁴⁰ Article 10 (3) TEU.

Parliament calls on the EU institutions and Member States to do their utmost to provide prompt and effective solutions to issues raised by petitioners⁴¹.

Petitions may trigger action by the European Parliament which may involve other EU bodies, including the Commission, to investigate or initiate infringement procedures against Member States which may eventually end up before the CJEU.

The European Parliament has issued guidelines to clarify the procedure for dealing with petitions. The 1998 Guidelines adopted by the EP Bureau for the treatment of Petitions by the Committees set the first rules establishing the procedure⁴². They are complemented by the EP Rules of Procedure (i.e. Rules 226 to 229)⁴³ and the Committee on Petitions guidelines of December 2015 updated in 2018⁴⁴.

3.2. European Parliament's procedure for handling citizens' petitions

EU citizens or third-country nationals residing in a European Member State may submit a petition to the European Parliament, either as one single person or as a group of persons. Petitions can be sent online via a dedicated website, **the Petitions Web Portal (PETIportal)**⁴⁵, where registered petitions can also be read and supported by other citizens. Alternatively, petitions can be sent by regular post to the postal address of the European Parliament.

Petitions are received and registered by the Documents Reception and Referrals Unit of the European Parliament's DG Presidency. As part of the registration process, they are assigned a unique identification number which then accompanies the petition throughout its lifecycle. A message confirming receipt of the petition is sent to the petitioner. Petitions are assessed in a preliminary screening and then sent to the Committee on Petitions, who makes the final decision on whether a petition is admissible or not.

A **preliminary screening** is done to identify if the petition fulfils the formal requirements and if it is related to issues within **the EU's field of activity**. Petitions that are assessed to be potentially non-compliant with the provisions of Article 227 of TFEU are placed on a specific list ("List 3") by DG PRES and communicated to Members separately for decision⁴⁶.

Once a petition is received, the Secretariat of the Committee on Petitions prepares a summary of the petition, and will propose a follow-up action for the Committee to decide on. Petitions declared inadmissible on a preliminary screening are included in the List 3 and a reference to them in the SIR document with the reason for their classification. SIR documents are sent to all Members of the Committee on Petitions first in English, then translated into all languages as soon as they are available. Each month, lists of petitions and proposed actions are circulated to all Members of the Committee on Petitions, giving them the opportunity to study the petitions and indicate if they disagree with any of the proposed actions. If no disagreement with the actions proposed is received by the deadline, the

⁴¹ 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.

⁴² Guidelines on the treatment of petitions by the standing Committees, EP Bureau, 1998.

⁴³ Rules of procedure of the European Parliament, December 2019, at:
https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-RULE-227_EN.html
https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-RULE-226_EN.html.

⁴⁴ Committee on Petitions Guidelines, December 2015, Updated in January 2018 - PE575.044v06-00.

⁴⁵ Committee on Petitions Guideline, December 2015, and updated in January 2018 - PE575.044v06-00 and Petitions Web Portal at: <https://www.europarl.europa.eu/petitions/en/show-petitions>

⁴⁶ Idem.

recommendations for action are deemed to have been approved and the Secretariat proceeds with their implementation on behalf of the Chair.

The whole process for the analysis and final decision on the petitions' admissibility is taken by the Committee on Petitions by consensus within approximately three months from its registration. No rules establish a specific timeline for the adoption of this decision. Petitions declared inadmissible are filed and the petitioner is informed of the reasons for it, and no further action is taken.

Interactions with other bodies

If the petition falls under the EU's field of activity, adoption as well as further action may be proposed, such as **sending the petition to the European Commission** for further assessment, or to request opinion **from the Council**, or the **Member State** concerned by the petition⁴⁷. The Committee on Petitions may also decide to send the request for opinion to another **Committee of the European Parliament** for information or ask for an opinion on the issue which typically will lead to its inclusion in the relevant Coordinators' meeting for discussion. A deadline for a reply to the request for opinion sent to EU institutions or bodies (usually three months) should be indicated in the request.

In relation to the requests submitted to a **Member State** via the Permanent Representation, the Committee's Secretariat should ensure the Member State's timely processing of the inquiry, by liaising with the relevant staff of the Permanent Representation prior to its submission. The Committee requests an answer from the Member State and if such a reply is not received within three months, the Secretariat reminds the Permanent Representation of the request. The Secretariat will keep the Committee informed twice a year on pending replies from Member States. In case of a persistent refusal by a Member State to provide information, the Committee may turn to the Commission with the information request. At later stages of investigation, the Committee may get in direct contact with the national/local authority whilst keeping the Permanent Representation informed⁴⁸.

Interaction with the Commission

The petitions sent to **the European Commission** go to the Secretariat General of the European Commission (SEC GEN) for its position on the substance. Following the demands by the Commission regarding the requests for opinion, the Committee on Petitions has committed to precisely define the issues that require information or prior investigation from the Commission, and to filter issues that have already been requested⁴⁹.

The SEC GEN receives a batch of petitions approximately once per month, which contains summaries of the petitions and recommendations for action (including the recommendation to refer the matter to the EC). It registers the requests for opinion related to petitions (summary, petition references, and additional information) in an internal IT tool. Only those petitions for which there is a request for Commission opinion, are uploaded in the petitions' tool with the summary and the competent Directorate(s) General (DG) to which it is attributed. Then it forwards the request to the competent DG and services, which can consult other DGs. A coordinated response is sent back to SEC GEN, which is in charge of replying to the Secretariat of the Committee on Petitions.

The database on petitions is centralised at SEC GEN and is shared with all DGs. The main aim of the tool is to ensure coordination of the Commission's response to requests concerning petitions. There are

⁴⁷ Rules of procedure of the European Parliament, December 2019, rule 227: Examination of petitions, at: https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-RULE-227_EN.html
https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-RULE-226_EN.html.

⁴⁸ Committee on Petitions Guidelines, December 2015 updated in January 2018, PE575.044v05-00, p. 12.

⁴⁹ Committee on Petitions Guidelines, December 2015, Updated in January 2018 - PE575.044v06-00.

different instruments linking the EU institutions with European citizens, such as petitions, parliamentary questions and complaints to initiate infringements. However, neither the Commission's petitions' tool nor the infringement database nor any other database, would link the three.

The IT tool for petitions within the European Commission (petitions tool) is limited to retrieving information on the number of petitions received per year, and the attribution to the different DGs. It helps keep track of the deadlines to respond to the EP. However, it is not possible to obtain information on the specific subject matters within the responsibility of each DG or a potential link to related infringements.

The current IT tool for petitions is more than 10 years old and the European Commission is developing a new one which, in principle, does not seem that it will include a link between petitions and infringement procedures. The objective of the new tool remains focused on the SEC GEN's concerns to ensure coordination of DGs' response to requests related to petitions from the European Parliament and the deadlines follow-up. It also aims to provide better statistics. However, the new tool is in its conceptual stage and not all features have been defined yet.

On the side of the European Parliament, each action taken in relation to a petition is recorded in an internal petitions database which is not accessible to the public but to which the members of the Committee on Petitions have access. The petitioner is also informed of each action taken, along with a reasoning for the decision and any related documentation⁵⁰.

In addition to the standard procedure, the Committee on Petitions may take other initiatives to better respond to petitioners. For example, in 2018 the Committee undertook several actions to strengthen political and technical dialogue with relevant committees of the national parliaments. It invited the Petitions Committee of the German Bundestag to participate in the EP Committee on Petitions meeting of 9 October 2018 to raise issues of common interest and to discuss relevant petitions. Similarly, the PETI Committee's invitation has been accepted by other Member States' relevant committees, in the past years⁵¹.

Closure of petitions

Once it is decided that no further action will be taken on a petition, it will be closed.

In accordance with the Parliament's rules of procedure and the 2015 guidelines of the Committee⁵², petitions may be closed at various stages of the procedure: they can be closed in parallel with the decision on admissibility through a written procedure; or after being treated in Committee which may decide that the case has been sufficiently discussed and researched. The Chair makes a proposal for closure by consensus or vote by simple majority. If no quorum exists the decision is referred to the Coordinators.

The Committee Secretariat may, after having heard the relevant actors including the Commission and/or national authorities, consider that no further action could move the petition forward and may suggest the Chair to include the petition on the Committee agenda for its closure as a B-item through a written procedure. If it is not contested by anyone, the petition will be closed. However, within the next two months, MEPs and/or petitioner may contest the proposal by the Secretariat and provide new information justifying the further treatment of the petition. This information is presented to the Coordinators who will then decide on the next steps. In the absence of further information the petition

⁵⁰ Committee on Petitions Guidelines, December 2015, Updated in January 2018 - PE575.044v06-00.

⁵¹ Committee on Petitions, Report on the deliberations of the Committee on Petitions during the year 2019 (2020/2044(INI)).

⁵² Committee on Petitions Guidelines, December 2015, Updated in January 2018 - PE575.044v06-00 p.15.

is closed. Finally, petitions can be closed because the petitioner may decide to withdraw his/her petition, or when there is no response from the petitioner before a given deadline, or if there is a technical reason to close the petition. In all cases, the petitioner is informed of the decision in writing and once available, through the PETI portal⁵³.

3.3. Cooperation between the Committee on Petitions and the European Commission

The European Parliament's role of representing the Union's citizens makes it the natural receptor of petitions and questions (Article 227 TFEU), while the **European Commission** promotes the general interest of the Union and shall oversee and ensure the application of EU law including the Treaties and the measures adopted pursuant to it (Article 17 TEU).

The number of petitions received by the European Parliament every year is substantial and requires the effort of the Committee on Petitions to handle them properly and provide timely solutions to citizens' concerns⁵⁴. A high level of cooperation and coordination in handling petitions bring significant added value to the Institutions in the implementation of EU law and policies.

The **Commission** remains the 'natural partner' of the Committee on Petitions in processing petitions as the responsible EU institution for ensuring the application of and compliance with EU law⁵⁵. The issues and questions raised by petitioners often either relate to 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 law⁵⁶.

For a substantial number of petitions, the cooperation of the Commission is required and Committee on Petitions of the European Parliament sends request for opinion⁵⁷. A petition may also be sent to the Commission for preliminary investigation, particularly with a view to assessing the subject matter of the petition in relation to the relevant EU legislation and policies. The Committee on Petitions sends the request defining the issues it wants the Commission to investigate to the SEC GEN who coordinates the distribution of petitions and information requests to the relevant Commission's services for a reply⁵⁸ and forwards the Commission's replies to the secretariat of the Committee⁵⁹.

The Commission may either provide an opinion to the request of the Committee on Petitions and bring observations describing ongoing actions or decide to take action triggered by the input from the petition, such as the proposal of new legislative measures or revisions of existing legislative acts such as the recast of Brussels II bis Regulation (EU) 2019/1111⁶⁰ in relation to certain provisions on children rights.

⁵³ Idem

⁵⁴ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

⁵⁵ Committee on Petitions, Report on the deliberations of the Committee on Petitions during the year 2019 (2020/2044(INI)).

⁵⁶ Idem.

⁵⁷ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

⁵⁸ Committee on Petitions Guidelines, December 2015 – Update January 2018 - PE575.044v06-00.

⁵⁹ Committee on Petitions, Report on the deliberations of the Committee on Petitions during the year 2019 (2020/2044(INI)).

⁶⁰ Regulation (EU) 2019/1111 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction

It has to be highlighted that the new legislative act does not refer to a petition in its recitals, despite the fact that there is a link with them.

Furthermore, Commission President von der Leyen has committed to respond with a legislative act to resolutions of Parliament based on Article 225 TFEU, with a view to giving Parliament a stronger role in initiating EU legislation. While there are no examples yet of Parliament's resolutions during the current term based on Article 225 that have triggered a response by the Commission proposing a legislative act, other European Parliament resolutions, not based on Article 225, might be closely linked to issues raised by petitions and could indeed serve as basis for the Commission to act⁶¹. One of these, is the resolution of 5 July 2018 on the adverse effects of the US Foreign Account Tax Compliance Act on EU citizens requests the adoption of appropriate measures that ensure the protection of the rights and interests of EU citizens in relation to the US Foreign Account Tax Compliance Act (FAFTCA)⁶². In addition, the motion for a resolution pursuant to Rule 227(2) on waste management, adopted on 21 March 2019 by the Committee on Petitions and on 4 April 2019 in plenary⁶³ reiterates its call on the Commission to use the full potential of the early warning system as laid down in the revised waste directives. It also highlights the need for the EU to prioritise the development of a proper waste management and prevention policy and for Member States to improve the implementation of waste legislation.

Equally, the Commission may initiate a dialogue with the Member States concerned which may lead to **EU Pilot investigations** (only rather exceptionally, according to the Commission Communication)⁶⁴ or initiate an **infringement procedure** that may eventually end up before the CJEU (Section 4.2).

The **Framework Agreement** on relations between the European Parliament and the European Commission (inter-institutional agreement) from 2011, as amended in 2018⁶⁵, was adopted to set the framework for the relations between both EU Institutions after the entry into force of the Lisbon Treaty. The **Inter-institutional agreement on Better Law-Making** between the European Parliament, the Council of the European Union and the European Commission, which was adopted and entered into force in 2016, marks a significant step forward in the culture of better regulation, including enforcement of EU law⁶⁶. It recognises their joint responsibility in delivering high-quality Union legislation and the importance of more structured cooperation between them to assess the application of existing legislation.

While neither of these documents specifically mention petitions, they both refer to the Institutions' shared role in ensuring an effective transposition and implementation of Union law. This is relevant as petitions are related to matters which come within the European Union's fields of activity and which affect the petitioner directly, including ensuring implementation of EU law. Specifically, the Framework

⁶¹ Idem.

⁶² European Parliament resolution of 5 July 2018 on the adverse effects of the US Foreign Account Tax Compliance Act (FATCA) on EU citizens and in particular 'accidental Americans' (2018/2646(RSP)) - OJ C 118, 8.4.2020, p. 141.

⁶³ Texts adopted, P8_TA(2019)0338.

⁶⁴ Communication from the Commission — EU law: Better results through better application C/2016/8600, OJ C 18, 19.1.2017 which states: '...EU Pilot, was set up to quickly resolve potential breaches of EU law at an early stage in appropriate cases. It is not intended to add a lengthy step to the infringement process, which in itself is a means to enter into a problem-solving dialogue with a Member State Therefore, the Commission will launch infringement procedures without relying on the EU Pilot problem-solving mechanism, unless recourse to EU Pilot is seen as useful in a given case.'

⁶⁵ Framework Agreement on relations between the European Parliament and the European Commission, OJ L 304/47 of 20 November 2011, as amended by Agreement between the European Parliament and the European Commission amending point 4 of the Framework Agreement on relations between the European Parliament and the European Commission, OJ L 45 of 17 February 2018, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02010Q1120%2801%29-20180207>.

⁶⁶ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123 of 12.5.2016, p. 1

Agreement requires the Commission to provide information within three months on actions taken in response to requests addressed to it in Parliament's resolutions⁶⁷.

The **2016 Communication 'Better Regulation: Delivering better results for a stronger Union'**, highlights that promoting more effective application, implementation and enforcement of EU law is a priority for the Commission⁶⁸. The **2017 Communication on 'EU law: Better results through better application'**⁶⁹ recognises the equivalent importance of ensuring the effective enforcement of existing EU law and of developing new legislation.

It is recognised that petitions represent an extra guarantee for EU citizens and residents compared to complaints made directly to the Commission, as the Parliament is involved in the process, which allows for better scrutiny of the facts and provides for transparent debates on the matter in the presence of the petitioners, Members of the European Parliament and the Commission⁷⁰.

The Committee on Petitions has called on the responsibility of the Commission (and the authorities of the Member States) to cooperate with the Committee on Petitions to ensure the fulfilment of this citizens' right, especially when it comes to providing proper feedback and information, insisting that this cooperation is essential to address petitioners' needs and concerns in line with the Treaties and the Charter of Fundamental Rights⁷¹.

Within this framework **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 petitions⁷². This statement defined the priorities of the Commission within the framework of a 'special partnership' with the European Parliament, giving shape to the missions entrusted by Commission President Von der Leyen, and builds upon several prior communications. The commitment included the following:

- Strengthening the special partnership with the European Parliament: he pledged his priority would be to take the cooperation a step further into a special partnership based on trust amongst ourselves, as well as with our citizens. In particular, he committed to promote a partnership between both Institutions that goes beyond the legislative domain to cover the whole political cycle.
- A pledge to improve the Commission's handling of petitions: he committed to look out for topics addressed by large numbers of petitions, to take into account the citizens' input related to breaches of EU law and, where appropriate, to act upon them working closely with the Committee on Petitions throughout the year.

⁶⁷ Framework Agreement on relations between the European Parliament and the European Commission, p. 47–62, point 16.

⁶⁸ Communication 'Better Regulation: Delivering better results for a stronger Union', COM(2016) 615 final, 14 September 2016, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016DC0615>.

⁶⁹ Communication from the Commission: EU law: Better results through better application, 2017/C 18/02, OJ C 18/02, 19 January 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017XC0119%2801%29>

⁷⁰ European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions' deliberations during 2018 (2018/2280(INI)) P8_TA(2019)0114.

⁷¹ Point 1 of the European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions' deliberations during 2018 (2018/2280(INI)) P8_TA(2019)0114.

⁷² European Parliament 2019, 'Commitments made at the hearing of Maroš ŠEFČOVIČ, Vice-President-designate - Interinstitutional Relations and Foresight', briefing, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/621918/IPOL_BRI\(2019\)621918_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/621918/IPOL_BRI(2019)621918_EN.pdf).

- He committed to attend its presentation of the annual report and encourage other Commissioners to participate personally in the discussions about the solutions to remedy concerns expressed in a significant number of petitions.
- Timely responses from the Commission: he committed to ensure that the Commission will provide a good and timely (within three months) answer when the EP sends a request for opinion on petitions and promote the Commissioners' presence in the Committee meetings, on the condition that the Parliament selects and only sends requests for which the Commission can do something.

The EP insists on the need for the Council and the Commission representatives of the highest possible rank to be present at meetings and hearings of the Committee on Petitions where the content of the issues discussed requires the involvement of the aforementioned institutions and to engage in a proper dialogue with the petitioners and not limit themselves to reading the answer already established and sent out prior to the meeting⁷³.

A year later, the circumstances of the COVID-19 crisis, make it very difficult to determine if these pledges have become reality. When the Cabinet of Vice-President Šefčovič was approached, it confirmed the intention to put those commitments into practice by sending high-ranking Commission officials with expert knowledge to meetings of the Committee, in order to address the issues raised by "politically significant" petitions, in particular Directors-General or Deputy Directors-General. It also confirmed that the Commission intends to strengthen added value to individual petitions.

Timely answers to EP requests

The European Commission systematically responds to all requests from the Parliament and, in practice, ensures an excellent response rate to the requests for opinion on petitions⁷⁴, respecting the three-month period to respond⁷⁵. However, the Committee on petitions observed in 2018 that the Commission does not always provide in-depth and specific information to the Committee and the petitioners⁷⁶. Furthermore, the European Parliament has regretted that a certain number of replies were formal and superficial in addressing in practice the issues of the petitioner(s)⁷⁷, in particular in the field of environmental law, where a proactive attitude as guardian of the treaties is called for⁷⁸.

⁷³ European Parliament resolution of 14 December 2017 on the deliberations of the Committee on Petitions during the year 2016 (2017/2222(INI)).

⁷⁴ The European Commission report on the implementation of EU law in 2019, published in July 2020 states that: The Commission systematically ensures follow-up to the petitions received. However, not all petitions lead to investigations about breaches of EU law, because either no EU laws were breached or the Commission had no power to act. In many cases, the situation presented in a petition is already being investigated by the Commission through EU Pilot or a formal infringement procedure.

⁷⁵ Framework Agreement on relations between the European Parliament and the European Commission, at: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010Q1120\(01\)-20180207](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02010Q1120(01)-20180207).

⁷⁶ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)) Point 4 states: '...notes once again that numerous petitions have received superficial replies from the Commission'.

⁷⁷ European Parliament, Motion for a European Parliament Resolution on the deliberations of the Committee on Petitions during the year 2017, 2018/2104(INI).

⁷⁸ European Parliament, Report under Rule 216 (7) on the deliberations of the Committee on Petitions during the year 2016, 2017/2222(INI).

Quality answers to EP requests: Petitions on an EU field of activity vs competence to take action on issues raised by petitions

The 2015 study for the Committee on petitions on the right to petition⁷⁹ defines three criteria to measure the level of coordination between Parliaments and Executives at EU or national level needed to ensure the effectiveness of a petition system, as follows:

- the number of petitions sent to the executive,
- the response rate of the executive, and
- the timeframe in which the executive responds.

However, in this study it is considered that cooperation between the Committee on Petitions and the European Commission on the handling of petitions should go beyond the criteria of frequency, response rate and restricted timeframe for replies. It is estimated that in addition to those criteria for measuring the effectiveness of a petition system, other **qualitative criteria** should be used such as the proportion of petitions solved through input from the Commission, the percentage of petitions that have led to action such as an infringement or an investigation e.g. EU Pilot and how the system takes note of those actions in a systematic way.

These qualitative criteria are already used in practice, as the Committee on Petitions has called on the European institutions, including the European Commission, to adequately staff the services in charge of handling petitions, in order to be able to provide **qualitative** and timely responses⁸⁰.

While the cooperation with the Commission, through its Secretariat-General, is considered good by the Committee on Petitions, challenges are raised in terms of the **quality** of the responses, including the tendency for the Commission to consider itself not **competent** to take action on the issue raised by the petition⁸¹.

The petitioners submitting petitions have the right to receive a substantial reply and information on the decision taken and to have their issue addressed fully and within a reasonable period of time⁸². That should include information on the specific action taken or a commitment to take one, or a substantive declaration on the reasons why the petition will not lead to action from the executive. Information of the executive body on policies, applicable law, its implementation and the impacts on the case at stake are important for petitioners and to other EU citizens, beyond the monitoring of the application of EU law⁸³.

The application of these criteria shows a system that could potentially ensure a good coordination but certain aspects remain in the way, due to the quality of the responses.

It is worth noting that the commitment of Vice-President Šefčovič to provide **timely replies** to requests for information from the Committee is **conditional upon a strict selection** from the Committee to send only petitions, for which the Commission **“can do something, and is responsible for”**. It remains uncertain whether this limitation encompasses only the petitions for which the Commission can act in its duties as guardian of the treaties, in particular petitions related to competences that are conferred

⁷⁹ Study for the PETI Committee – The right to petition – IPOL_STU(2015)519.223 [2015], page 36.

⁸⁰ European Parliament resolution, 14 December 2017 on the deliberations of the Committee on Petitions during 2016 (2017/2222(INI)).

⁸¹ Report on the deliberations of the Committee on Petitions during 2017 (2018/2104(INI)) and Report on the outcome of the Committee on Petitions' deliberations during 2019, November 2020 (2020/2044(INI)).

⁸² European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions' deliberations during 2018 (2018/2280(INI)) P8_TA(2019)0114.

⁸³ Heezen and Marzocchi (2019), Achievements of the Committee on Petitions during the 2014-2019 parliamentary term and challenges for the future, p. 37.

upon the EU, or also to situations where the Commission could give its guidance beyond legislative competence.

In relation to the Commission tendency to consider that it **lacks competence** to take action in response to certain petitions, there seems to be a difference in terminology affecting the effectiveness to deal with petitions. While 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, the Commission seems to consider that under Article 17 TEU the Commission's justification to act is limited to those issues related to the application of the Treaties, and of measures adopted by the institutions pursuant to the competence conferred to them by the Treaties. 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 (exclusive under Article 3 TFEU or shared competence under Article 4 TFEU) and, therefore, could act by amending or proposing a legislative act.

However, the Union's fields of activities include policies where the EU has competence to 'support, coordinate or supplement' Member States' actions. The Commission has expressed its understanding that petitions on those policy areas should not be sent for opinion to the EC in order to enable it carry out a more in-depth analysis of petitions where the Commission can give added value to the petitioners⁸⁴. On the other side, the EP considers that in those areas, as well as on the areas of shared and exclusive competence, the Commission can provide not only action but also advice and guidance. As we see later, this situation is aggravated with the Commission approach to decide, under its discretionary power, not to take legal action in situations which do not respond to structural problems within the country and which concern individual events.

A qualitative response from the European Commission to petitions could mean taking EU action. Looking at the data of the latest Commission report on the implementation of EU law, the number of petitions on the main EU policies that have led to action such as an infringement or an investigation is as follows:

- With regard to the environment, the Commission received 58 petitions in 2019 but no investigations or infringements were started as a result. This was often because a number of petitions raised individual grievances of incorrect application, which are no longer pursued as a matter of priority by the Commission⁸⁵.
- In the areas of financial services and the Capital Markets Union, the Commission received 5 petitions concerning the implementation and application of EU law. Of these, the subject matter of 1 petition is being dealt with by the Commission in the context of complaints about a possible breach of EU law. This relates to the free movement of capital⁸⁶.
- On internal market, the Commission received 33 new petitions in 2019 but no follow up action through an infringement procedure was taken. The issues raised were not considered by the Commission as a systemic and serious breach of the Union law falling under the criteria of the Commission's infringement priorities. However, it raised the issue for discussion with the Member States at the working groups and is considering a White paper on some other issues⁸⁷.

⁸⁴ Interview to Commission services, November 2020.

⁸⁵ European Commission report on the implementation of EU law in 2019, published in July 2020 at https://ec.europa.eu/info/sites/info/files/file_import/report-2019-commission-staff-working-document-monitoring-application-eu-law-general-statistical-overview-part1_en.pdf.

⁸⁶ Idem.

⁸⁷ Idem.

- In the area of maritime affairs and fisheries, the Commission received 2 petitions, but they related to issues already covered by ongoing investigations⁸⁸.
- In the area of migration and home affairs, the Commission received 19 petitions and launched 1 investigation as a follow up to a petition from the European Parliament concerning the incorrect implementation of the Directive on combating the sexual abuse and sexual exploitation of children and child pornography⁸⁹.
- In the customs and taxation field, the Commission received 27 petitions concerning the implementation and application of EU law. No follow up action was taken as the petitions concerned cases already opened by the Commission⁹⁰.

Quality of answers: Individual petitions

Petitions do not seem to have a great impact on the Commission actions to deal with infringements of EU law. The case of **individual petitions** is of particular relevance.

According to DG ENV, two thirds of petitions received are individual petitions related to a specific issue or in a specific locality⁹¹. They are responded to by the relevant thematic legal units in DG ENV in accordance with the Communication of January 2017⁹² which stated that the priorities to deal with infringements would be those cases reflecting structural problems at national level. Individual petitions do not typically fall under this category and are not considered for Commission action through infringements. Yet, one could argue that **some individual petitions might raise issues that are shared by other citizens and would require a common approach**. In addition, the fact of 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 problems⁹³. A more detailed description of the EU enforcement policy criteria is further developed in section 4.1.1 below.

The other third of petitions received by DG ENV concern wider petitions on policy areas reflecting more structural problems and are handled by the relevant policy units of DG ENV⁹⁴. In those cases, some overlap might be found with the system of complaints to the European Commission leading to infringement cases, as petitioners may also write a complaint to the Commission.

The **link between how the Commission handles petitions and the initiation of infringements** is not properly recorded or defined and information about the number of petitions 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. Neither the Commission's infringements database nor the Commission's petitions' IT tool, include a feature to recognise that link⁹⁵. The same applies to the link between petitions and other measures such as existing legislative acts, Commission communications, etc.

Handling of petitions

⁸⁸ Idem.

⁸⁹ Idem.

⁹⁰ Idem.

⁹¹ Interview to Commission services, November 2020.

⁹² Commission Communication, 'EU law: Better results through better application' (2017/C 18/02), 19.1.2017.

⁹³ Deliberations of the Committee on Petitions 2017 European Parliament resolution of 13 December 2018 on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)) and own consultants development.

⁹⁴ Interview to Commission services, November 2020.

⁹⁵ Idem.

While it is confirmed that the relevant services of both institutions have developed a well-established working relation over the years⁹⁶ with a consistently maintained good level of cooperation and that the Commission has stepped up its efforts to provide timely responses, the Committee on Petitions of the European Parliament continues to call the Commission to improve the handling of petitions⁹⁷. As seen in the previous section, while the Commission tends to respond to the Committee's requests in three months, the handling of petitions could be improved; for example the Commission's IT tool for petitions does not allow information to be collected on the actions or infringements linked to petitions nor to sort them per issue to better understand where citizen's concerns lie.

The Commission's petitions' IT tool or database managed by SEC GEN aims to collect information on petitions received and coordinate the Commission response. However, it does not enable the data to be sorted by legislative act or by environmental thematic area. As the current tool is more than 10 years old, the Commission is developing a new tool which will provide improved statistics and while limited by budgetary constraints, some ideas of features could still be introduced (e.g. more information on policy areas, link with infringements).

The European Parliament databases on petitions, either the one linked to the WebPortal or the e-petitions database, do not include a feature that enables it to link petitions with Commission infringement. However, summaries or information on the Commission response on a specific petition or on other bodies' contributions to the requests by the Committee are included in the meeting documents accessible to the public but this information is not provided in the WebPortal were petitions can be searched⁹⁸. The Secretariat of the Committee on Petitions has confirmed that the internal e-petitions database (which provides information accessible to MEPs members of the PETI Committee and the Secretariat but not to the public) systematically collects all replies from the Commission and other EU Institutions or national authorities where relevant as well as correspondence with petitioners.

Framing the Commission's role to deal with petitions

The Commission pledges and commitments show the willingness of the European Commission to seriously take into consideration citizens' petitions. While the commitments to participate actively in the handling of citizens' petitions will need to be observed in the long run, it is important to note that the intentions expressed do not bind the European Commission to take any specific action, contrary to a binding agreement in written form by the two institutions. The European Commission and the Committee on Petition might want to consider this option to frame their relationship regarding the handling of petitions.

The European Parliament insists that the Commission should 'identify the means of enhancing cooperation with Member States' authorities when it comes to responding to inquiries regarding the implementation of, and compliance with, EU law'.⁹⁹ However, the European Parliament has complained that the Commission's practice of referring a significant number of petitioners to other bodies at national, regional or local level and has put into question the compatibility of this approach with the Commission's enforcement responsibility¹⁰⁰.

⁹⁶ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)) and Report on the outcome of the Committee on Petitions' deliberations during the year 2019, November 2020 (2020/2044(INI)).

⁹⁷ Report on the outcome of the Committee on Petitions' deliberations during 2019 (2020/2044(INI)).

⁹⁸ <https://www.europarl.europa.eu/petitions/en/home> or <https://www.europarl.europa.eu/petitions/en/show-petitions>

⁹⁹ *Idem*.

¹⁰⁰ Committee on Petitions, Report on the deliberations of the Committee on Petitions during the year 2019 (2020/2044(INI)) p. 26.

A better integration of petitions in the development of other policies could start with the recognition of the role of petitions in key strategic papers. For example, the European Commission's work programme for 2020 includes the adoption of a European Democracy Action Plan for the end of 2020 with a specific action on Fundamental rights¹⁰¹ which announced the adoption of a non-legislative 'New strategy for the Implementation of the Charter of Fundamental Rights'. The Strategy to strengthen the application of the Charter was adopted in December 2020¹⁰². All these initiatives could move petitions up in the Commission's agenda and improve the implementation of the fundamental right of EU citizens and residents to address petitions to the European Parliament.

Participation in Committee meetings

The European Commission is systematically invited to participate in Committee meetings where petitions for which the Commission has provided input are discussed¹⁰³.

The Cabinet of Commissionaire Šefčovič shared, within the frame of this study, its willingness to explore alternative channels of discussion, such as ad-hoc meetings on subject-matters, collaborative work at a preparatory level within the Committee and a job shadowing exercise to reinforce collaboration.

The Commission services also confirmed to the project team its willingness to continue participating in Committee meetings with the petitioners, to better explain the policies undertaken and their background to EU citizens¹⁰⁴. The Committee report on deliberations in 2016 urged the Commission officials to be ready to engage in a proper dialogue with the petitioners and not limit themselves to reading the answer already established and sent out prior to the meeting¹⁰⁵.

While it is recognised that the Commission participates systematically to the Committee meetings where petitions requiring the Commission opinion are discussed, some officials expressed frustration in relation to their ability to properly answer petitioners' concerns¹⁰⁶. They claimed that officials are only granted speech for a few minutes to present the answer prepared on the petitions and are rarely given the opportunity to respond to follow-up questions during the meeting by petitioners or MEPs. This trend limits the possibility to benefit from the Commission expertise to respond to petitioners' questions or issues raised during the meeting and that might have not been addressed in the first intervention. It prevents the Committee from fully taking the possibilities offered by the EC's presence and get the Commission to respond more clearly to petitioners' requests. However, officials from the Committee on Petitions clarified that Commission officials are given the floor when questions or comments concerned the Commission directly. The issue might be on the understanding of Commission's direct concern and whether officials are given the floor when they request it to enable a more clear and effective response to petitioners' requests. Furthermore, some officials also expressed concern regarding the low number of MEPs attending some of the Committee meetings¹⁰⁷.

¹⁰¹ Annexes to Commission Communication "Adjusted Commission Work Programme 2020", COM(2020) 440 final, 27 May 2020, Actions 38 and 41, https://eur-lex.europa.eu/resource.html?uri=cellar%3Af1ebd6bf-a0d3-11ea-9d2d-01aa75ed71a1.0006.02/DOC_2&format=PDF.

¹⁰² Commission Communication, Strategy to strengthen the application of the Charter of Fundamental Rights in the EU, COM (2020) 711 final.

¹⁰³ Committee on Petitions Guidelines, December 2015 updated in January 2018, PE575.044v06-00, p.11.

¹⁰⁴ Information shared from Cabinet of Šefčovič within the framework of this study.

¹⁰⁵ European Parliament resolution, 14 December 2017 on the deliberations of the Committee on Petitions during 2016 (2017/2222(INI)).

¹⁰⁶ Interview to Commission services, November 2020.

¹⁰⁷ Interview to Commission services, November 2020.

The fruitful collaboration of the institutions is of prime importance in addressing the petitioners' concerns about their rights under EU law or in addressing cases where EU law is not enforced. In this sense, the Commission expressed its recognition to the close cooperation with the European Parliament on structured dialogues in public hearings, where issues raised in petitions with a common relevance are addressed together, are a useful platform for exchanges¹⁰⁸. For example, the public hearing on Climate Change Denial held on 21 March 2019 by the Committee on Petitions held a joint public hearing and the Committee on Environment, Public Health and Food Safety based on the petition No 0900/2016, against a multinational oil company for its alleged climate change denial highlighted the leading role of the EU on the global stage in the climate change debate and stressed the need for swift action on this matter¹⁰⁹.

Other successful initiatives have been mentioned such as the cooperation with national petition committees on issues of common concern such as the initiative of the European Parliament to invite Petitions Committee of the German Bundestag to the committee meeting of 9 October 2018, as already mentioned in the section above, to raise issues of common interest and to discuss relevant petitions or the Inter-parliamentary Committee Meeting with National Parliaments of 27 November 2018, organised together with the Committee on Legal Affairs and in cooperation with the European Network of Ombudsmen, which addressed the topic of the implementation and application of Union law; and, in particular, the role of petitions to parliaments in this regard¹¹⁰.

Finally, another recognised area of collaboration between the Commission and the Committee on Petition lies in the Conference on the Future of Europe¹¹¹. Commissioner Maroš Šefčovič referred to his commitment to work in close cooperation with the European Parliament, and he initially agreed that the European Parliament and its Members would lead the conference¹¹², before a joint governance by the presidents of the three Institutions was pushed for by the Council in February 2021¹¹³.

3.4. Cooperation between the Committee on Petitions and other committees of the European Parliament

Petitions can be sent to other committees in the European Parliament for either information or for opinion. This is a way for the Committee on Petitions to involve other committees in the democratic process of taking account of citizens' concerns through petitions, giving these concerns a wider circulation in the Parliament and benefitting from the thematic expertise of the committee in question.

Petitions sent for opinion require the receiving committee to send a reply to the committee in question. Whilst the other committee is not obliged to do this by any written procedure, it is expected that a response will be given within around three months of receiving the petition, in consistency with the deadlines indicated in the Guidelines of the Committee on Petitions in relation to the replies from the Commission, other EU Institutions, agencies and bodies or Member States¹¹⁴. When a petition is sent for

¹⁰⁸ Idem.

¹⁰⁹ Report on the outcome of the Committee on Petitions' deliberations during 2019, (2020/2044(INI)), 23.11.2020.

¹¹⁰ Interview to Commission services, November 2020 and European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions' deliberations during 2018 (2018/2280(INI)).

¹¹¹ Interview to Commission services, November 2020.

¹¹² European Parliament 2019, 'Commitments made at the hearing of Maroš ŠEFČOVIČ, Vice-President-designate - Interinstitutional Relations and Foresight', briefing.

¹¹³ Council of the European Union, Note from the General Secretariat of the Council to Delegations on the Conference on the Future of Europe – revised Council position, 3 February 2021, 5911/21.

¹¹⁴ Committee on Petitions Guidelines, December 2015 updated in January 2018, PE575.044v06-00, p.11.

information, it is not expected that the receiving committee will reply to the Committee on Petitions concerning the petition.

Cooperation between the Committee on Petitions and other committees in the Parliament is organised through **the Petitions Network**. This is an informal group with one MEP representative and one administrator representative from each concerned committee of the Parliament. The aim of the Network is to facilitate cooperation when dealing with citizens' concerns, by putting in place shared procedures for receiving and addressing petitions and providing a direct contact point for the Committee on Petitions in each of the other committees of the Parliament.

Most committees now have an internal procedure to deal with petitions. This normally involves the Petitions Network-nominated administrator receiving the petition, sending it to the committee's MEP who is a member of the Petitions Network for review, and then passing it to the Coordinators of the committee for review during the Coordinators' Meeting. Petitions sent for information will generally not go further than the Coordinators' Meeting. Petitions for opinion may be circulated to MEPs working on the topic, who may contribute to the response given to the Committee on Petitions. Some Committees may also mention petitions sent for opinion during Committee meetings, although this does not appear to be widespread.

The Petitions Network also organises meetings with MEPs in the Network on an annual or bi-annual basis, where impacts of petitions on other committees' work might be discussed. Separate meetings also occur at a staff level, which act as a forum where procedural difficulties are resolved and suggestions are made for improving cooperation.

Petitions can have numerous impacts on the activities of the European Parliament. They include the organisation of workshops or hearings by other committees on subjects related to a petition, sometimes in collaboration with the Committee on Petitions.

For example, on 21 March 2019, the Committee on Petitions held **a joint public hearing** with the Committee on Environment, Public Health and Food Safety on Climate Change Denial. The Hearing was based on petition No 0900/2016, introduced on behalf of Food & Water Europe with 732 signatures of petitioners from all over the EU calling for action against a multinational oil company for its alleged climate change denial. The hearing aimed to explore the topic of climate change denial under different perspectives and to examine the communication techniques used in politics or by private companies and other actors in society to mislead the public on the negative impact of certain industrial activities or policies on the climate.

In December 2019, the ENVI and PETI Committees organised jointly, and with the association of AGRI, a hearing on the revaluation of the wolf population in the EU. While the wolf is considered an endangered species in Europe, its population is now recovering in many areas of the continent. This hearing was linked to Petition 0984/2016 by Samuel Martin Sosa (Spanish), on behalf of "Ecologistas en Acción", and Petition 0426/2018 by Stanislav Bergant (Slovenian), on behalf of Organic Farmers Association and 50 other NGOs.

On 29 October 2020, a hearing on Union Citizenship was organised jointly by four Committees of the European Parliament (JURI, LIBE, AFCE and PETI Committees) and the European Commission. While the hearing was not linked to specific petitions, it pursued the objective to raise awareness of Union Citizenship rights, making sure that EU citizens can effectively exercise them, including the right to petition as a contribution to the EU's legislative work. It counted with the participation of the office of the European Ombudsman and representatives from various NGOs. These examples are not meant to be exhaustive but to show the type of impact that petitions could lead to. Petitions may also lead to the adoption of own-initiative reports and resolutions of the Parliament. There have also been shared fact-

finding missions, such as the one to the Taranto powerplant in Italy between the Committee on Petitions and the Committee on the Environment, Public Health and Food Safety.

3.5. Cooperation of the Committee on Petitions with other EU Institutions and bodies

The Committee on Petitions of the European Parliament, may send requests to other institutions and bodies of the European Union, as well as to the Member States' authorities where appropriate which is described in the Committee on Petitions Guidelines¹¹⁵.

- **Relations with the Council of the European Union**

The Committee on Petitions may send requests for opinions to the Council of the European Union via the President of the EP (rule 227(6) of the EP's Rules of Procedure). However, the participation of the Members of the Council's Secretariat or the Council representatives to the meetings of the Committee on Petitions has been very limited over the last years. In this respect, the Committee considers that a more active cooperation with Member States would be necessary to unblock those petitions requiring prompt responses and reactions from the national authorities¹¹⁶.

- **Relations with Member States' authorities, including permanent representations and consular authorities**

The Committee on Petitions may send requests for opinions to Member States' authorities via the President of the European Parliament (rule 227(6) of the EP's Rules of Procedure). While the Committee has expressed the need to strengthen relations with the Member States to solve some petitions quicker, it also acknowledges the efforts by some Member States to actively contribute to the discussion on respective petitions in committee meetings, for example the participation of the Permanent Representation of Bulgaria in the discussion on petition No 0527/2018 on the impact of Struma motorway on Kresna Gorge and the region in Bulgaria at the committee meeting on 2 December 2019¹¹⁷.

- **Relations with National Parliaments**

The inter-institutional relations between the European Parliament and national parliaments are regulated by Articles 9 and 10 of Protocol No 1 to the TFEU on the role of national parliaments in the EU within the frame of the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union.

Upon an invitation from the Committee on Petitions, some national parliaments take part in deliberations of the committee, as observers. For example, the Committee on Petitions held a Committee meeting in October 2018 with representatives of the Petitions Committee of the German Bundestag and discussed issues of common interest and relevant petitions. It also held the Inter-parliamentary Committee Meeting with National Parliaments on 27 November 2018 to discuss the role of petitions to parliaments.

¹¹⁵ Guidelines Committee on Petitions, December 2015, update on January 2018, PE575.044v05-00.

¹¹⁶ Report on the outcome of the Committee on Petitions' deliberations during 2019 (2020/2044(INI)), 23.11.2020.

¹¹⁷ Report on the outcome of the Committee on Petitions' deliberations during 2019 (2020/2044(INI)), 23.11.2020.

- **Relations with the European Ombudsman**

The Committee on Petitions of the European Parliament is responsible for the relations with the European Ombudsman, pursuant to rules 231 to 233 of the European Parliament's Rules of Procedure. In that context, the Committee is responsible for organising the nomination of the European Ombudsman and may require the organisation of hearings of the candidates nominated by MEPs. Once the European Ombudsman is appointed, the Committee on Petitions is responsible for receiving the notifications of cases of maladministration detected by the European Ombudsman and reviewing the Ombudsman's annual report. The Committee is part of the European Network of Ombudsmen, which allows for the redirection of complaints relating to maladministration by the authorities of a Member State to the competent national or regional ombudsman.

The Committee on Petitions has confirmed the very good working relations that it holds with the office of the European Ombudsman. In 2019, the Ombudsman, Emily O'Reilly, appeared before the Committee on Petitions on several occasions. For example, the European Ombudsman also gave a keynote speech on Achievements and Challenges for EU institutions at the Workshop on 'Conflicts of Interest - Integrity, Accountability and Transparency in the EU institutions and agencies', which took place in the committee meeting on 2 April 2019¹¹⁸.

- **Relations with other Agencies of the European Union**

The MEPs may send requests to EU agencies on matters related to the field of activity of the agency, via the President of the European Parliament, pursuant to rule 147 of the EP's Rules of Procedure.

¹¹⁸ Idem.

4. INTER-INSTITUTIONAL RELATIONS IN ENSURING IMPLEMENTATION OF EU ENVIRONMENTAL LAW

The Committee on Petitions is the recipient of European citizens or residents' petitions. It is responsible for ensuring that proper action is taken by the relevant actor in the EU legal and institutional framework when an issue relating to the implementation of EU law is concerned. The main interlocutor of the Committee for that purpose is the European Commission, which may use the infringement procedure tool to enforce EU law. Further, the petitions system' and the inter-institutional relationships of the Committee on Petitions with other institutions and bodies of the EU, or with Member States, can be powerful alternatives to provide a voice to EU citizens.

4.1. Enforcement of EU Law: Spotlight on EU environmental law

The European Union is founded on the rule of law and relies on law to ensure that its policies and priorities are realised in the Member States (Article 2, TEU). The effective application, implementation and enforcement of the law is a responsibility entrusted to the Commission by Article 17(1) of the Treaty on European Union¹¹⁹. The European Commission promotes the general interest of the Union, ensures the application of the Treaties, and of measures adopted by the institutions pursuant to them. It is also responsible for overseeing the application of Union law including, where pertinent, the rulings of the Court of Justice of the European Union¹²⁰. Infringement cases can be initiated on the basis of information/complaints from citizens or organisations, on the Commission's own initiative, or through potential infringements raised in petitions transferred from the European Parliament to the Commission.

Petitions can play a significant role in the identification of breaches of EU law considering that they are based on first-hand and local information reported by citizens. The Commission remains the natural partner of the Committee on Petitions in processing petitions as the responsible EU institution for ensuring the application of EU law. It can be confirmed that the relevant services of both institutions have established good working relations in recent years¹²¹.

The implementation of EU environmental law is one of the policy areas where a higher number of petitions are received by the European Parliament and therefore, a key focus for the work of the Committee on Petitions as well as for the European Commission, in their responsibility to ensure the respect of EU law¹²². Similarly, the implementation of environmental policy has been for several years the area most affected by infringement procedures.

4.1.1. Commission enforcement policy: the case of individual petitions

The enforcement measures undertaken by the European Commission are based on Article 258 TFEU which is the legal basis under the Treaties enabling the Commission to exercise its role as guardian of the Treaties by initiating an **infringement procedure** against one or several Member States. This provision recognises the Commission's power to deliver a reasoned opinion if it considers that a Member State has failed to fulfil an obligation under the Treaties, and after giving the State concerned the

¹¹⁹ Commission Communication, 'EU law: Better results through better application' (2017/C 18/02), 19.1.2017

¹²⁰ Art. 17(1) TEU and Art. 258 TFEU and Art 260 TFEU.

¹²¹ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)) and Report on the outcome of the Committee on Petitions' deliberations during 2019 (2020/2044(INI)), 23.11.2020.

¹²² The Committee on Petitions report on the outcome of the Committee on Petitions' deliberations during 2019, (2020/2044(INI)) states that from the tables it can be concluded that the main areas of concern for petitioners in 2019 and 2018 were environment, fundamental rights and justice.

opportunity to submit its observations. This Article has led to the establishment of two main phases of the infringement procedure: **the Letter of Formal Notice**, where the Commission requests the Member State to submit its observations in relation to certain facts and legal arguments regarding a presumed breach of EU law, and **the Reasoned Opinion**, where the Commission argues that the Member State has failed to comply with EU law and requests it to correct the situation.

To improve implementation and reduce the recourse to infringement procedures, in 2009 the Commission developed **the EU Pilot**¹²³ which constituted a pre-infringement phase prior to the Letter of Formal Notice initiated with the aim of seeking for a quicker solution. However, the Commission recognised that it was adding another layer to the existing bilateral dialogue between the Commission and EU Member States based on the Letter of Formal Notice and decided, as explained in the 2017 Commission Communication¹²⁴, not to initiate EU Pilot cases unless recourse to it is seen as useful on a case-by-case basis.

The Commission opened 190 new EU Pilot files in 2019 which implies an increase in relation to the 110 new EU Pilot cases in 2018 and 178 cases in 2017. However, it has handled 244 EU Pilot files in 2019 reducing the number of cases from those in 2018 which amounted to 397, 512 in 2017 and 875 in 2016¹²⁵. The percentage of EU Pilots used for **environmental issues** has also seen a sharp decrease from 151 new cases in 2016 to 63 in 2017, 21 in 2018 and 22 in 2019¹²⁶ even if most EU Pilot files which led to formal infringement procedures concerned the policy area of environment.

The 2017 Communication (Better results through better application) does not refer specifically to petitions but clarifies its strategy to promote compliance and ensure enforcement of EU law announcing that it will disregard petitions where:

- no EU law is being breached,
- the Commission has no power to act,
- the case is already being investigated through EU pilot or infringement procedures, or in
- individual grievances of incorrect application¹²⁷.

The 2017 Communication highlights the Commission's priorities to initiate infringements such as those cases affecting implementation of important EU policy objectives, or which risk undermining the four fundamental freedoms. It will initiate cases of incorrect application raising issues of wider principle, where there is sufficient evidence of a general practice, or of a compliance problem of national legislation with EU law (transposition), or of a systematic failure to comply with EU law such as infringements that reveal systemic weaknesses which undermine the functioning of the EU's institutional framework. This applies in particular to infringements which affect the capacity of national judicial systems to contribute to the effective enforcement of EU law, for example, cases in which national law provides no effective redress procedures for a breach of EU law. However, it will not pursue those cases where preliminary ruling proceedings under Article 267 TFEU are pending on the same issue and Commission action would not significantly accelerate the resolution of the case.

¹²³ Commission Communication, "A Europe of results – Applying Community Law", COM (2007) 502 final, 5 September 2007, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52007DC0502>.

¹²⁴ Commission Communication "EU law: Better results through better application", COM 2017/C 18/02, OJ C 18/02, 19 January 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017XC0119%2801%29>.

¹²⁵ European Commission report on the implementation of EU law in 2019, published in July 2020.

¹²⁶ European Commission SWD accompanying the document Monitoring the application of EU law 2019 Annual Report. Policy Areas. July 2020 at: https://ec.europa.eu/info/sites/info/files/file_import/report-2019-commission-staff-working-document-monitoring-application-eu-law-policy-areas-part2_en.pdf.

¹²⁷ Commission Communication, 'EU law: Better results through better application' (2017/C 18/02), 19.1.2017.

In exercising its function of monitoring the application of EU law, the Commission enjoys discretionary power in deciding whether or not, and when, to initiate an infringement procedure or to refer a case to the Court of Justice. The Commission does not necessarily pursue all offences of EU law committed by Member States. It uses its power in a strategic way, in order to **focus on problems where enforcement can make a real difference** or on the most important breaches of EU law affecting the interests of its citizens and businesses. As a consequence, not all petitions referring to a potential infringement of EU law will lead to an official procedure to remedy the case. As mentioned in the previous section, petitions dealing with issues of individual concern are not considered a priority.

This also applies to petitions dealing with environmental matters. While the current Commission has set a clear focus on the environmental policies and issues for its mandate, the general rules of the EU enforcement policy exclude from its "enforcement priorities" the individual cases of incorrect application of EU law, in favour of systemic weaknesses or failure to comply with EU law¹²⁸. In those cases, the petitioner is invited to contact other authorities.

While the 2017 Commission Communication does not refer to petitions specifically, those petitions transferred by the European Parliament to the Commission about cases regarding compliance with EU law and falling under the above-mentioned priorities could potentially be dealt with by the Commission as infringements under their enforcement policy. This is of particular relevance for environmental policy where the number of petitions and the number of infringements are quite high as they tend to relate to issues of high concern for citizens.

The Committee on Petitions spotted this as a potential problem and in its 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'.

In addition, this Commission strategic decision leaves to the national courts the bulk of the responsibility to monitor possible breaches of EU legislation.

The Committee considers such an approach within the domain of environmental legislation to be particularly harmful and an 'overall inhibition from its duties of guardian of the Treaties'¹²⁹.

4.1.2. Enforcement of EU law via the infringement procedure with a focus on environmental matters

The EU infringement procedure involves several pre-litigation steps, so as to develop a dialogue with the Member State on the issues identified and creates the conditions for a non-contentious outcome. Article 258 TFEU states that if the Commission considers that a Member State has failed to fulfil an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

In terms of formal procedure, and beyond the use of the EU Pilot mechanism described above, the European Commission must first address a letter of **formal notice**, where it informs the Member State concerned about the issue that has been identified and requests further information, giving it the opportunity to submit observations. The establishment of the EU Pilot facilitated the dialogue with

¹²⁸ Commission Communication "EU law: Better results through better application", COM 2017/C 18/02, OJ C 18/02, 19 January 2017.

¹²⁹ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

Member States as it was based on an IT tool linking representatives of the Commission and the relevant national authorities. It replaced the cumbersome process of sending the letters via the national Permanent Representations. This IT system has been maintained even if the use of EU Pilot is reduced.

The second step in the formal pre-litigation procedure required by the TFEU, refers to the emission of a **reasoned opinion** to the Member State, formally acknowledging a problem of compliance with EU law and requesting the Member State to act to resolve it. In view of the absence of action of the Member State within a pre-determined timeframe, the European Commission may refer the case to the Court of Justice of the European Union.

The infringement procedure may touch upon areas of EU law where the Member States have failed to fulfil their obligations under the Treaties reflecting the areas of activity of the Union. However, certain areas of law are more prone to infringement procedures due to several reasons, such as the extent to which the EU has legislated in an area of law.

The most **infringement-prone policy areas** over the years remain generally the same. While the Commission identified that between 2011 and 2015 the policy areas with a higher number of infringement procedures opened were **environment** followed by transport and internal market or financial services and capital markets¹³⁰. In 2016, the environment issues were second highest subject to infringements. In 2017, environment was again the policy area with a higher proportion of infringement procedures open (20 %), followed by mobility and transport (16 %) and financial issues (14 %)¹³¹. At the end of 2018, the three first policy areas concerned by **open infringement procedures** were environment (19 %), mobility and transport (16 %) and internal market (11 %)¹³² and in 2019, environment remained the first (21 %), followed by Internal Market (15 %) and mobility and transport (13 %).

However, the evolution in the number of infringement procedures between 2016 and 2019 evidences a decreasing trend from the highest number of new procedures reached in 2016 (986)¹³³ (Figure 1) and the lowest number of infringements over the last years in 2018, at 644 new infringement procedures and an increase in 2019 to similar levels as in 2017. In 2019, the infringement procedures initiated by the European Commission on **environmental issues** represented 175 out of 797 procedures launched, or 22 %¹³⁴, back to normal levels after a significant decrease to 11.3 % in 2018¹³⁵.

¹³⁰ In 2015, the policy areas with the highest score of infringements by Member States were environment (20 %), transport (18 %), financial services (13 %), internal market (9 %) and migration (8 %). Similarly, in 2016 the highest number of existing infringement cases were on internal market (16 %) and environment (16 %), transport (14 %), migration and home affairs (8 %).

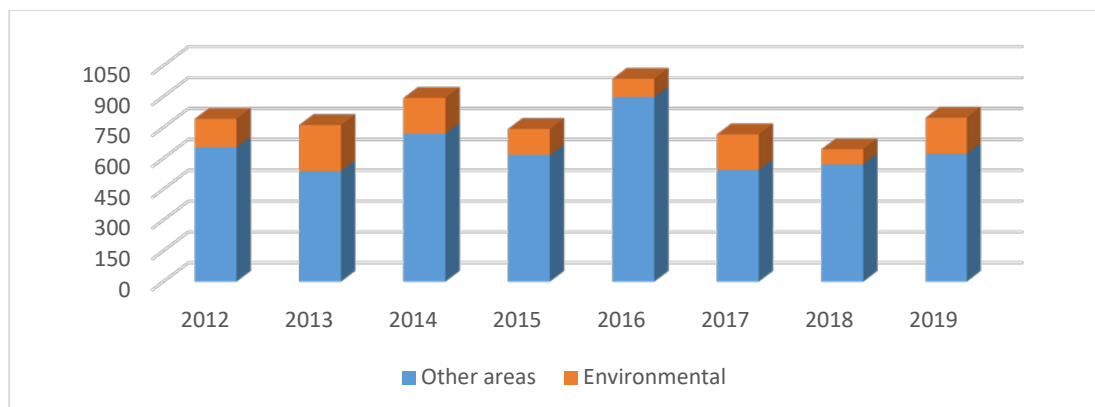
¹³¹ 2017 Annual report on monitoring the application of EU law – Part I, Commission Staff working document.

¹³² 2018 Annual report on monitoring the application of EU law – Part I, Commission staff working document.

¹³³ 2017 Annual report on monitoring the application of EU law – Part I, Commission Staff working document.

¹³⁴ EC – Monitoring the application of European Union law 2018 Annual Report.

¹³⁵ EC – Monitoring the application of European Union law 2017 Annual Report.

Figure 1: Number of infringement cases opened by the EC in other areas and the environment

Source: Own development based on 2012 to 2019 Commission reports and factsheets on monitoring the application of EU law, European Commission.

The highest number of new enforcement actions launched by the Commission through **EU Pilots in 2016** were related to the **environmental acquis** with 19 % out of the 790 new files, 35 % in 2017 and 19 % in 2018. In 2019, 22 files were related to environmental issues, showing a decrease to 12 % of the 190 files.

In terms of the **numbers of complaints**, while 10 % of the 3783 complaints registered in 2016 were related to **environmental legislation**, the percentage rose to 14 % in 2017, 9 % in 2018 and 13 % in 2019, evidencing a small increase.

Regarding **the number of infringement cases** opened in 2016 **per country**, the highest number of open infringement cases were in Spain, Germany, Belgium, Greece, Portugal, France and Poland, in 2017, the Member States most concerned with infringement procedures were Spain, Portugal, Belgium, Greece, Germany and Czech Republic, and at the end of 2018 were Spain, Germany, Belgium, Greece, Italy and Poland. In 2019, it was Cyprus (43), Greece (39), Bulgaria (39) Romania (38) and Ireland (38)¹³⁶. A correlation can be seen with the countries about which most petitions were addressed in 2018 to the Committee on Petitions: Spain, Germany, Italy, Greece and Poland¹³⁷.

The countries with the highest number of **new infringement procedures in the environmental policy** in 2017, concerned Slovenia (11), Portugal (11), Cyprus (11), Spain (10) and Greece (10), with a total of 173¹³⁸. In 2018, 73 procedures were launched, concerning primarily Sweden (6), Cyprus (6), Romania (5), and Poland (5). In 2019, the new infringement cases concerned Ireland (15), Cyprus (15), the UK (11), France (11) and Belgium (10), amounting to 175 new procedures.

According to the data from the **Environmental Implementation Review (EIR)** published by the European Commission in 2019, the key areas where the Member States face more difficulties in implementation are: the policies on circular economy and the integration of the mandatory principles on waste prevention and waste management and recycling; the protection of natural habitats and in particular regarding Natura 2000 areas and their connectivity; marine protection regarding the 'good environmental status', reporting and regional cooperation; air quality standards in particular regarding fine particles PM 2.5, PM 10 and nitrous oxide; industrial emissions in certain industrial and agricultural

¹³⁶ EC - 2016, 2017, 2018 and 2019 Annual Reports on Monitoring the application of EU law.

¹³⁷ European Parliament's Committee on Petitions internal data for 2018.

¹³⁸ EC - 2017, 2018 and 2019 Annual Reports on Monitoring the application of EU law.

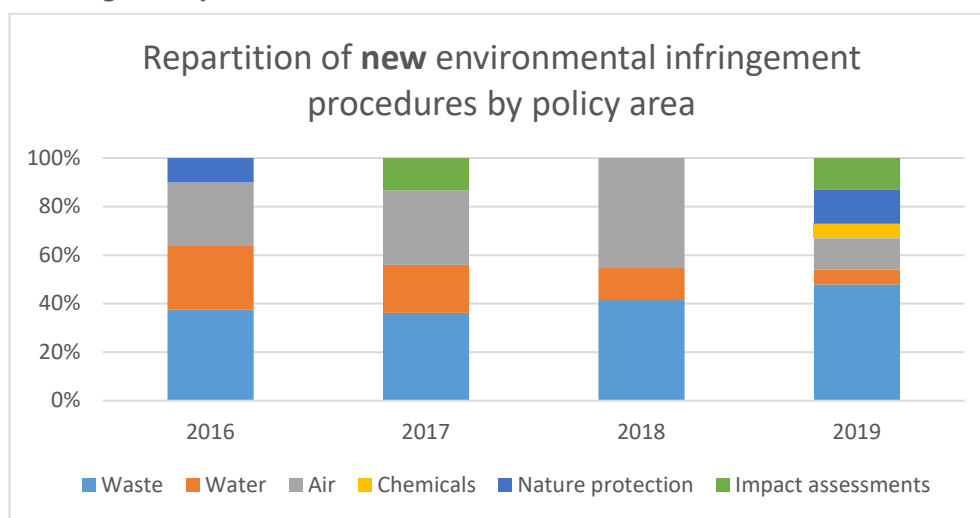
sectors; water quality in particular regarding its monitoring and pollution from agricultural installations and implementation of the Urban Waste Water Treatment Directive.

The **EIR** states that, in terms of progress since the previous report in 2017, the main challenges for Member States in the implementation of EU environmental law are related to the Directive on access to information, participation and access to justice for citizens and organisations on environmental matters. The Report highlights that several Member States still need to ensure legal standing for environmental NGOs to bring legal challenges on environmental issues. In addition, twenty-six Member States still need to improve the application of the European Liability Directive, in particular on financial security, guidance and collection and publication of information on environmental damage.

The European Commission points out the following overarching loopholes in the environmental governance of the Member States acting as fundamental factors for the lack of implementation of the EU environmental legislation: personal and financial resources; involvement and cooperation with the different local and regional levels of governance in the implementation of European environmental law¹³⁹.

Within the environmental policy, the specific policy areas with the highest number of **new infringement cases opened** (through a Letter of Formal Notice) in 2015 were related to waste management, water protection and management, and chemicals. In 2016, the highest number of cases were related to waste management, followed by water protection and management, air quality and nature protection. In 2017 and 2018 similar patterns regarding **new infringement procedures** show that the areas of higher concern were predominantly waste management, water protection and management and air quality, with a similar pattern in 2019 – waste management, air quality and impact assessments, but a significant decrease of the proportion of cases related to water.

Figure 2: new infringement procedures related to environment from 2016-2019



Source: Own development 2017 to 2019 Commission reports and factsheets on monitoring the application of EU law, European Commission.

In relation to **the open infringement cases**, the main topics for 2017 were water protection and management (77), air quality (61), waste management (60) and nature protection (49) and in 2018 water protection and management (67), air quality (67), waste management (57) and nature protection (48).

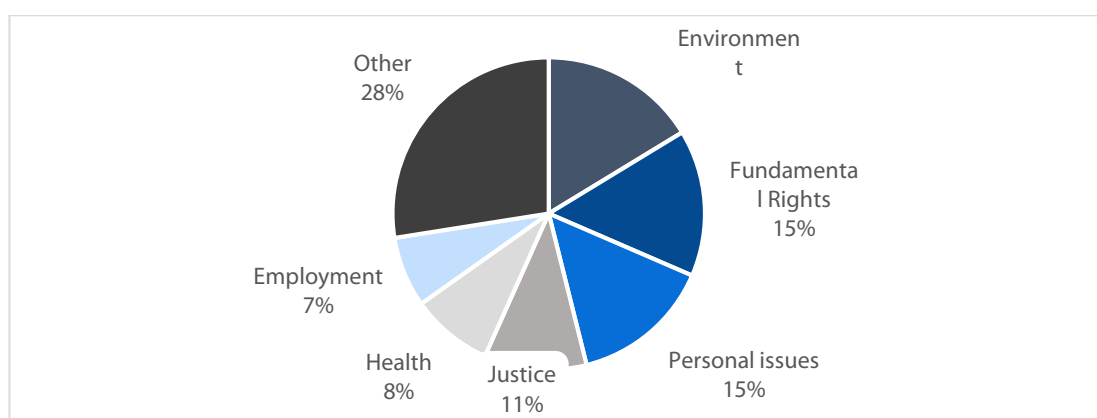
¹³⁹ Commission Communication COM(2019) 149, 'Environmental Implementation Review 2019: A Europe that protects its citizens and enhances their quality of life' [2019].

Over the last four years, trends can be observed showing that waste management is a growing area of concern in its implementation by the European Commission leading to a higher number of new cases, whereas water management is becoming less of an issue. Air quality has been in general, a major concern for citizens and the European Commission.

4.2. Environment, a primary concern of European citizens' petitions

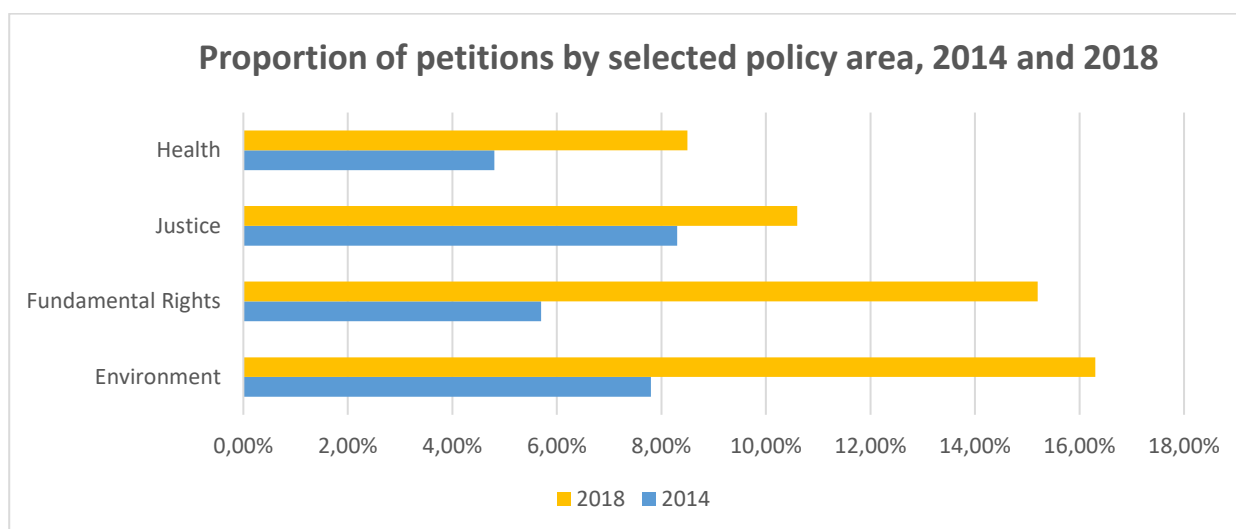
The information above demonstrates that environment is one of the main policy areas of Commission enforcement activities. Similarly, environment is also one of the policy areas of citizens' concern and the most common subject of petitions sent to the European Parliament by European citizens. For example, 199 petitions out of 1220 petitions received in 2018 were related to environmental issues. This figure reflects an increase of environmental cases over the years, from 7.8 % in 2014 to 16 % in 2018¹⁴⁰, showing that the environment is a growing concern for EU petitioners¹⁴¹.

Figure 3: Main policy areas subject of petitions, by percentage of all petitions in 2018



Source: Heezen and Marzocchi (2019), *Achievements of the Committee on Petitions during the 2014-2019 parliamentary term and challenges for the future*, European Parliament.

Figure 4: Comparison of petitions by policy area in 2014 and 2018



¹⁴⁰ Heezen and Marzocchi (2019), *Achievements of the Committee on Petitions during the 2014-2019 parliamentary term and challenges for the future*, European Parliament, at:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2019/621917/IPOL_STU\(2019\)621917_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/621917/IPOL_STU(2019)621917_EN.pdf).

¹⁴¹ Idem.

Source: Heezen and Marzocchi (2019), Achievements of the Committee on Petitions during the 2014-2019 parliamentary term and challenges for the future, European Parliament

The importance of the environmental aspects of EU policy for petitioners is corroborated by the fact that the highest number of petitions sent to other Committees for information are addressed to the European Parliament Committee on the Environment, Public Health and Food Safety (ENVI Committee). For example, in 2019 out of the 479 petitions shared with other Committees, 98 were sent to the ENVI Committee and for the whole period from 2017 to 2019, out of the 2050 petitions shared with other Committees for information, 474 were sent to the ENVI Committee. Furthermore, the highest number of petitions sent to the Commission are on environmental issues and are distributed and dealt with by DG ENV.

4.3. Impact of petitions sent to the Commission for action

4.3.1. Access to information on infringements and petitions

The current Commission tool for petitions **provides general statistical data** on the number of petitions and requests for opinion received from the Committee on Petitions and distributed to the different Commission services according to the relevant policy area (e.g. environment). However, the petitions' tool does not provide more detailed data on the specific policy area (e.g. nature, water, air, etc) and the type of responses or decisions taken by the Commission as a result. While petition summaries and Commission replies relating to petitions are uploaded onto the European Parliament Petitions Web Portal since the end of 2017, which has made these documents publicly available and increased the transparency of the work of the Committee on Petitions, the features of the portal do not allow aggregated data to be obtained on the Commission's level of involvement per policy area and type of response¹⁴².

Data from the European Commission on the link between petitions and actions undertaken by the Commission (infringement, legislative proposals, communications, etc.) is also limited to the information that might appear in public documents, but it is not provided through the Commission's **internal petitions' database**¹⁴³. For example, the Citizenship report does not refer to petitions on this issue¹⁴⁴ and the recent annual Commission reports on the Monitoring of the application of EU law refer to them to a limited extent and in general terms. The recent annual reports on Monitoring the Application of European Union Law and their statistical overviews since 2018, offer a dedicated section on petitions with some information on the number of petitions received in general policy areas and percentages on their links with infringements, acknowledging that a very low number of petitions triggered a Commission action to initiate an infringement procedure. The 2018 report, for example states that in about 40 % of petitions answered, 'the Commission was already pursuing an investigation on the subject raised by the petitioner. Often, petitioners raised individual situations, such as non-compliant landfills, inadequate treatment of urban waste-water or bad air quality in certain areas. Such matters were already the subject of infringement action taken by the Commission to address a wider structural problem. In the remaining cases (60 %), petitioners referred to non-implementation aspects of future policy, or to issues that fall outside the scope of EU legislation. In a significant number of these cases, the petitioners raised issues that could be better addressed by other bodies at local, regional or national level.'

¹⁴² European Parliament resolution of 13 December 2018 on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)).

¹⁴³ According to the information obtained via an interview with the European Commission's responsible administrators for handling petitions at SEC GEN and DG ENV in November 2020. The project Team did not have access to the database.

¹⁴⁴ Petitions have not been discussed in the 2017 Citizenship Report.

While reports provide some useful general information on petitions, the statistical overviews remain rather unspecific even to provide aggregated data on the specific policy areas and solutions proposed. Mentions of petitions leading to bilateral dialogues with Member States seem to have been abandoned, although they represent a significant means of action besides infringement actions. Finally, the statistical overviews by EU policy areas do not integrate petitions and therefore do not provide more detailed information per specific policy area.

This lack of data makes it difficult to measure the impact and trends of petitions in the enforcement of EU policies.

4.3.2. Figures on the impact of petitions on enforcement actions of the European Commission

According to the 2017 annual report on Monitoring the Application of European Union Law, in 2016, the Commission acted upon about seven cases based on the European Parliament submissions (petitions but also questions) regarding shortcomings in the way some Member States were implementing certain EU environmental law instruments. This included a reasoned opinion against one Member State over its non-compliant transposition of Directive 2003/4/EC on public access to environmental information.

In 2017, the information in the Commission report on monitoring the application of EU law shows that none of the enforcement actions undertaken by the Commission have been triggered by a petition (e.g. investigations or infringement procedures)¹⁴⁵.

In 2018, the European Commission received 220 petitions from the Parliament relating to the environment and provided 230 replies, as there can be several replies to the same petition. Twenty-four petitions sent to the European Commission led to an infringement investigation (18 on health and food safety, 5 on energy, 1 on employment and social affairs). Therefore, no infringement procedures launched in the field of environmental policy were based on a petition in 2018. It is worth noting that certain policy fields, such as health and food safety, can give rise to a great number of investigations by the Commission.

Specifically for environmental issues, the Commission considered that 40 % of the petitions related to environmental policies referred in 2018 were already considered within a wider infringement action, and 60 % were either aspects not related to implementation of existing EU policies, aspects falling outside the scope of the fields of activity of the EU, or would be best dealt with at local, regional or national level¹⁴⁶.

In 2019, 144 petitions were sent to the European Commission regarding the implementation and application of EU law, and only two led to investigations (1 on financial services and the Capital Markets Union, 1 on migration and home affairs). The three main reasons invoked by the Commission for which no infringement action is taken (investigation or infringement procedure) pursuant to the 2017 Better Results Communication, are the absence of breach of EU law, the lack of Commission power to act, or the fact that the matter was already dealt with by the Commission and investigated under an EU Pilot or infringement procedure.

The Commission received 58 requests for opinion on petitions related to environmental policy in 2019 but none of them led to investigations or infringements. This was often because a number of petitions

¹⁴⁵ EC – Monitoring the application of European Union law 2017 Annual Report, Part 1: General statistical overview.

¹⁴⁶ European Commission, Commission Staff Working Document, Part I: general statistical overview, accompanying the document Monitoring the Application of Union Law, 2018 Annual Report, https://ec.europa.eu/info/sites/info/files/report-2018-commission-staff-working-document-monitoring-application-eu-law-general-statistical-overview-part1_0.pdf.

raised individual grievances of incorrect application, which are no longer pursued as a matter of priority by the Commission¹⁴⁷.

4.3.3. Calls for action by the European Parliament

As observed above, the 2018 and 2019 Commission reports on the implementation of EU law do not provide detailed, comprehensive and uniform statistical data on the relationship between petitions that are brought to its attention and the investigations procedures, nor do they report in a systematic manner the proportions of petitions that are disregarded on the grounds of dealing with individual grievances of incorrect application or the lack of Commission power to act.

Older versions of the Commission annual reports provided a more comprehensive table with the number of petitions that were considered the “means of detection of infringements”¹⁴⁸. For the purpose of infringements, the fact that petitions are only taken into consideration as potential sources of information does not recognise the importance that petitions could have as stronger support to a case¹⁴⁹.

The EP has already raised the issue and called on the Commission to provide precise **information concerning the specific number of petitions that led to the initiation of an EU Pilot or infringement proceedings**^{150 151}. It is also necessary for the Parliament, with a view to providing better replies to citizens, to receive reports on proceedings and/or procedures initiated pursuant to petitions, and to obtain non-confidential documents exchanged in the course of the EU Pilot and infringement procedures once these have been closed. The Parliament has asked the Commission to discuss these reports with the Committee on Petitions proactively, involving the Vice-President responsible for the application of EU law, who has committed in 2019 to “work closely with the Committee on Petitions throughout the year”¹⁵².

It must be noted as mentioned earlier, that the European Commission currently does not seem to make a correlation in its information systems between petitions and infringement on the same issue, or between information obtained from a petition transferred by the European Parliament and an infringement procedure or an EU Pilot¹⁵³. While according to the Commission, decisions to initiate infringements respond to processes that involve multiple sources of information, and it is not always

¹⁴⁷ European Commission report on the implementation of EU law in 2019, published in July 2020 at https://ec.europa.eu/info/sites/info/files/file_import/report-2019-commission-staff-working-document-monitoring-application-eu-law-general-statistical-overview-part1_en.pdf.

¹⁴⁸ To that effect, see Annex I “Detection of infringement cases” to the 2002 Commission report on monitoring the application of EU law, https://ec.europa.eu/info/publications/2002-commission-report-monitoring-application-eu-law_da.

¹⁴⁹ Annual Report on monitoring the application of Community law - 1994 - (95/C 254/01) COM(95) 500 final: “The same table in Annex I shows that there was a fall in the number of suspected infringement cases examined following petitions to or questions in Parliament. That should not, however, be taken as a sign that these sources of information for detecting infringements should be regarded as less important than before. The figures cited are actually a reflection of the real situation, since parliamentary petitions and questions often confirm cases of suspected infringements which have already been identified.”

¹⁵⁰ European Parliament, Report under Rule 216 (7) on the deliberations of the Committee on Petitions during the year 2016, 2017/2222(INI), point 14.

European Parliament, Motion for a European Parliament Resolution on the outcome of the Committee on Petitions’ deliberations during 2018, 2018/2280(INI), https://www.europarl.europa.eu/doceo/document/A-8-2019-0024_EN.html.

¹⁵¹ Committee on Legal Affairs, European Parliament, Report on monitoring the application of Union law 2017, 2018 and 2019 (2019/2132(INI))

¹⁵² European Parliament 2019, ‘Commitments made at the hearing of Maroš ŠEFČOVIČ, Vice-President-designate - Inter-institutional Relations and Foresight’, briefing, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/621918/IPOL_BRI\(2019\)621918_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/621918/IPOL_BRI(2019)621918_EN.pdf).

¹⁵³ Interview to the Commission services, November 2020.

possible to establish a direct link between a petition as a cause of an infringement procedure¹⁵⁴, it could be argued that the link between petitions and infringements or other types of Commission acts dealing with similar issues is, nevertheless, technically feasible.

In 2019, the Committee on Petitions commissioned a report on its achievements during the 8th legislature of the European Parliament between 2014 and 2019¹⁵⁵ which shows examples of issues and cases of infringement in Member States in the fields of air, nature, waste or pollution that have been made public or resolved through petitions and the intervention of the European Parliament, the Commission and the Council of the European Union. However, it also shows that the deficit of specific expertise required to deal with the complex issues that EU legislation regulates (e.g. environment) and the long periods required to deal with petitions are challenges hindering the use of this tool to raise implementation problems¹⁵⁶. The lack of specific expertise on complex issues could be sorted with additional support to the Committee on Petitions from external experts and a greater involvement of the European Commission on any issue raised by a petition, which should be considered a priority under the EU enforcement policy as they respond to citizens' concerns.

¹⁵⁴ Information obtained via an interview with the European Commission's responsible administrators for handling petitions at SEC GEN and DG ENV in November 2020.

¹⁵⁵ Heezen and Marzocchi (2019), Achievements of the Committee on Petitions during the 2014-2019 parliamentary term and challenges for the future, European Parliament, at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2019/621917/IPOL_STU\(2019\)621917_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/621917/IPOL_STU(2019)621917_EN.pdf).

¹⁵⁶ Ibid.

5. TREATMENT OF PETITIONS ON NATIONAL LEVEL

The Committee on Petitions has called for a more intensive and structured biannual dialogue between the Committee on Petitions and representatives in the Committees on Petitions in the national parliaments dealing with petitions and issues of major concern to European citizens, to stimulate a genuine debate between MEPs and national MPs centred on petitions that would further raise awareness of EU policies and clarity on the competences of the EU and of the Member States¹⁵⁷. It has also recognised the need to ensure that citizens are well informed about the levels at which decisions are taken and to prevent the ‘blame Brussels’ phenomenon used by some Member States¹⁵⁸.

Confirming the need to strengthen political and technical dialogue with the relevant committees of the national parliaments, the Committee on Petitions held a Committee meeting in October 2018 with representatives of the Petitions Committee of the German Bundestag and discussed issues of common interest and relevant petitions. It also held the Inter-parliamentary Committee Meeting with National Parliaments on 27 November 2018 to discuss the role of petitions to parliaments.

A study of the European Parliament¹⁵⁹ shows the existence of widespread recognition of the right to petition to national parliaments or lower houses in the EU. According to the study, 21 Member States out of 27¹⁶⁰ have a petition system at national level, with six exceptions, namely Cyprus, Denmark, Estonia, Finland, Poland and Sweden. It is worth noting the evolution of some systems incorporating innovative procedures, including online tools for the submission of the petitions.

In relation to the **legal bases of the right to petition**, 18 national systems out of 21 have recognised it in their national Constitutions which are usually further developed through other legislation or Parliamentary rules of procedure.

For example, in France, the Constitutional provisions open a right to petition local authorities and the Economic, social and environmental council, but the National Assembly can be petitioned on the basis of an Ordinance from 1958, and further developed by the rules of procedure of the lower chamber.

In Spain, the Constitutional provisions are complemented through the Organic Law on the right to petition and in Germany through the Act on the competences of the Petitions Committee of the German Bundestag.

In Ireland and in the United Kingdom, petitions are based on standing orders by the Legislature. The right to petitions in the European Union is first recognised in the Treaties and the Charter of Fundamental Rights, which are the highest legal instruments of the EU’s legal order, and complemented by the EP’s rules of procedure.

The right to petition in Australia is recognised by the Standing Order 220 by the House of Representatives of the Parliament of Australia. A petition is basically a request for action. The right to petition the Federal Parliament has been one of the rights of citizens since Federation, and it is the only way an individual can directly place their grievances before Parliament. However, petitions are limited to 250 words.

¹⁵⁷ European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions’ deliberations during 2018 (2018/2280(INI)) p.4

¹⁵⁸ European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions’ deliberations during 2018 (2018/2280(INI)) p.4

¹⁵⁹ Study for the PETI Committee – The right to petition – IPOL_STU(2015)519.223 [2015]

[https://www.europarl.europa.eu/RegData/etudes/STUD/2015/519223/IPOL_STU\(2015\)519223_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2015/519223/IPOL_STU(2015)519223_EN.pdf).

¹⁶⁰ The United Kingdom remains under consideration. However, Croatia has not been considered under the 2015 study.

The European Parliament study on the comparison of European petitions' system proposes specific criteria to evaluate the effectiveness of the existing petitions' systems as follows: the type of petitioners entitled to the right, the nature of the interests pursued (general or private), the right to response, the level of access to the citizens' representatives, the information available to petitioners during the process, the possibility to address questions to the executive, the possibility for the petitioner to be heard, and to have debates on the issue raised. Additional procedural aspects may also give shape to the right to petition.

In relation to the **requirements of the petitioners**, the majority of national petition systems enable every individual or legal entity living or registered in the territory (country, region, etc.) to submit petitions, regardless of their nationality. However, some countries such as the Netherlands, Italy or Portugal only admit petitions from national citizens. The Scottish, Irish and German systems are the most inclusive ones admitting petitions from any individuals (national citizens or not, even if they do not reside in the country).

The EU petition system follows a wide criterion as well and includes all citizens of the EU and any natural or legal person residing in or having its registered office in a Member State to submit petitions. However, third-country nationals or organisations not registered or without residence in the EU do not have the possibility to address the European Parliament, although they may have an interest in policies of the EU, for instance on the impacts of a Free Trade Agreement with the country of the third-country national or with regard to the EU actions for the global protection of the environment. That means that third-country nationals without residence or organisations that have not registered need to contact an EU citizen or resident to request the European Parliament to address issues related to measures adopted under certain EU policies and having an impact outside the EU.

The petitions may raise issues of general interest or private matters. In some Member States, such as Austria, Czech Republic, Germany, Italy, Luxembourg, the petitions may only be related to general or public interest issues under Parliamentary competence. The Netherlands accepts both types of petitions.

At EU level, petitions may concern issues of private or public interest which affect the petitioners *directly* and that fall within the *Union's fields of activity*¹⁶¹. In that regard, the petitions in the European Parliament are not limited by the private or public character of the issue, but rather by the material scope of the fields of activities exercised by the EU in accordance with the Treaties. As mentioned in section 3.3 the European Commission seems to interpret its role to deal with petitions within the framework of the Union power to legislate according to the Treaties

Most petitions' systems guarantee a **right to response** to the petitioner once the petition has been considered by the relevant Parliament; however, this is not the case for the systems in France where there is no mandatory response. While the EU system does not explicitly grant a right to response to petitioners, the established procedure and practice aims at ensuring it. The European Parliament recognises its '... responsibility as a whole to fulfil the fundamental right to petition through an adequate treatment of petitions' and the petitioners' right to receive information on the decision on admissibility taken by the Committee on Petitions and to have their issue addressed fully, both within a reasonable period of time'.¹⁶² In particular, the rules of procedure state that petitions that do not comply with the conditions to be registered and admitted shall be filed, and the petitioner shall be informed of the

¹⁶¹ Treaty on the Functioning of the European Union, Art. 227.

¹⁶² Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)) p. M and N.

reasons for this¹⁶³. The Committee on Petitions adopted its guidelines in December 2015, in order to ensure that the treatment of petitions and the decision-making process are transparent and clear. For example, they establish that petitioners are informed when their petition is included in the agenda of the Committee meeting for discussion and that when closing a petition, 'the petitioner is informed of the decision in writing and once available, through the Petitions Web Portal'¹⁶⁴.

Furthermore, the European Code of Good Administrative Behaviour requires civil servants to reply to any letters from citizens that a decision on every request or complaint to the institution is taken within a reasonable time-limit, without delay, and in any case no later than two months from the date of receipt. The same rule shall apply for answering letters from members of the public and for answers to administrative notes which the official has sent to his or her superiors requesting instructions regarding the decisions to be taken. If a request or a complaint to the institution cannot, because of the complexity of the matters which it raises, be decided upon within the above mentioned time-limit, the official shall inform the author as soon as possible. In such a case, a definitive decision should be communicated to the author in the shortest possible time¹⁶⁵. None of these acts are legally binding.

Similarly, while the majority of systems, including the EU petitions' system, provide petitioners with **direct access** to the institutions to which the petition is submitted, Greece, Austria or Malta require each petition to be submitted via a **mediator or a sponsor** which would typically be a Member of the Parliament (or supported by a group of Members of the Parliament). In Spain, petitions are submitted to the Senate or upper house which might forward it to the relevant authority (e.g. Ministries, regional authorities, General Council of the Judiciary (GCJ)) to obtain the response that will be forwarded to the petitioners.

The EU petitions' system provides for a direct access to the European Parliament through the Committee on Petitions and the administrator in charge of the petition and that has a direct contact with the petitioners.

For a petition system to work, practical **information on the right to petition** needs to be disclosed publicly, including on the steps to submit it, requirements and limitations or follow-up steps, thus, all systems guarantee it. However, the level of information varies with regard to the Parliamentary internal procedures and steps¹⁶⁶. Some petition systems such as in Portugal, Ireland, Luxembourg or Scotland provide procedural but also case-related information on the whole "petition process" on the internet, allowing citizens to monitor the decision-making process of the petition, including the stage where petitions are at, possible future developments and steps to be taken until the final decision, as well as the relevant foreseeable deadlines.

At EU level, the Rules of Procedure of the European Parliament require that the 'summary of the texts of petitions entered in the register, together with the texts of the opinions and the most important decisions forwarded in connection with the examination of the petitions, shall be made available to the public on the Petitions WebPortal on Parliament's website'¹⁶⁷. While it has been observed that the petitioner is kept directly informed of the main procedural milestones by the Committee¹⁶⁸, the web portal dedicated to petitions provides information available to the public structured in three levels

¹⁶³ Rules of procedure of the European Parliament, rule 226: right of petition, at:

https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-RULE-226_EN.html.

¹⁶⁴ Guidelines Committee on Petitions, December 2015, update January 2018.

¹⁶⁵ European Code of Good Administrative Behaviour, Article 13 and 17, European Ombudsman, 2015.

¹⁶⁶ Study for the PETI Committee – The right to petition – IPOL_STU(2015)519.223 [2015], page 21.

¹⁶⁷ European Parliament, Rules of Procedure of the 9th Parliamentary term (June 2020), Rule 229(2).

¹⁶⁸ Ibid.

“petition data”, “petitioner data” and the “petition summary”. The Commission positions on a specific petition, or more generally on an EU policy, is not available even if it would enhance public interest in the petitions¹⁶⁹. It is recognised that ‘only a small number of EU citizens and residents are aware of the right to petition, confirming the need for greater efforts and appropriate measures to increase public awareness and achieve a substantial improvement regarding the exercise of this right’.¹⁷⁰

Petitioners are allowed to **submit a petition through electronic means** in the vast majority of Member States, either via email or through an electronic form. The European Parliament allows for submission via paper mail or via its electronic online platform (the Petitions Web Portal, known as well as the PETIportal), but not via email. The benefits of enabling the submission of EU petitions through email is balanced by the great efficacy brought by standardised input of information that constitute electronic forms. The portal was established in 2014 and since then it has improved the transparency of the system although it only covers petitions since 2013. This portal also **makes petitions publicly available**, regardless of their origin and without discretionary power for the Parliament¹⁷¹, in contrast with most Member States showing various levels of publicity, from absence of a portal to publication of the full text of the petition. The original EU petitions are not fully public and only a brief summary is available to the public. Additionally, a reproduction or a link to the minutes of the Committee’s meeting on a specific petition are not provided on the portal’s petition pages.

Most existing petitions’ systems trigger the possibility for parliaments to question the executive/government on the subject raised by the petition, but some legal frameworks only allow the petition to be referred to the executive, as in France. Some systems attach specific rules to this option, such as sending the questions to the executive as early as possible and **a deadline for the government to respond**. Investigative powers are granted by law to the Petitions Committee of the German Bundestag, which receives petitions and may request the Federal government to submit files, provide information on the issues related to the petitions¹⁷². Few countries have established **mandatory deadlines** such as the six weeks deadline in Germany and 20 days in Portugal for the executive to respond. Based on the rules in place, the new Commission established in 2019 has reiterated its commitment to respond to requests for opinion within three months.

In the EU, the referral of the matters raised in the petitions received by the European Parliament for opinion to the Commission is a **discretionary power** of the European Parliament¹⁷³. As stated in section 2, the average time for the Commission to provide an opinion on a petition is between three and four months¹⁷⁴, despite the commitment to a three-month response time within the Framework Agreement on relations between the European Parliament and the European Commission. This period may change in case of urgency where it is possible to request an answer from the Commission in an accelerated manner¹⁷⁵. The three-month period may be extended by one month if a request calls for more exhaustive work¹⁷⁶. The Committee on Petitions’ annual report published in 2018 recognises that the timeliness of

¹⁶⁹ <https://www.europarl.europa.eu/petitions/en/home> or <https://www.europarl.europa.eu/petitions/en/show-petitions>

¹⁷⁰ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI)) p.F

¹⁷¹ The German petitions systems is selective on the publicity of petitions and only those designated by the Bundestag appear on the dedicated website.

¹⁷² Germany, Law on the Powers of the Petitions Committee of the German Bundestag (*Gesetz über die Befugnisse des Petitionsausschusses des Deutschen Bundestages (Gesetz nach Artikel 45c des Grundgesetzes)*), Para. 3.

¹⁷³ Rules of procedure of the European Parliament, rule 227: Examination of petitions, at: https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-RULE-226_EN.html.

¹⁷⁴ European Parliament, Committee on Petitions, Motion for a European Parliament Resolution on the deliberations of the Committee on Petitions during the year 2017, (2018/2104(INI)).p21.

¹⁷⁵ Committee on Petitions Guideline, December 2015, updated in January 2018.

¹⁷⁶ Framework Agreement on relations between the European Parliament and the European Commission OJ L304, 20.11.2010.

responses to petitions (three to four months on average) by the Commission has improved and the issue no longer appears in the following reports. In addition, the latest Commission annual report on monitoring the application of EU law recognises that the Commission responds systematically to the petitions.

However, in its annual reports the Committee on Petitions reiterates its request for regular updates on developments in infringement proceedings and for timely access to relevant Commission documents on infringements and EU pilot procedures related to existing petitions.

Additional innovative practices in national petition systems have been identified, such as the linkage in Scotland, Luxembourg, and Germany of petitions admitted by the Parliament to **online public forums**, where public debate is facilitated on the issues raised by the petitioners, enhancing their visibility and emulation on the topics. However, the establishment of an open platform for discussion seems to be experimental for the moment and their purpose and role in handling the petition by the parliaments remains unclear¹⁷⁷.

The EU petitions framework has been structured to allow an **active participation of petitioners** through hearings of the petitioners in Parliamentary sessions, where their petition is discussed. Considering that hearings are broadcast, dissemination and awareness of other citizens on the issues discussed is increased. These participatory aspects of the procedure are complemented by the development of the Petitions Web Portal, as a tool to submit a petition while conserving the possibility to submit a paper petition. Finally, the portal opens the possibility to collect signatures to support the petition throughout Europe, as has been done by only four other Member States.

In essence, the right of petition in the European countries is broadly recognised and most European systems include elements providing wide accessibility, public participation, digitisation of the procedure and transparency. Still, European citizens are not aware of their right and the use of it is very limited. At EU level, the petition procedure could be improved with more transparency in relation to the contributions from the Commission and aggregated data on the requests for opinion and the responses through the Petitions Web Portal.

¹⁷⁷ Study for the German Bundestag's Office of Technology Assessment, Electronic petitioning and modernization of petitioning systems in Europe [2014].

6. RECOMMENDATIONS

It needs to be recalled that the role of petitions within the EU framework is critical for the improvement and development of democratic values in the EU. The right to petition is a constitutional citizens' right. Most issues raised by citizens in petitions are linked to the effective protection of the economic, environmental, social and cultural rights of all citizens. It is, therefore, of the utmost importance that authorities at national and European level commit sufficient resources to ensure the handling and resolving of petitions as a matter of priority, within transparent and clear rules and procedures.

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. The **Commission** remains the 'natural partner of the Committee on Petitions in processing petitions as the responsible EU institution for ensuring the application of and compliance with EU law'¹⁷⁸. 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 law¹⁷⁹.

For a substantial number of petitions, the cooperation of the Commission is required, and the Committee on Petitions of the European Parliament sends a request for opinion. The Commission may either provide an opinion to the request of the Committee on Petitions and bring observations describing ongoing actions or decide to take action triggered by the input from the petition, such as the proposal of new legislative measures or revisions of existing legislative acts such as the recast of Brussels II bis Regulation (EU) 2019/1111¹⁸⁰ in relation to certain provisions on children rights. It has to be highlighted that the new legislative act does not refer to a petition in its recitals, despite the fact that there is a link with them. This lack of recognition, makes the assessment of the impact of petitions very difficult.

Furthermore, Commission President von der Leyen has committed to respond with a legislative act to resolutions of Parliament based on Article 225 TFEU, with a view to giving Parliament a stronger role in initiating EU legislation. While there are no examples yet of Parliament resolutions based on Article 225 that have triggered a response by the Commission proposing a legislative act with a link to petitions, other European Parliament resolutions, not based on Article 225, can be linked to petitions and could indeed serve as a basis for the Commission to act¹⁸¹. For example, resolution of 5 July 2018 on the adverse effects of the US Foreign Account Tax Compliance Act on EU citizens requests the adoption of appropriate measures that ensure the protection of the rights and interests of EU citizens in relation to the US Foreign Account Tax Compliance Act (FAFTCA)¹⁸². In addition, the motion for a resolution pursuant to Rule 227(2) on waste management, adopted on 21 March 2019 by the Committee on Petitions and on 4 April 2019 in plenary¹⁸³ reiterates its call on the Commission to use the full potential of the early warning system as laid down in the revised waste directives. It also highlights the need for the EU to prioritise the development of a proper waste management and prevention policy and for Member States to improve the implementation of waste legislation. While these resolutions are good

¹⁷⁸ Committee on Petitions, Report on the deliberations of the Committee on Petitions during the year 2019 (2020/2044(INI)).

¹⁷⁹ Idem.

¹⁸⁰ Regulation (EU) 2019/1111 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction

¹⁸¹ Idem.

¹⁸² OJ C 118, 8.4.2020, p. 141.

¹⁸³ Texts adopted, P8_TA(2019)0338.

examples as they explicitly refer to relevant petitions linked to them, not all EP's resolutions include that reference.

Commission's procedures dealing with petitions

While the procedure to deal with petitions in the European Parliament is well regulated and the roles and responsibilities in the side of the Committee on Petitions are clear and transparent, the procedure followed by the Commission to deal with requests on petitions is not publicly available nor subject to transparent rules. The Guidelines developed by the Committee on Petitions refer to the stage in which the petition is sent to the Commission for preliminary investigation and assessment of the issues raised in relation to EU law. The procedural stage described relates to the role of the Secretariat-General as the central contact point which will then forward the petitions and information requests to the responsible services. No further information is publicly available on what happens with the petition request once sent to the Commission and whether there is any information tool or management system to keep track of the petitions and the responses or information shared with the Parliament, such as a database similar to the infringements database. The Commission services have confirmed, through a couple of interviews within the framework of this project, the existence of a specific Commission IT tool to ensure a coordinated response to the European Parliament through the Secretariat General.

The Commission's annual reports on monitoring the application of EU law refers 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 and its effectiveness towards resolving the issues raised in petitions by European citizens.

- It is worth highlighting that the 2017 Communication on Better results through better application includes an Annex establishing the Administrative procedures for the handling of relations with the complainant regarding the application of European Union law¹⁸⁴. However, there are **no publicly available Commission rules establishing an administrative procedure or practice to deal with petitions** submitted to the Commission for opinion, including those cases where there is an (ongoing) infringement case on the same issue. This is even more important when citizens have a direct right to petition stemming from the Treaties.

For that reason, the administrative rules of the 2017 Communication presenting Commission priorities to act on infringements, cannot justify the Commission decision not to take action on issues raised by petitions. Furthermore, in those cases where the petitions and infringement cases coincide, it would be important and proper to ensure coordination between the two bodies to keep the petitioner/complainant informed.

- Commissions' pledges and commitments show the willingness to take citizens' petitions seriously into consideration. While the commitments to participate actively in the citizens' petitions will need to be observed in the long run, it is important to note that the intentions expressed do not bind the European Commission to take any specific action.

¹⁸⁴ Commission Communication "EU law: Better results through better application", COM 2017/C 18/02, OJ C 18/02, 19 January 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017XC0119%2801%29>, page 18.

The European Commission and the European Parliament might want to consider the option of framing their relationship regarding the handling of petitions with a more binding agreement, as the current Inter-institutional Agreement does not cover petitions.

- This agreement could define more specifically some of the Commission pledges and act as a frame of the specific partnership between both Institutions that would go beyond the legislative domain to cover the whole political cycle. It could also specify the mechanisms to improve the Commission's handling of petitions, including the commitment to provide good (and timely) responses to the requests for opinion and ensuring that the link between infringement actions and petitions related to breaches of EU law.

The European Parliament should insist on calling on the Commission to 'identify the means of enhancing cooperation with Member States' authorities when it comes to responding to inquiries regarding the implementation of, and compliance with, EU law'.¹⁸⁵ However, the European Parliament should continue to reject the Commission's practice of referring a significant number of petitioners to other bodies at national, regional or local level which raises questions regarding its compatibility with the **Commission's enforcement responsibility**¹⁸⁶.

The handling of petitions through IT databases

While the Commission has improved the database on infringements and its accessibility to the public, there is no such tool publicly available providing 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 infringement procedure per policy area or to any other action, being legislative or non-legislative.

The Committee on Petitions has repeatedly asked the Commission to improve the handling of petitions¹⁸⁷. The Commission petition IT tool or database managed by SEC GEN aims to collect information on petitions received and coordinate the Commission response. As the current tool is more than 10 years old, the Commission is developing a new IT tool which will provide improved statistics and while limited by budgetary constraints, some ideas of features could still be introduced (e.g. more information on policy areas, link with infringements).

The European Parliament databases on petitions, either the one linked to the WebPortal or the e-petitions database, do not include a feature that enables it to link petitions with Commission infringement. However, summaries or information on the Commission response on a specific petition or on other bodies' contributions to the requests by the Committee are included in the meeting documents accessible to the public but this information is not provided in the WebPortal were petitions can be searched and summaries are provided¹⁸⁸. The Secretariat of the Committee on Petitions has confirmed that the internal e-petitions database (which provides information accessible to MEPs members of the PETI Committee and the Secretariat but not to the public) systematically collects all replies from the Commission and other EU Institutions, where relevant, as well as correspondence with petitioners. .

¹⁸⁵ Idem.

¹⁸⁶ Committee on Petitions, Report on the deliberations of the Committee on Petitions during the year 2019 (2020/2044(INI)) p. 26.

¹⁸⁷ Report on the outcome of the Committee on Petitions' deliberations during 2019 (2020/2044(INI))

¹⁸⁸ <https://www.europarl.europa.eu/petitions/en/home> or <https://www.europarl.europa.eu/petitions/en/show-petitions>

Both institutions could cooperate in developing compatible IT tools to share relevant information on petitions linking it with infringements and making it publicly available.

Timely Commission replies to the Committee on Petitions

According to the Committee on Petitions Guidelines¹⁸⁹ and the Framework Agreement, the Commission has a three-month period to respond to the Committee on Petitions request¹⁹⁰. Over the years, the Committee on Petitions has called on the Commission to ensure timely responses to its requests regarding petitions. The situation seems to have improved. The Committee on Petitions' annual report on its deliberations published in 2018 recognises that the timeliness of responses by the Commission (three to four months on average) has improved and the issue no longer appears in the two last annual reports¹⁹¹. In addition, the latest Commission annual report on monitoring the application of EU law recognises that the Commission responds systematically to the petitions¹⁹².

The deficit of specific expertise required to deal with the complex issues that EU legislation regulates (e.g. environment) and the long periods required to deal with petitions are challenges hindering the use of this tool to raise implementation problems¹⁹³. The lack of specific expertise on complex issues could be sorted with additional support to the Committee on Petitions from external experts and a greater involvement of the European Commission on any issue raised by a petition, which should be considered a priority under the EU enforcement policy as they respond to citizens' concerns.

Quality of the Commission replies to the Committee on Petitions

- While the cooperation with the Commission, through its Secretariat-General, is considered good by the Committee on Petitions, challenges are raised in terms of the **quality** of the responses, including the tendency for the Commission to consider itself not **competent** to take action on the issue raised by the petition¹⁹⁴.

The commitment of Vice-President Šefčovič to provide **timely replies** to requests for information from the Committee is **conditional upon a strict selection from the Committee** to send only petitions, for which the Commission "**can do something, and is responsible for**". In this sense 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 (exclusive under Article 3 TFEU or shared competence under Article 4 TFEU) and, therefore, could act by amending or proposing a legislative act or initiating an infringement procedure for lack of compliance.

There seems to be a difference in terminology affecting the effectiveness of dealing 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. In many instances, the Commission could take action by initiating general information actions, guidelines, or promoting discussion for a coordinated action amongst Member States.

¹⁸⁹ Guidelines Committee on Petitions, December 2015 updated in January 2018, PE575.044v05-00.

¹⁹⁰ Framework Agreement on relations between the European Parliament and the European Commission OJ L304, 20.11.2010.

¹⁹¹ European Parliament, Committee on Petitions, Motion for a European Parliament Resolution on the deliberations of the Committee on Petitions during the year 2017, (2018/2104(INI).p21.

¹⁹² European Commission report on the implementation of EU law in 2019, published in July 2020.

¹⁹³ Ibid.

¹⁹⁴ European Parliament, Motion for a European Parliament Resolution on the deliberations of the Committee on Petitions during the year 2017, 2018/2104(INI).

The European Parliament 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 related to a specific issue or in a specific locality¹⁹⁵. They are responded to by the relevant thematic legal units in DG ENV in accordance with the 2017 Commission Communication¹⁹⁶ which stated that the priorities of its enforcement action is focused on those cases reflecting structural problems at national level.

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 serious systemic shortcomings, excluding individual cases and, thus, individual petitions. The European Parliament has criticised this approach, as certain individual cases presented through petitions may be sufficiently relevant or indicate potential systemic breaches.

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'. In addition, this Commission strategic decision leaves to the national courts the bulk of the responsibility to monitor possible breaches of EU legislation.

The Committee considered such an approach particularly within the domain of environmental legislation to be harmful and an '**overall inhibition from its duties of guardian of the Treaties**'¹⁹⁷.

Indeed, it can be argued that some individual petitions might raise issues that are shared by other citizens and would require a common approach. In addition, the fact of not dealing with individual petition issues could be considered a breach of the citizens' right to petition, which is not limited to issues or 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 of a priority when the issues are related to the environmental legislation and policy since it is of major concern for EU citizens. This would equally be consistent with the current Commission Green Deal Initiative.
- The link between the Commissions' 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. Neither the Commission's infringements' database nor the Commission's petitions' IT tool, include a feature to recognise that link. The same applies to the

¹⁹⁵ Interview to Commission services, November 2020.

¹⁹⁶ Commission Communication "EU law: Better results through better application", COM 2017/C 18/02, OJ C 18/02, 19 January 2017.

¹⁹⁷ Report on the deliberations of the Committee on Petitions during the year 2017 (2018/2104(INI))

link between petitions and other measures such as existing legislative acts, Commission communications, etc.

- Petitions do not seem to have a great impact on the Commission actions to deal with infringements of EU law. While according to the Commission, decisions to initiate infringements respond to processes that involve multiple sources of information, and it is not always possible to establish a direct link between a petition as a cause of an infringement procedure¹⁹⁸, it could be argued that the link between petitions and infringements or other types of Commission's acts dealing with similar issues is, nevertheless, technically feasible.
- The European Parliament (i.e. Committee on Petitions or Committee on Legal Affairs) 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 petition¹⁹⁹ ²⁰⁰. This information would help the Committee on Petition to better target its requests for opinion to the Commission, which would improve the effectiveness and efficiency of the system. Furthermore, the European Parliament should continue asking the Commission to share systematic information on infringement cases providing it with access to the documents once the procedures are closed in application of the jurisprudence of the Court of Justice of the European Union (CJEU).

Participation of the Commission representatives in Committee on Petitions meetings

While it is recognised that the Commission participates systematically in the Committee meetings where petitions requiring the Commission opinion are discussed, the European Parliament has called on the Commission officials who are present at the meetings of the Committee on Petitions to be ready to engage in a proper dialogue with the petitioners and not limit themselves to reading the answer already established and sent out prior to the meeting²⁰¹. However, some officials have expressed frustration in relation to their ability to properly answer petitioners' concerns. It was claimed that officials are only granted speech for a few minutes to present the answer prepared on the petitions, but Commission officials are rarely given the opportunity to respond to the follow-up questions during the meeting by petitioners or MEPs. According to the Commission, that limitation jeopardises the Commission's capacity to respond more clearly and effectively to petitioners' requests. Furthermore, some officials also expressed concern regarding the low number of MEPs attending some of the Committee meetings²⁰².

The Committee on Petitions argues that Commission representatives are always given the floor if they are directly concerned by the comments or questions.

- The Committee might want to consider a more flexible understanding of Commission direct concern to facilitate officials' participation (e.g. when they request to take the floor).
- The Committee on Petitions of the European Parliament might want to pay attention to this sensitivity and enable greater participation of the Commission officials in the Committee meetings

¹⁹⁸ Information obtained via an interview with the European Commission's responsible administrators for handling petitions at SEC GEN and DG ENV in November 2020.

¹⁹⁹ European Parliament, Report under Rule 216 (7) on the deliberations of the Committee on Petitions during the year 2016, 2017/2222(INI), point 14.

European Parliament, Motion for a European Parliament Resolution on the outcome of the Committee on Petitions' deliberations during 2018, 2018/2280(INI), https://www.europarl.europa.eu/doceo/document/A-8-2019-0024_EN.html.

²⁰⁰ Committee on Legal Affairs, European Parliament, Report on monitoring the application of Union law 2017, 2018 and 2019 (2019/2132(INI))

²⁰¹ European Parliament resolution, 14 December 2017 on the deliberations of the Committee on Petitions during 2016 (2017/2222(INI)).

²⁰² Interview to Commission services, November 2020.

they are invited to. Furthermore, the Committee should continue its efforts to encourage all MEPs of the PETI Committee to attend all Committee meetings.

Member State's and Council's participation in the Committee's deliberations

- The participation of the Members of the Council's Secretariat, Council representatives or of Permanent Representations to the meetings of the Committee on Petitions has been very limited over the last years. In this respect, the Committee considers that a more active cooperation with Member States would be necessary to unblock those petitions requiring prompt responses and reactions from the national authorities.

Raising awareness of the impact of Petitions

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 Parliament²⁰³. A clear indicator is the small number of EU citizens that use and are aware of it. The European Parliament has highlighted on several occasions 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 law²⁰⁴. Therefore, measures to increase public awareness and achieve a substantial improvement on the exercise of this right are needed.

- They could include regular public hearings on the implementation of the right to petitions, (e.g. to discuss the annual report on the Committee deliberations) and debates on the EU role, the institutions' competences and levels where decisions are taken on relevant issues or policies raised by petitions. One idea could also be to integrate petitions and issues raised by them in existing raising awareness actions such as a Green Week²⁰⁵. Closer interactions and exchanges with national parliaments with responsibilities to deal with national petitions might also help raising awareness amongst citizens. Regular reporting sessions by relevant MEPs in the Committee on Petitions to national parliaments could be an idea.
- The Committee on Petitions has increased actions to facilitate petitioners' participation in the Committee meetings when their petitions are debated, thus contributing to raising awareness. Another relevant measure to raise awareness on the right to petition and the role of the different EU Institutions would be further developing the Petitions Web Portal. This would strengthen transparency by improving access to comprehensive information including aggregated data on petitions and their procedure within the Parliament, responses from the European Commission and the links with the infringement cases.
- A better integration of petitions in the development of other policies could start with the recognition of the role of petitions in key strategic papers. For example, the European Commission's Work Programme for 2020 included the adoption of a European Democracy Action Plan for the end of 2020 with a specific action on Fundamental rights²⁰⁶ which announced the adoption of a non-legislative 'New strategy for the Implementation of the Charter of Fundamental Rights'. The Strategy

²⁰³ European Parliament resolution of 13 February 2019 on the outcome of the Committee on Petitions' deliberations during 2018 (2018/2280(INI)).

²⁰⁴ Idem.

²⁰⁵ [Home | EU Green Week 2021](#)

²⁰⁶ Annexes to Commission Communication "Adjusted Commission Work Programme 2020", COM(2020) 440 final, 27 May 2020, Actions 38 and 41, https://eur-lex.europa.eu/resource.html?uri=cellar%3Af1ebd6bf-a0d3-11ea-9d2d-01aa75ed71a1.0006.02/DOC_2&format=PDF.

to strengthen the application of the Charter was adopted in December 2020²⁰⁷. All these initiatives could move petitions up in the Commission's agenda and improve the implementation of the fundamental right of EU citizens and residents to address petitions to the European Parliament.

- An additional element that would contribute to raising awareness would be the involvement of high-ranking officials from the Commission and from the European Parliament during the public debates within the Committee on Petitions. Targeted press following up on Commissioners or high ranking officials' involvement in these debates within the Committee of Petitions would increase public awareness. For example, press conferences around events such as the Green Week²⁰⁸, could be reinforced with the targeted petitions to raise awareness of those on environmental issues.

²⁰⁷ Commission Communication, Strategy to strengthen the application of the Charter of Fundamental Rights in the EU, COM (2020) 711 final.

²⁰⁸ [Home | EU Green Week 2021](#)

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.

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