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REPORT

on the deliberations of the Committee on Petitions during the
parliamentary year 2000-2001 (2001/2010 – (INI))

Committee on Petitions

Rapporteur: Felipe Camisón Asensio

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PROCEDURAL PAGE

Pursuant to Rule 175(5) of the Rules of Procedure, the Committee on Petitions submits a six-monthly report to Parliament on the outcome of its deliberations, drawing up once a year a detailed report concerning the entire parliamentary year and the measures taken by the Council or Commission in response to petitions referred to them by Parliament.

At its meeting of 6 March 2001, the Committee on Petitions appointed Felipe Camisón Asensio rapporteur.

It considered the draft report at its meeting of 18, 19 and 20 June 2001 and adopted the motion for a resolution unanimously.

The following were present for the vote: Vitaliano Gemelli, chairman; Roy Perry, 1st vice-chairman; Proinsias De Rossa, 2nd vice-chairman; Luciana Sabarbatí, 3rd vice-chairman; Felipe Camisón Asensio, rapporteur; Laura González Álvarez, Vasco Graça Moura, Christopher Heaton-Harris (for Jonathan Evans, pursuant to Rule 153(2)), Jean Lambert, Ioannis Marinos, Véronique Mathieu, María Sornosa Martínez, Christian Ulrik von Boetticher and Eurig Wyn.

The report was tabled on 25 June 2001.

The deadline for tabling amendments to this motion for a resolution will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the deliberations of the Committee on Petitions during the parliamentary year 2000-2001 (2001/20120 (INI))

The European Parliament,

- having regard to Rule 163 of its Rules of Procedure,
 - having regard to Rule 175(5) of its Rules of Procedure,
 - having regard to its previous resolutions on petitions,
 - having regard to Articles 21 and 194 of the EC Treaty,
 - having regard to the annual report (1999-2000) of the European Ombudsman,
 - having regard to the 1989 Interinstitutional Agreement on strengthening the right of petition¹,
 - having regard to the report of the Committee on Petitions (A5-000/2001),
- A. whereas the right of petition is a fundamental right of European citizens and any natural or legal person residing or having its registered office in a Member State,
- B. whereas, in tabling petitions to the European Parliament, European citizens are seeking greater participation in the construction of the Community,
- C. whereas petitions provide an eminently suitable means of assessing the impact of Community legislation on people's lives,
- D. whereas petitions strengthen the European Parliament's monitoring powers by revealing infringements of Community law,
1. Recalls that the right of petition embodied in the Treaties provides an effective means of keeping the institutions in contact with the citizens and informed of their problems and legitimate aspirations, something which is also of cardinal importance to the citizens themselves;
 2. Stresses also that petitions, together with complaints to the European Ombudsman, provide two of the rare opportunities available to the European citizen to draw attention to the existing shortcomings of Community legislation and cases of failure to implement or transpose Community law. To this end, the Committee on Petitions supports initiatives by the European Ombudsman, for example the drawing up of a Code of Good Administrative Behaviour, ensuring public access to the institutions' documentation and the drafting of special reports;
 3. Notes that European citizens seeking assistance from the European Parliament in order to redress an injustice affecting them, frequently do not obtain a suitable reply as promptly as

¹ OJ C 120, 1989, p.90

would be desirable;

4. Recommends that the general public's right of petition be included as a topic on the agenda for the planned Convention on future EU integration with a view to increasing the general public's direct involvement in the day-to-day work of the Community institutions;
5. Stresses that fruitful cooperation between the European Parliament, the Council and Commission is essential to provide a response to the concerns expressed by European citizens in their petitions and that much still remains to be done in this respect particularly by the Council;
6. Recognises and welcomes the fact that, generally speaking, the Commission plays a constructive role in dealing with petitions;
7. Points out that, where petitions reveal infringements by the national, regional or local authorities of the Member States of the principles embodied in Community law, the Commission is obliged to initiate proceedings against the Member State in question under Article 226 of the Treaty;
8. Calls on the Commission to follow the ombudsman's recommendation to 'establish a clear procedural code' for the treatment of infringement procedures against Member States;
9. Realises that, thanks to computer technology, individual European citizens have at their disposal the most modern means of communication and information but that they cannot yet make maximum use of them because of the failure by the institutions, in particular the European Parliament, to develop and adapt the relevant legal and technical instruments;
10. Reiterates its request to the Commission to act together with the European Parliament's Committee on Petitions in developing electronic data processing systems and databases containing information regarding matters already decided on, so as to provide a body of case law for the consideration of petitions and to make these available through Internet to the citizens of the European Union;
11. Calls on its committee with responsibility for matters relating to the Rules of Procedure to adjust existing legislation to enable individual citizens to use electronic data processing resources in the various phases of the petitions process;
12. Urges its relevant committee to reflect on the amendments which must be made to Title XVII of Annex VI of its Rules of Procedure so as to give the Committee on Petitions a more active role in assessing the petitions forwarded to it;
13. Considers that citizens' possibilities to initiate Community legislation through petitions should be strengthened; asks the committee responsible to consider possible modifications to the Rules of Procedures and the Treaties to this effect;
14. Calls for the drafting of a new interinstitutional agreement to ensure that petitions are processed more effectively and rapidly, for example by introducing mandatory deadlines, effective cooperation between the European Parliament, Council, Commission and

European Ombudsman and compulsory attendance by the Council at meetings where petitions are considered.

15. Takes the view that the new interinstitutional agreement should confirm the rights of the Committee on Petitions to obtain the information and documents it needs in order to carry out its tasks;
16. Recommends that, if there is any failure on the part of an institution to respond in a prompt and reasonable manner in seeking a fair solution regarding a petition, the Committee on Petitions should propose to the President of the European Parliament that the matter be brought into the open to the extent considered appropriate;
17. Considers that, with a view to enlargement of the European Union to include the applicant countries, account should be taken of the provisions of the European Union Charter of Fundamental Rights, in particular Article 21 thereof, wherever possible cases of infringement of the principle of non-discrimination are under investigation;
18. Considers that, with regard to petitions on particularly important subjects, it would be desirable for the petitioners concerned to attend the deliberations of the Committee on Petitions either in Parliament or at the place where the problem is situated and for the Directorate-General for Research or the STOA unit to report on the matter;
19. Recommends that the institutions launch a Community initiative to educate and inform citizens concerning the right of petition and establish a relevant website on Internet;
20. Points out that promoting own-initiative reports has proved to be a highly suitable practice for adoption by the Committee on Petitions, for which reason it should be more widely used in future.
21. Instructs its President to forward this resolution and the accompanying report by its committee to the Council, the Commission, the governments and parliaments of the Member States and their petitions committees, together with the European Ombudsman and the national ombudsmen or similar organs in the Member States.

EXPLANATORY STATEMENT

Introduction

This report covers the period from 14 March 2000 to 12 March 2001 and has been drawn up in accordance with Rule 175(5) of the Rules of Procedure requiring the Committee on Petitions to inform the European Parliament of the outcome of its deliberations.

The Committee on Petitions and the European Citizen

Since 1985, it has been possible for European citizens to address the European Parliament concerning their legitimate interests where these relate to European Union activities. To date, over 10 000 petitions have been received, a fact which clearly demonstrates the practical significance of the European Union for the man in the street.

Basically, the most sensitive areas, i.e. those of greatest concern to individual citizens as reflected in their petitions, continue to be the following: social protection, the environment, health, freedom of movement (of persons, goods and capital), taxation, recognition of academic qualifications, the principle of non-discrimination etc..

The right of petition, embodied in the Treaty establishing the European Community, the European Parliament's Rules of Procedure and the European Union's Charter of Fundamental Rights, derives naturally from the right of citizenship.

In a pluralist and participatory democracy, individual citizens are entitled to demand an effective and prompt response to any infringements of their rights or any omissions and delays in this respect. Only in this way can they believe and trust in the Europe which everyone wishes to build.

The Committee on Petitions and the European Ombudsman

The European Ombudsman provides another eminently suitable channel which can be used by European citizens in response to cases of maladministration by a Community institution or body directly affecting them.

While the demarcation between the terms of reference of the Committee on Petitions and of the European Ombudsman is generally well-defined, it is not always very clear to the layman. As a result, over the years, cooperation between the two bodies has strengthened in an exemplary and mutually beneficial manner. *A posteriori* monitoring of Community law by the Committee on Petitions and the European Ombudsman provides the best guarantee for individual citizens that their voices are being heard and their legitimate rights upheld.

The Committee on Petitions, the Commission and the Council

Since the Committee on Petitions does not have all the human, legal and technical resources which are essential to monitor the implementation of Community law, whenever a complaint is received from a petitioner regarding infringement of his rights, it is obliged to rely on other institutions, in particular, the Commission and Council.

It is only fair to express appreciation for the extremely satisfactory cooperation achieved with the Commission and the great dedication of its officials in this respect. As a rule, its opinions are couched in clear and precise terms, reflecting a high level of competence, in-depth awareness of the problem and thorough technical and legal background knowledge.

Cooperation between the Committee on Petitions and the Council, on the other hand, has been inexistent. Nevertheless, input from this institution is essential if petitions are to be dealt with properly and effectively.

It is essential for a new interinstitutional agreement between the European Parliament, the Council, the Commission and the European Ombudsman to be drawn up, reassessed and reviewed in accordance with the need to meet new requirements.

Activities of the Committee on Petitions

The period of activities covered by this report runs from 14 March 2000 to 12 March 2001.

In April 2000, the Committee on Petitions met in Berlin with the petitions committees of the German Bundestag and of the Berlin and Brandenburg Assemblies.

On 5 June 2000, Mrs Viviane Reding, Member of the Commission, met the committee members to consider petitions regarding the recognition of diplomas.

Preparations were made for visits to the Scottish and Dutch Parliaments.

Preparations were also made for discussions with Mr Liikanen, member of the Commission, on 21 March 2001 concerning '*silicone breast implants*' and a public hearing on 25 April 2001 on '*assessment of the effects of certain public and private projects on the environment*' to be attended by Mrs Margot Wallström, member of the Commission.

The committee's fruitful cooperation with the European Ombudsman was further improved. The European Ombudsman tabled to the committee his annual report and special reports.

During this period, the activities of the Committee on Petitions were once more focused on the drawing up of reports and opinions and the consideration of petitions.

Particular attention is drawn to the following reports:

- *'Report on deliberations of the Committee on Petitions during the parliamentary year 1999-2000'*, adopted on 6 July 2000. Rapporteur: Mr Jean Lambert (PE 287.158/fin.).
- *'Report on the annual report concerning the activities of the European Ombudsman in 1999'*, adopted on 6 July 2000. Rapporteur: Mrs Astrid Thors (PE 287.159/fin.).
- *'Report on the special report by the European Ombudsman to the European Parliament following the own-initiative inquiry into the secrecy which forms part of the Commission's recruitment procedures'*, adopted on 17 November 2000. Rapporteur: Mr Herbert Bösch (PE 294.125/fin.).
- *'Report on the institution of the petition at the dawn of the 21st century'* to be adopted in May 2001. Rapporteurs: Mrs Margot Kessler & Mr Roy Perry (PE 232.710/fin.).

Particular mention should be made of the following opinions:

- *'Letter of Amendment No 2 to the draft general budget of the European Communities for the 2001 financial year'* adopted on 20 March 2000. Rapporteur: Mr Roy Perry (PE 287.114/fin.).
- *'Better lawmaking – 1999' (report from the Commission to the Council)*, adopted on 18 April 2000. Rapporteur: Mr Carlos Candal (PE 287.112/fin.).
- *'Right of residence – Directives 90/364, 90/365 and 93/96'* adopted on 22 June 2000. Rapporteur: Mr Hans Peter Meyer (PE 287.160/fin.).
- *'Recommendation of the European Parliament and of the Council on mobility within the Community for persons undergoing training, young volunteers, teachers and trainers' adopted on 11 July 2000.* Rapporteur: Mrs Janelly Fourtou (PE 290.577/fin.).
- *'Amendment of the decision of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties'*, adopted on 13 September 2000. Rapporteur: Mrs Laura González Alvarez (PE 294.138/fin.).
- *'General budget of the European Communities for the financial year 2001: (a) European Parliament: (b) European Ombudsman'*, adopted on 13 September 2000. Rapporteur: Mr Roy Perry (PE 290.603/fin.).
- *'Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents'*, adopted on 10 October 2000. Draftsman: Mrs Astrid Thors (PE 294.124/fin.);

- *'Council Directive on mutual recognition of decisions on the expulsion of third country nationals'*, adopted on 28 November 2001. Draftsman: Mrs Luciana Sbarbati (PE 294.220/fin.);
- *'Initiative of the French Republic with a view to adopting a Council regulation on freedom of movement with a long-stay visa'*, adopted on 28 November 2001. Draftsman: Jean Lambert (PE 294.219/fin.);
- *'Seventeenth Annual Report on monitoring the application of Community law (1999)'*, to be adopted in March 2001. Draftsman: Mr Carlos Candal (PE 297.585/fin.).

The main task, however, was consideration of petitions received during this period. Particularly satisfactory results have been obtained regarding the following:

- Twelve petitions resulting in infringement proceedings by the Commission pursuant to Article 226(ex-169) of the Treaty establishing the European Community against a Member State for failure to meet its obligations under Community law. The petitions were as follows: 718/90, 523/93, 874/93, 752/94, 395/95, 794/96, 237/98, 334/98, 1006/98, 1122/98, 904/99 and 151/00.
- The action taken by the European Parliament's Committee on Petitions in response to 18 petitions whose authors had legitimate complaints proved decisive in ending the infringements of their rights. The petitions were the following: 752/94, 493/95, 726/95, 718/90, 523/93, 874/93, 495/94, 292/96, 380/97, 865/97, 902/97, 334/98, 878/98, 1006/98, 1122/98, 423/99, 707/99 and 151/00.

A number of examples regarding these successful petitions are given very briefly below:

Concerning the petition from a resident in the Canary Islands regarding the incineration of waste, it was apparent from the reply from the Spanish authorities to the letter of formal notice sent by the Commission to Spain that three of the five incinerators which did not comply with the requirements of Council Directive 89/369/EEC¹ of 8 June 1989 on the prevention of atmospheric pollution from new municipal waste incinerators were still operating. The Spanish authorities stated that this was due to the absence of alternatives. However, they emphasised that the competent regional and local authorities had made efforts to improve waste management on the islands. The Commission decided to initiate infringement proceedings against Spain for failure to communicate the waste management plans stipulated in Article 7 of Council Directive 75/442/EEC, as amended by Council Directive 91/156/EEC² of 18 March 1991 relating to waste, as well as failure to communicate the chapter on the management of packaging and packaging waste stipulated in Article 14 of Council Directive 94/62/EC³ of 20 December 1994 on packaging and packaging waste. (Petition 718/90);

¹ OJ L 163, 14.6.1989, p. 32.

² OJ L 78, 26.3.1991, p. 31.

³ OJ L 365, 31.12.1994, p. 10.

An Irish petitioner who was a fully qualified teacher complained that he has been excluded from applying for a teaching post at a state school in the German state of Baden Württemberg because his diploma awarded on completion of education and training was issued by an institution of higher education, and not by a university. The competent British authorities attested to the status of the petitioner as a qualified teacher, and the Commission initiated infringement proceedings against Germany pursuant to Article 226 of the Treaty, for failing to respect the terms of Directive 89/48/EEC (on a general system for the recognition of higher-education diplomas). The German authorities finally accepted the position of the Commission that it is for the Member State of origin to confirm whether the establishment where the migrant undertook his studies constitutes an establishment of higher education, having regard to its national legislation and the structure and organisation of its education system. (Petition 523/93);

An Irish petitioner complained about the activities of a fish farm and the location of salmon farm cages on the west coast of Ireland. He was concerned about the pollution and health hazards caused by the use of toxic chemicals in the fish feed to combat sea lice, and the damage to the wild fish stocks and the environment by their uncontrolled use. The Commission decided to bring infringement proceedings against Ireland (Article 226 of the Treaty) for failing to comply with Directive 76/464/EEC (discharge of dangerous substances into the aquatic environment), in particular as regards the shortcomings in Ireland's authorisation system for marine fish farms and the lack of quality objectives. As a result, Ireland has drafted legislation which includes water quality objectives for a number of key substances, including those which would be associated with the discharges from marine fish farms. Infringement proceedings are continuing, pending adoption of this legislation. (Petition 874/93, Petition 334/98);

A British petitioner who had a holiday home in Tuscany wanted to be able to use a car whenever he stayed in Italy. However, the Italian authorities do not allow vehicles to be permanently registered in that country unless the person registering the vehicle is resident in Italy under Italian law. This situation was considered to infringe the principles of non-discrimination and freedom to provide services and the European Commission initiated infringement proceedings against Italy (Article 226 of the Treaty). Finally, in December 1999 the Italian government adopted a circular which allows all Community citizens with established links to Italian territory to ask for the registration of a vehicle with Italian licence plates. (Petition 495/94);

A number of petitions had been received from Irish and British petitioners concerning the death of tourists through carbon monoxide poisoning while on holiday at tourist complexes in Spain. Through the campaigning of the petitioners to highlight awareness of the dangers of carbon monoxide poisoning, the Member States had begun to compile statistics concerning fatalities, as well as alerting the competent authorities to the detection of death through such a cause. The Commission had come up with a number of strategies: the issue had been discussed in the emergency committee of the product safety meeting, and a warning had gone to all the Member States, and information was also put on the Internet; to prevent such tragedies occurring again, the Spanish authorities had introduced stricter regulations to ensure that gas appliances were regularly inspected and monitored for compliance with technical specifications; new initiatives were underway to improve tourist safety standards and increase consumer protection. (Petitions 752/94, 493/95, 726/95);

A petitioner resident in France had purchased a Peugeot 106 in Luxembourg. The French authorities (when registering the vehicle in France) rated it at 5 CV for tax purposes, while the same model Peugeot 106 sold in France would have been rated at 4 CV. The CV rating of a vehicle *inter alia* affects the level of annual motor vehicle tax applicable in France. The Commission then contacted the registration service dealing with the petitioner's vehicle (Préfecture de la Meuse), which was prepared to accept and give favourable consideration to a request from the petitioner for rectification if her vehicle was in fact identical to comparable vehicles rated at 4 CV. (Petition 395/95);

A Dutch petitioner who owned an insurance and financing company in the Netherlands and who was resident in Austria, indicated that although he was resident abroad he was taxed on 90% of his 'global revenue' in the Netherlands which meant that he was unable to make the necessary provisions for his old age pension. He applied for tax concessions under Article 52 of the EC Treaty as a Dutch national abroad. The Dutch Ministry of Finance rejected his application. The petitioner then registered a complaint with the Commission which was shelved after the Dutch tax administration abandoned the distinction between residents and non-residents as regards the granting of tax benefits in the constitution of a pension linked to the 'fiscal oudedagsreserve' scheme. (Petition 380/97);

An Irish petitioner complained that the Irish authorities had failed to carry out an environmental impact assessment (EIA) in relation to phase III of a road improvement scheme linking Dun Laoghaire with the South Eastern motorway which had received Community funding. Following representations by the European Commission, the Irish Minister of the Environment ordered an EIA to be carried out which resulted in two modifications to the project to reduce the noise and improve pedestrian safety. (Petition 865/97);

A British petitioner, who makes regular trips to Eastern Europe in a humanitarian convoy to bring aid to orphaned children, complained that on one occasion he was stopped in Belgium and obliged to pay a heavy fine for failing to have purchased a 'Eurovignette' (EU road tax for heavy goods vehicles). The petitioner insisted that he had been unaware of such a tax and that, in his view, non-commercial consignments of humanitarian aid should be exempt. The Commission explained that the national law in the Member States imposing the road tax does not exempt humanitarian aid vehicles from paying the road tax, mainly because of the difficulties associated with detecting and controlling cases of fraud. However, inquiries were made with the Belgian authorities, who eventually conceded that there had been no information available at Zeebrugge, the point of entry of the convoy, about the obligation to purchase a 'Eurovignette', although information had been circulated to all the transport ministries and transport associations in the EU Member States. Finally, the Belgian authorities accepted they were wrong in imposing the fine because humanitarian aid is not part of the commercial goods circuit and would therefore have been unlikely to have been aware of the new road charges, and reimbursed the fine. (Petition 902/97);

A petitioner of Austrian/British nationality, complained that his son, of British nationality, was required to complete a form from the Austrian financial authorities in order to obtain a free school bus pass, but Austrian nationals were not subject to this requirement. The Commission decided that this represented discrimination on the basis of nationality, and initiated infringement proceedings against Austria (Article 226 of the Treaty). As a result,

Austria is reviewing its legislation, and the form has been amended so that it applies only for school children from non-Community countries. There is no longer any difference in treatment between Austrians and pupils from other Member States who apply for a school bus pass. The Committee asked the Commission to ensure that schools, local authorities and other appropriate bodies were informed of this change of procedure and that the new forms were circulated to them. (Petition 1006/98);

The petitioner, a Portuguese national who had completed her training as a medical-technical assistant in Germany, had been waiting since September 1998 for recognition of her qualifications and authorisation to work in Portugal. Under Portuguese law, a reply had to be given to an application for recognition of qualifications within four months. The deadline had now elapsed and the petitioner was accordingly seeking the assistance of Parliament. This provided further proof of problems encountered in Portugal in the transposition of the general system directives. The Commission had initiated infringement proceedings (1998/4100) against Portugal for non-implementation of the general systems directives for the paramedical professions (Directives 89/48/EEC and 92/51/EEC). While further legislative steps still seemed to be required in order for Portugal to comply fully with the obligations of Directive 89/48/EEC, it was now clear that Directive 92/51/EEC may be relied on fully by those concerned. The Portuguese authorities are now committed to resolving outstanding individual cases as quickly as possible. Following several interventions by the Commission, the petitioner obtained recognition of her qualification as a medical-technical assistant in Portugal on 19 May 2000. The petitioner informed us by electronic mail on the same date of the favourable outcome of the matter and thanked the Commission for its efforts, confirming that the problem raised in her petition had been resolved. (Petition 423/99);

A German petitioner was employed by a French company and worked in Germany, and his social security contributions were paid into the German system. His employer was subsequently declared bankrupt in France, and the petitioner's attempt to claim compensation was rejected by the competent German and French authorities, each maintaining that the other was liable. As a result of this petition, the Commission has set up a working party to look at this question and come up with proposals to revise Directive 80/987/EEC (protection of employees in the event of the insolvency of their employer), to take account of trans-national insolvency in order to determine which body is responsible for payments to the employees. In the absence of such a provision, an interpretation was requested from the Court of Justice which ruled that the competent institution is the place in which the employees are employed. The petitioner finally obtained his compensation, which was paid by the French guarantee institution. (Petition 707/99);

A petition was tabled by the 'National Farmers' Union' (British), complaining about the embargo on the import and marketing of British beef in France. Within a few weeks of the petition being submitted, the Commission opened infringement proceedings against France pursuant to Article 226 of the Treaty for failing to lift a ban on British beef which had been produced in compliance with the Date Based Export Scheme (DBES) and declared legal under the relevant Commission decisions of August 1999. The Commission brought the matter before the Court of Justice where a ruling is awaited. (Petition 904/99);

The Committee on Petitions examined the case of a British petitioner who questioned the conditions laid down concerning access to the profession of notary public. Regulation of the

profession in a number of Member States prevents non-nationals from providing notarial services, in addition to applying a numerus clausus system restricting the number of notaries who can practice. Whilst emphasising that the regulation of the profession is a matter for the Member States as long as the provisions of the EC Treaty on the provision of services or right of accession are not infringed, the Commission informed the Committee that it had taken the unusual step of initiating infringement proceedings against seven Member States (Germany, Austria, Belgium, France, Greece, Luxembourg and the Netherlands) for violation of Article 45 of the EC Treaty, for maintaining a nationality condition. Very little case law exists on this Article. (Petition 151/2000).

The future of the Committee on Petitions

The future activities of the Committee on Petitions will inevitably involve closer contact with individual European citizens. They must be able to obtain redress for infringements of their rights without the need for complex and costly legal proceedings. At the same time, rapid and effective solutions should be found and, if possible, the individual concerned should be consulted regarding the decision taken.

Individual citizens must have access to modern computer technology and should be able to forward not only their petitions but also supporting documentation by electronic mail. They will doubtless wish to be actively involved, kept fully informed of each stage of the process and even add their signatures to other petitions under consideration. They would also require access to all the relevant case law. In monitoring developments in this way individual citizens are doing no more than exercising their rights as interested participants in the construction of Europe. In practical terms this is not only legitimate but also possible and desirable, except in cases where confidentiality must be respected. In order to put this into practice, the relevant legal instruments must be brought into line with the desired objectives.

Promptness, effectiveness and transparency are of cardinal importance and must not be neglected. They figure prominently in the *'Report on the institution of the petition at the dawn of the 21st century'* by Mr Roy James Perry and Mrs Margo Kessler, which is of particular significance with regard to enhancing the role and working conditions of our committee. It is also the subject on an opinion by the Legal Service.

Relations between the citizens and the institutions are also given special attention in the following documents: *'Report on the Code of Good Administrative Behaviour'* (rapporteur: Mr Roy James Perry) and *'Report on the proposal for a regulation of the European Parliament and of the Council concerning public access to European Parliament, Council and Commission documents'* drawn up by the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (rapporteur: Mr Michael Cashman).

Reference should also be made to the report to be drawn up by Mrs Janelly Fourtou under Rule 175(1) and (4) of the Rules of Procedure regarding two petitions on silicone breast implants. It is anticipated that the committee will be making greater use of this provision in the near future. It is also desirable for its role to be strengthened, reviewing and widening its terms of reference under Title XVII of Annex VI of the Rules of Procedure.

Finally, particular attention should be given to the citizens of the countries applying for membership of the European Union. While the European Parliament has been receiving petitions from them for a number of years, it is necessary to consider to what extent the right of petition can be extended to these countries. Given that respect for human rights is one of the basic requirements which must be met for accession, this could be selected by the committee as a priority issue in respect of petitions from these countries.

Statistics regarding petitions considered

In the period under review the Committee received 886 petitions, compared with 958 the previous year. In accordance with Rule 174(10) of the Rules of Procedure, the committee also received 23 petitions from non-Community citizens residing in third countries.

In the period under review, the Committee declared 510 petitions admissible and 333 inadmissible (previous year: 492 and 444 respectively); the examination of 475 petitions was concluded (previous year: 757). 689 petitions are still under consideration, as against 568 the previous year.

The Commission was asked for information on 388 new petitions and further information on 153 petitions under examination (previous year: 341 and 163 respectively).

In 15 cases the Committee on Petitions asked the President of the European Parliament to approach national authorities (previous year: 20). In 76 cases the petitioners were referred to another competent body independent of the European Communities (previous year: 58).

Three petitions were forwarded to other committees and delegations for opinion, 24 for further action and 142 for information (previous year: 8; 40 and 142 respectively).

In 1 cases the petitions were transmitted to the European Ombudsman to be dealt with as complaints. In 3 cases complaints were transmitted from the European Ombudsman to be dealt with as petitions. (For further detailed statistics, see Annexes).

Petitions received by the European Parliament

<u>Parliamentary year^{*)}</u>	<u>Number</u>	<u>% increase/decrease</u>
1985-1986	234	+ 38
1986-1987	279	+ 19
1987-1988	484	+ 73
1988-1989	692	+ 43
1989-1990	774	+ 12
1990-1991	785	+ 1
1991-1992	694	- 12
1992-1993	900	+ 30
1993-1994	1083	+ 20
1994-1995	1352	+ 25
1995-1996	1169	- 14
1996-1997	1107	- 5
1997-1998	1311	+ 18
1998-1999	1005	- 24
1999-2000	958	- 5
2000-2001	886	- 7
^{*)} commencing in March		

- **Action taken by the European Parliament****A. Allocation of petitions within Parliament**

<u>Committee, delegation or service</u>	<u>Information</u>	<u>Further action</u>	<u>Opinion</u>
Foreign Affairs	20	8	
Agriculture	12	1	
Economic affairs	4		
Research, Technology and Energy	2	1	
External Economic Relations	--		
Legal Affairs and Citizens' Rights	2	1	
Social Affairs	14	1	1
Regional Policy	15	3	
Transport and Tourism	--		
Environment, Public Health and Consumer policy	28	4	1
Culture, Youth, Education and the Media	4	1	
Development and Cooperation	2		
Citizens' freedoms	12	3	
Budgetary Control	2		
Fisheries	1		
Institutional Affairs	6	1	
Women's Rights	2		1

Delegation for Central America	2	1	
Delegation for South-East Europe	1		
Delegation for the Maghreb countries	1		
Delegation for South America	3		
Delegation for Turkey	2		

B. Petitions by nationality of petitioners and Member States concerned:

	<u>Nationality of petitioner</u>	<u>Country in question</u>
Germany	184	145
Austria	25	30
Belgium	27	36
Denmark	5	7
Spain	98	66
Finland	15	10
France	100	82
Greece	60	33
Ireland	15	12
Italy	112	80
Luxembourg	--	2
Netherlands	17	19
Portugal	40	33
United Kingdom	102	74
Sweden	11	11
Non Community	76	9

C. Classification of petitions by subject:

Agriculture	1
Social affairs	101
Customs	3
Environment	77
Taxation	21
Freedom of movement	27
Recognition of diplomas	17
Various subjects	226

(for example: discrimination, national legal proceedings, elections, personal problems, political situation in third countries, problems with companies and banks, competitions for recruitment to the European civil service, etc.)

D. Collective petitions (bearing 1000 signatures or more):

	<u>Number of signatures</u>
No. 230/2000, by Mrs Cristiana Muscardini, MEP (Italian), concerning the incompatibility of Dutch membership of the Schengen Agreement and its tolerance towards all types of drugs within its territory	10592
No. 240/2000, by Mr James Ballard (British), on behalf of the “University of Nottingham Union”, on student hardship in the United Kingdom	4078
No. 349/2000, by Mrs Céline Guezello Mary (French) on behalf of the ‘Menhirs Libres’ Association concerning the reorganisation of the Carnac megalithin site	15680
No. 426/2000, by Mrs Penbe Kurtul (French) concerning an end to the war in Chechnya	3280
No. 427/2000, by Mr Antonio Piccirillo (Italian) and Mrs Giovanna Galli (Italian), on behalf of the Treviglio Environmental Committee, concerning urban atmospheric and noise pollution and the serious threat this poses to public health and safety	1490
No. 580/2000, by Mr Bruno Francescantonio (Italian), concerning a library and picture gallery forming part of a legacy	1742
No. 581/2000, by Mr Eligio Milano (Italian), on behalf of the Independant Mont Blanc Tunnel Committee (‘No to TIR), concerning the transfer to rail of goods traffic through the Alps	20000
No. 605/2000, by Mrs Françoise Scheuer (French) on behalf of the ‘Merci Erika’ Association, concerning environmental protection measures	13585
No. 639/2000, by Mr Jacques Loyau (French), on behalf of the European Parliamentary Assistants Association, concerning a statute for European Parliament Assistants	1152
No. 820/2000, by Mrs Foteini Georgiou (Greek), concerning a health hazard caused by a cement factory in the Halkida area.....	12000
No. 908/2000, by the German Tobacco Federation e.V., concerning the danger to jobs and production diversity in the tobacco sector resulting from the introduction of new EU directives.....	20000

No 22/2001 by Mrs Venetia Kantzia (Greek), concerning the amendment of environmental protection articles when the Greek Constitution is reviewed ..	4281
No 45/2001 by Mrs Cristiana Muscardini, MEP (Italian), concerning measures to combat paedophilia	4976
No 139/2001, by Mr Josep Lendínez González, (Spanish), on behalf of the 'Plataforma de Sant Jordi I s'Aranjassa en Defensa des Prat' concerning a projected water purification plant in Mallorca.....	1157

9 May 2000

*REPORT BY MRS MARY BANOTTI**“The Parliament’s Mediator for Transnationally Abducted Children”.***I. THE ROLE OF THE MEDIATOR**

The position was originally created at the end of the 1980’s by Lord Plumb, former President of the European Parliament. The first Mediator was Mrs Marie Claude Vayssade. The Mediator was given specific responsibility for parental abductions. When Mrs Vayssade was not re-elected to the European Parliament in 1994, the position lapsed until 1995, when I was appointed by President Klaus Hänsch in response to a request from the Petitions Committee. This was due to a huge increase in the number of Petitions concerning this specific issue and the Committee’s inability to handle them (as part of the normal workload). I have since been confirmed twice in this position. First, by Mr Gil Robles in 1997 and by Mrs Nicole Fontaine in 1999.

It is important to emphasise that the Mediator has no statutory role, however, over the years the fact that the European Parliament has appointed a Mediator to work on these cases often opens doors when all other avenues have been exhausted.

Parental abduction often occurs, though not exclusively, when mixed marriages breakdown. The increase in travel and working abroad has brought about an increase in the rate of mixed marriages, both within the EU and between the EU and third countries.

Cases are referred to the Mediator through the following methods :

- Petitions sent to European Parliament.
- Referral by MEP colleagues.
- Direct contact to the Mediator’s office, either by an affected parent or by their legal advisers.

The Mediator immediately contacts the petitioner to reassure them that their concerns are being addressed. Contact is then made with the Central Authorities of the countries concerned as well as with Embassies, Social Services, Legal Advisers etc. Ideally, this is to seek a voluntary settlement, but always keeping the best interests of the child central to our work.

II. DIFFICULTIES

There are difficulties encountered by the Mediator in countries with religious courts where the rights of the mother are very limited. We have several cases at present where a solution appears extremely difficult.

In such cases not only is the return of the child generally very difficult but perhaps even more importantly, visiting rights are extremely difficult to implement. The invocation by the abducting parent of Islamic law is also a frequent difficulty. In many of these cases the courts are not prepared to recognise the non-abducting parent's legal right to have the children returned to the country of habitual residence. We have contacted a wide variety of official and non-official agencies in many Member States. The support we can give to the victim parent is a significant part of our work.

There are also many problems within the EU very often involving two EU citizens, one of whom has gone to live in a third country. In many cases we have discovered that abducting parents will change their nationality if they think they will be less likely to be subject to the rigours of the law in the host country. In other cases, parents have been known to change their religion where they feel this will benefit them and stop the child from being returned.

In view of the great number of abductions in recent years concerning Germany and France, the German and French governments have set up a high level working group to study the situation and to devise a common procedure for dealing with such cases.

The French Judge, Alain Mancini, nominated by Mrs Elizabeth Guigou, visited us to discuss the workings of the European Parliament's Mediator's office and to establish a network which could assist with Franco-German co-operation in the field of abduction. We have within the Parliament, two colleagues, Mrs Pervenche Berés and Mrs Evelyne Gebhardt, who are actively working on a Franco-German working group seeking to resolve over fifty cases of abduction between these two countries, and I look forward to continuing co-operation with this group.

I can speak with pleasure of many success stories. In several cases children have been missing, very often being moved to at least three different countries for over four years. In several of these cases great credit must be given to the police forces who acted efficiently and took the question of child abduction seriously, which has not always been the case in the past. This proves that when police and judicial authorities prioritise such cases there can be a successful outcome.

III. OTHER ACTIVITIES

As Parliament's Mediator, I am on the board of The International Center for Missing and Exploited Children which has recently opened an office in London, with satellite offices in Belgium, Italy and soon in Ireland. I have also recently received a special award from the Adam Walsh Foundation in the USA for work done in this area. Indeed, significant useful contacts have been established also in the United States.

On 29 March, a major seminar was held in the Belgian Senate and I was one of the speakers. Representatives from Justice Ministries in the EU, NGOs and organisations from the USA concerned with child abduction also participated.

It is important to emphasise that many of the office's successes are due to a network of contacts built up with the experience of the last five years. As the role of the European Parliament in this field continues to become more widely known, the volume of queries and requests for information and assistance has also increased.

Significantly in the last three years, many grandparents of abducted children have contacted us for advice and to express their distress at their loss of contact with their grandchildren. No country grants legal rights (except where custody is concerned) to grandparents and I believe that this is a gap in the law that should be addressed, as very often in contentious and difficult situations the grandparents can be of enormous support to children caught up in the distress of family breakdown.

On 9 May 2000, I addressed the International Meeting of Young European Lawyers and represented the European Parliament in the Hague where an international database of Hague Convention cases will be published shortly.

In addition to our active involvement in retrieval of abducted children, we have addressed well over 200 telephone requests for advice and information. These phone calls often require several follow-up calls. This is a very important part of our work because it's through this kind of public awareness raising activities we hope to play a significant role in the prevention of international child abduction.

OVERVIEW

Petitioners Nationality

USA
UK
UK
UK
IRL
IRL
USA
USA
SWEDEN
FINLAND
IRL
SPAIN
BELGIUM
SPAIN
ITALY/BELGIUM
NORTHERN IRELAND

Nationality of other party

DENMARK
USA
FRANCE
ITALY
UK
FRANCE
SWEDEN
FINLAND
SUDAN
IRAN
ITALY
GERMANY
KENYA
YEMEN
AUSTRALIA
ITALY

In 1999, my Dublin office dealt with 7 cases of **child abduction**, broken down as follows:

USA - Ireland	2
UK - Ireland	1
Italy- Ireland	1
Switzerland- USA	1
UK - Greece	1
Ireland-Spain	1

The nationalities of the callers were: Irish, German, Swiss, and British

One case of **access** was dealt with, involving access by an Irish father to his German born children.

Thirty-five calls requiring substantial follow-up were received, mainly from Irish callers seeking advice on prevention, or court procedures.

Over a hundred requests for information and general advice were received.

The Mediator's office was represented on three occasions on national television, several times on radio and at International conferences.

An article on difficulties arising from the application of the Hague Convention was submitted to the *International Law Review*.