

EUROPEAN PARLIAMENT

1999



2004

Session document

FINAL
A5-0239/2003

19 June 2003

REPORT

on the deliberations of the Committee on Petitions during the parliamentary year 2002-2003 (2003/2069(INI))

Committee on Petitions

Rapporteur: Laura González Álvarez

CONTENTS

	Page
PROCEDURAL PAGE	4
MOTION FOR A RESOLUTION.....	5
EXPLANATORY STATEMENT	9
<u>Annexes:</u>	
I. Petitions received by the European Parliament	19
II. Statistics concerning petitions considered over the reference period (12.03.02 - 10.03.03)	20
III. Petitions by nationality of petitioners.....	21
IV. Collective petitions (bearing 1000 signatures or more).....	22
V. Report by Mrs Mary BANOTTI The Mediator for Transnationally Abducted Children	23

PROCEDURAL PAGE

Pursuant to Rule 175(6) 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 measures taken by the Council or Commission in response to petitions referred to them by Parliament.

The Committee on Petitions appointed Laura González Álvarez rapporteur at its meeting of 23 January 2003.

It considered the draft report at its meetings of 21 May 2003 and 10 June 2003.

At the last meeting it adopted the motion for a resolution by 10 votes to 3.

The following were present for the vote: Vitaliano Gemelli (chairman); Roy Perry (vice-chairman); Laura González Álvarez (rapporteur); Mary Elizabeth Banotti (for Richard A. Balfe), Felipe Camisón Asensio, Marie-Hélène Descamps, Janelly Fourtou, Margot Keßler, Ioannis Marinos, The Earl of Stockton, Rainer Wieland, Eurig Wyn and Stavros Xarchakos.

The report was tabled on 19 June 2003.

MOTION FOR A RESOLUTION

European Parliament resolution on the deliberations of the Committee on Petitions during the parliamentary year 2002-2003 (2003/2069 (INI))

The European Parliament,

- having regard to its previous resolutions on petitions,
 - having regard to the annual report (2002-2003) of the European Ombudsman (C5-0271/2003),
 - having regard to the Interinstitutional Agreement of April 1989 on strengthening the right of petition¹,
 - having regard to Articles 21 and 194 of the EC Treaty,
 - having regard to Rules 47(1) and 175(6) of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A5-0239/2003),
- A. whereas the right to petition is a fundamental right inextricably linked with European Union citizenship, as set out for ten years in the Treaty on European Union and in the draft constitution being drawn up by the Convention on the future of Europe (Article 8),
- B. whereas the right of petition and address complaints to the Ombudsman are the only means available to European citizens for exercising what are accordingly termed their 'direct' democratic rights, in the absence of a referendum and laws enacted by popular initiative in the context of European Union constitutional law,
- C. given the arithmetic progression for the third consecutive period in the formal number of petitions; whereas the new parliamentary year occupies a pivotal position between two electoral terms, of which the next will coincide with the achievement of finally enlarged European citizenship,
- D. whereas the European Parliament has always made use of petitions as a means of securing a privileged observatory from which to exercise its political monitoring powers, particularly regarding serious infringements of Community law, while at the same time giving citizens a chance to express their day-to-day expectations or fears regarding Europe,
- E. whereas greater synergy and transparency in relations between the European institutions, in particular the European Ombudsman, the specialised agencies, the Member State administrations, including petitions committees and ombudsmen now established within national and regional parliaments, are essential to provide European citizens with the

¹ OJ C 120, 12.4.1989, p. 90.

necessary assistance in the legitimate exercise of their rights,

1. Recalls that exercise of the right of petition embodied in the Treaties provides a very comprehensive and consistent set of indicators for gauging public interest in Europe and, at the same time, helps to stimulate, through calls for action or even simple expressions of interest, a direct and open dialogue with European Parliament representatives;
2. Calls for measures to ensure that on the basis of petitions forwarded by citizens to the relevant committee, the European Union is able to assess the way in which Community legislation is being implemented at national and European level;
3. Stresses that, through petitions, the European Parliament is able to assess and, if necessary, publicly reveal loopholes in European legislation or infringements by the Member States;
4. Calls for the annual debate and vote in plenary on the work of the relevant committee and on the annual report by the European Ombudsman to encompass also the Commission's annual report on the implementation of Community law;
5. Recalls that the 2002 initiative to send delegations to various Member States or regions of the Union to investigate on the spot, listen to the views of the communities concerned and arouse greater awareness on the part of the competent authorities, helped to resolve problems rapidly and proved to be of benefit to the petitioners;
6. Envisages also regular recourse by the European Parliament to non-legislative resolutions under Rule 175 of its Rules of Procedure, for example regarding the petition submitted by the Reverend Owen¹ and on petitions submitted by several Lloyd's of London Names thereby reflecting the European Parliament's role in monitoring the implementation of Community law in the Member States;
7. Notes that the success achieved through petitions regarding the effect of Europe on the life of individual citizens makes it essential to consider carefully the best way of improving the effectiveness and transparency of all procedures for the examination and processing of petitions received;
8. To this end, calls for more flexible and rapid procedures adapted to the substance of replies to petitioners, so as to make them swifter and more effective, even at the expense of other factors such as multilingualism;
9. Stresses the need to strengthen the secretariat of the relevant committee as a matter of urgency so as to reply to petitions from citizens of the new Member States, given that efficiency and transparency are of the essence;
10. Indicates that in the immediate term enlargement of the Union to encompass ten new Member States necessitates quantitative development in the work of the Committee on Petitions so as to meet the new legal, political and linguistic requirements;

¹ P5-TA (2002) 0525.

11. Stresses the need to lay down new rules for the treatment of petitions so as to establish clear areas of responsibility with regard to other Community institutions (Commission and Council) and the national authorities, as indicated in the working document submitted by this committee to the Chairman of the Convention on the future of Europe¹;
12. Stresses that, with the redefinition of the right of petition under the new Constitution common rules of conduct for all Community institutions and Member States must be established along the lines of the Code of Good Administrative Conduct drawn up by the European Ombudsman and endorsed by the European Parliament;
13. Proposes that the future constitutional Treaty make provision for significant groups of citizens to promote reforms of Community legislation on the basis of well-founded arguments verified during consideration of their petitions by this committee;
14. Recalls Parliament's repeated requests to the Council and Commission to review the 1989 Interinstitutional Agreement on the processing of petitions and complaints forwarded to the Community institutions, so as to shorten the deadlines for processing petitions and reply to petitions as specifically as possible, laying down a clear, coherent and binding framework to facilitate cooperation between all Community institutions and national authorities with the European Parliament;
15. Asks the Commission to pursue its efforts – which have already produced appreciable results – to rationalise and accelerate internal procedures in response to requests for information concerning petitions;
16. To this end, calls for a more rapid response regarding matters clearly outside the remit of the Union or, on the contrary, where infringement proceedings against a Member State have already been commenced; calls for the separate and specific treatment of petitions ruled admissible over three years previously;
17. Asks the relevant Commission services to provide promptly, independently of the annual report on the monitoring of Community law, information and/or replies which are indispensable to enable the committee to complete all legal proceedings initiated under Articles 226 and 228 of the Treaty and concerning the processing of petitions;
18. Supports the creation of the SOLVIT system as an informal means of assisting individuals and companies to resolve problems concerning the internal market and urges Member States to step up this integrated cooperation scheme to make SOLVIT operational on a large scale;
19. Asks the Commission to take action at the most appropriate level to promote the legislative initiatives essential to fill Community the legal loop-holes clearly revealed during consideration of certain petitions or groups of petitions;
20. Expresses concern at the Council's great reluctance to cooperate with the relevant Committee and its persistent failure to send representatives to working meetings of the

¹ Working document sent on 17 February 2003 to the President of the Convention on the Future of Europe.
Rapporteur: Proinsias De Rossa.

committee where the problems raised by the petition are being aggravated by the lack of information or explanation by the Member State authorities, thereby causing delays and undermining the committee's decision-making effectiveness;

21. Welcomes nevertheless the commitment by the Council Presidency in the conclusion of the interinstitutional agreement on Better Regulation of 3 June 2003 to ensure Council presence on a appropriate level in the committees of the European Parliament;
22. Considers it necessary to strengthen cooperation with the European Ombudsman and, to this end, calls for the introduction of the necessary amendments to the European Parliament's Rules of Procedure and the Statute of the European Ombudsman;
23. With a view to the accession of new Member States to the EU calls for firmer measures to ensure that the new European citizens are aware of their right to petition Parliament, the Commission and the Ombudsman under Articles 21 and 194 of the Treaty;
24. Calls on the Member States to demonstrate their adherence to Article 10 of the Treaty by developing an open and constructive attitude in relations with citizens regarding the protection of their fundamental rights;
25. Hopes for the creation throughout the Union of national petitions committees or other parliamentary committees to work together with this committee and at the same time provide a more homogeneous image of the level of protection of citizens' rights within the Union;
26. Instructs its President to forward this resolution and the report by its committee to the Commission, the Council, the European Ombudsman, the governments and parliaments of the Member States, their petitions committees and their national ombudsmen or similar bodies.

EXPLANATORY STATEMENT

Introduction

Rule 175(6) states that 'the committee shall inform Parliament every six months of the outcome of its deliberations' through an own-initiative report based on statistics relating to the parliamentary year in question.

As a result, since 1990 it has become accepted practice to table in plenary sitting an increasingly detailed annual report and accompanying observations containing an assessment of the activities during the reference period and preparing the ground for work the following year.

The parliamentary year (*session*) considered in this report runs from 12 March 2002 to 10 March 2003.

The right of petition and its development within the committee in practice

Since 1 November 1993, the date of entry into force of the Treaty on European Union, the right of petition has been inherent to European citizenship; as such it was included in Article 21 of the consolidated Treaties and Article 44 of the Charter of Fundamental Rights; its scope was widened by Article 194 of the Treaty to any natural or legal person residing in a Member State.

Well before being endowed with a formal legal basis, this instrument for direct exercise of the rights of citizenship was developed by the European Parliament and the practicalities embodied in its Rules of Procedure. Since the commencement of its activities in 1987, the Committee on Petitions has endeavoured to make available to users an appropriate regulatory and operational framework to strengthen this right.

The Commission has now become a victim of its own success – as can be seen at a glance by the arithmetic increase in the final number of petitions registered from one year to the next – and it is now considering how to perfect its role as the voice of the European citizens in their dealings with national and Community authorities, commencing in 2001 with the *Perry-Kessler* report on the institution of the petition at the dawn of the 21st century, followed by the *Gemelli* report on strengthening the right of petition with a view to a revision of the EC Treaty and, last but by no means least, the *De Rossa** opinion, a contribution by this committee to the work of the Convention on the future of the Union, showing that the committee's efforts at the close of the reference period are continuing undiminished.

In general the committee is seeking to reduce the time taken and deadlines set for the processing of petitions with a view to making the entire procedure more rapid, transparent and participative. To this end the 'obligation to use all appropriate means' dictated by the administrative Code of Good Conduct drawn up by the European Ombudsman and given prominence in the *Perry* special report can only provide a point of departure for the complicated procedure initiated for each petition received. In practice acknowledgement of

receipt is forwarded within the deadline specified by Article 14 of the code in respect of any request in the form of a petition once it has been duly registered. In fact, this is only the preliminary step in what is likely to be a lengthy set of initial procedures, given the need to consider the admissibility of an entire package of petitions received over the same period.

This initial delay, mainly caused by the fact that summaries are translated into all official languages of Parliament prior to being printed in a communication to Members, undermines the speed and occasionally the effectiveness of the reply. This emerges clearly where a question tabled in the form of a petition does not fall within the Union's fields of activity, in which case the committee refers the citizen to the relevant national authorities. It is therefore necessary to be more flexible from the outset, for example by eliminating multilingual translation if petitions are ruled inadmissible or for certain categories of petition, for example those in which the author is raising matters of principle or providing information quoting his sources in full (for example a press article). In general it is recommended that the petitioner's wishes be taken into account in processing this type of petition. A further category of petitions, those which seek to sound an alarm, or, for example to secure recognition of a state of national disaster following the shipwreck of the *Prestige*, could justify special treatment given the need for effective and prompt solutions.

The Committee on Petitions has for a long time sought to promote the executive's role as guardian of the Treaty. It does not stop at referring matters to the Commission for verification of the implementation of Community law by the national authorities but continues to follow the progress of the petition and to exert pressure regarding the methods used and time taken by the Executive. While the Commission obviously seeks to respect the three month deadline for reply to requests for information concerning a petition, long delays can still occur which may be aggravated by the committee's full agenda and by its working methods. Further delays may occur as a result of vaguely formulated provisional replies or confirmation in writing of oral replies received after the date set for discussion of the petition in question. This can lead to irreversible damage, as is often the case with regard to environmental protection issues.

In this connection the committee has frequently stressed the need for a review of the still valid interinstitutional agreement of 12 April 1989 based on the principles of clarity, transparency, effectiveness and speed which are indicative of sound administrative practices. This is all the more essential given the Parliament's role as a mouthpiece of the citizens in their dealings with both the Commission and the Council. The Commission which frequently processes complaints on the same subject as petitions, cannot therefore consider its work finished once consideration of the complaint has been closed since the Committee on Petitions may decide to consider the petition independently, keeping it open on political or moral grounds. This is reflected in the procedures followed by the European Ombudsman when he decides to file a complaint. Moreover, the Council, which keeps a low profile, systematically failing to attend meetings of the Committee on Petitions, should show much greater concern as co-legislator (together with the European Parliament) should a petitioner reveal serious and persistent infringement of Community law by a Member State.

The committee, whose activities are constitutionally rooted in the Treaties, has sought a vanguard role in its dealings with other parliamentary committees, continuing to forward to each – for information, for an opinion or as the committee responsible (for example the petition by Marta Andreasen forwarded to the Committee on Budgetary Control) – petitions

relating to their respective remits, asking them to examine in the legislative context the problems raised by individual citizens. By means of own-initiative reports it has sought to establish areas where action by the European legislator may resolve problems arising in the same category of petition.

Individual citizens themselves are beginning to perceive and appreciate this receptiveness to issues of greater relevance to civil society within the Union at national or local level. The committee should therefore seek to improve its standing in the eyes of the public given the major challenges arising concerning the future of the Union and in particular this institution (in the year leading up to both elections and enlargement). It should launch an information campaign which is both bold and level-headed, seeking maximum flexibility and precision in its modus operandi. This is all the more true now that the committee is branching out in its external relations sending delegations to the Asturias, Denmark and Scotland in 2002 for example, giving the MEPs involved the opportunity of leaving their 'ivory tower' and discussing problems directly and on the spot with the individual citizens affected. The higher profile adopted by our committee over the last year could conceivably lead to friction within Parliament where basic issues raised by a petition fall within the remit of another committee as the committee responsible, in which the case the Committee on Petitions endeavours to maintain effective internal cooperation without ceasing its own work on the petition (for example in its relations with the Committee on the Environment concerning petitions on the Spanish Hydrological Plan).

Finally, since the principle of subsidiarity will become increasingly important regarding demarcation between the Union and the Member States the committee considers it appropriate to refer a petition tabled at European level to the national or local authorities most competent to deal with it, given their proximity to the individual citizens concerned, returning to it subsequently if a justified request is made by the petitioner. It is therefore desirable to establish close relations with petitions committees already existing in the Member States. Furthermore, while respecting national administrative frameworks, the European Parliament's Committee on Petitions encourages greater transparency of procedures at national or local level to ensure that the right of petition is effectively recognised as a directly applicable and vitally important instrument of democracy.

Cooperation with the European Ombudsman

The Committee on Petitions and the Ombudsman have always cooperated well on a basis of mutual trust and honesty which has continued undiminished this year, despite the fact that Mr Jacob Söderman, the European Ombudsman, announced his intention of leaving his post early, for reasons of age, from 1 April 2003.

As was the case regarding the two previous elections, the Committee on Petitions, under Rule 177(3) of the Rules of Procedure, was required to hear the candidates. However, the circumstances were exceptional in two respects: firstly, it was necessary to complete the procedures for appointment of a new Ombudsman to guarantee continuity in the final year of the parliamentary term; secondly, it was necessary to meet the deadline for consideration of the formal admissibility of applications, then to hear the seven candidates despite the fact that the number of applicants had been considerably larger than in previous elections. The requisite proceedings for which the Committee on Petitions is directly responsible were

followed to the letter throughout while at the same time maximum transparency and availability of information were ensured. Finally, when Mr Nikiforos Diamandouros was appointed by the plenary assembly on 15 January 2003, he stressed that close cooperation with the Committee on Petitions was one of his priorities.

Cohesion between the Ombudsman's Office and the Committee on Petitions was confirmed by the committee's endorsement of the action taken by the European Parliament before the Court of Justice in support of the Ombudsman in the '*Lamberts*' case **.

Activities of the Committee on Petitions

During the parliamentary year the committee has generally concentrated on major political issues (regarding relations between the European institutions and/or the Member States), its meetings being attended by a number of national representatives from civil society and from political circles, for example the hearing on '*the nature of nuclear waste reprocessing plant and their impact on local and regional communities within the Union*' (17-18 April 2002) at which attention was drawn to the 'snowball' effect (multiplication of the interests at stake) initiated by a number of petitions (for example by Mr *Natchwey*) specifically relating to this matter. The issue was revealed to be highly topical and a matter of priority following statements by Commissioner Wallström, civil nuclear energy experts, administrators or staff representatives from nuclear power stations, MEPs belonging to the committee and their colleagues from the Committees on the Environment and Industry, all of whom gave their views on the risks involved and the powers of the national or European authorities in this area. This matter should therefore receive due consideration at every public hierarchical level for the sake of greater prudence and safety so as to ensure environmental and health protection and internal and international security.

During this period, Parliament adopted the following five reports by the Committee on Petitions:

- '*Report on the annual report on the activities of the European Ombudsman (2001/2002)*'
(rapporteur: Eurig Wyn), September II 2002 (A5-0267/2002);
- '*Annual report of the Committee on Petitions (2001/2002)*'
(rapporteur: Ioannis Koukiadis), September II 2002 (A5-0271/2002);
- '*Report, pursuant to Rule 175(1) of the Rules of Procedure, on Petition 395/2001 by Mr Raymond Owen (British) on alleged discrimination with regard to the clergy*'
(INI 02 220), (rapporteur: The Earl of Stockton) (A5-0345/2002);
- '*Special report by the Ombudsman for the European Parliament concerning the draft recommendation to the Commission regarding complaint 242/2000/GG*' (pursuant to Article 3(7) of the Statute of the European Ombudsman (COS) (Caroline POTTER, part-time work, gender-based discrimination)
(rapporteur: Jean Lambert), December 2002 (A5-0342/2002);
- '*Special report from the European Ombudsman to the European Parliament*

concerning the proposal for a recommendation to the Council of the European Union on complaint 917/2000/GG (pursuant to Article 3(7) of the Statute of the European Ombudsman (COS) (Statewatch complaint, public access to documents) (rapporteur: Astrid Thors), December 2002 (A5-0363/2002);

During the same period, the following 16 opinions were forwarded to another committee:

- *'Proposal for a Council directive on the conditions of entry and residence of third country nationals for the purpose of paid employment or self-employed economic activities'* (COM(01)0386) - 2001/0154 (CNS); (draftsman: Tokia Säifi), adopted on 18 April 2002
- *'Enlargement - progress towards accession by each of the candidate countries'* (COM(01)0700) - INC (draftsman: Luciana Sbarbati), adopted on 18 April 2002
- *Communication from the Commission: 'Simplifying and improving the regulatory environment'* (COM(01)0726) - (COS), (draftsman: Laura González Álvarez), adopted on 18 April 2002
- *Proposal for a Council directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees under the 1951 Convention relating to the status of refugees and the 1967 Protocol, or as persons who otherwise need international protection and concerning the substance thereof* (COM(01)510 - 2001/027 (CNS), (draftsman: Jean Lambert), adopted on 23 May 2002
- *Proposal for a European Parliament and Council directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States* (COM(01)0257) - 2001/0111 (COD)), (draftsman: Ana Palacio Vallelersundi), adopted on 23 May 2002
- *Communication from the Commission to the Council and the European Parliament towards the common asylum procedure and introducing an open coordination method. First report on the implementation of the Communication* (COM(2000) 0755 of 22 November 2000 - (COM(01)0710) - (COS), (draftsman: Laura González Alvarez), adopted on 20 June 2002
- *Budget of the European Ombudsman (2003)*, (draftsman: Herbert Bösch), adopted on 10 July 2002
- *Impact and status of Charter of Fundamental Rights* (INI) 2002/2139, (draftsman: Vitaliano Gemelli), adopted on 12 September 2002
- *Eighteenth annual report on the monitoring of the implementation of Community law* (draftsman: Rainer Wieland), adopted on 8 October 2002.
- *Situation regarding fundamental rights in the European Union* (INI) 012014, (draftsman: Eurig Wyn), adopted on 21 October 2002

- *Green Paper on criminal law protection of the financial interests of the community and the establishment of a European prosecutor* (COM(01)0715) - 2002/2065 COS), (draftsman: Christian Ulrik von Boetticher), adopted on 21 October 2002
- *Professional qualifications regulated professions: mutual recognition for the full freedom of movement* (COM(02)0119 - 2002/0061 (COD)), (draftsman: Luciani Sbarbati), adopted on 3 December 2002
- *Communication from the Commission on community and national provisions in relation to breast implants* (COM(01) 666) COS 022171 C5-0327/02, (draftsman: Janelly Fourtou), adopted on 9 December 2002
- *Proposal for a directive of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage* (COM(02)0017-2002/0021 (COD)), (draftsman: Vitaliano Gemelli), adopted on 23 January 2003
- *Open method of coordination for Community immigration policy* (Commission Communication (COM(01)0387), (draftsman: Jean Lambert), adopted on 23 January 2002
- *Budget guidelines 2004* (draftsman: Roy Perry), adopted on 23 January 2003

However, the Committee is mainly concerned with examining, debating and resolving the problems of individual citizens raised in the petitions.

Certain issues constantly recur in petitions, for example, individual concerns regarding the inadequacies of environmental impact assessment procedures on the part of the national or local authorities. In most cases, the decision on whether or not to carry out an environmental impact survey rests with the local authorities which do not have the necessary technical expertise regarding the implementation of Directive 85/337/EEC, which requires the acquisition of specialist knowledge. The precautionary principle, which is of fundamental importance with regard to environmental issues, is frequently neglected in carrying out public or private projects.

Regarding another area, freedom of movement of persons with regard to recognition of diplomas and professional experience on the basis of community law, the committee has several times drawn attention to the existence of a grey area, giving greater discretionary powers to the relevant national authorities. Regarding the internal market the committee supports the informal network set up in 2002 by the Commission *** seeking to provide individuals and undertakings a practical, effective and rapid alternative to legal action as a way of resolving their problems.

Where appropriate, the committee may draw up own-initiative reports on recurrent problems seeking to define common areas of concern and bring them to the attention of Parliament, other institutions or the Member States, in accordance with the principle of subsidiarity, given the need for definitive solutions or urgent remedies.

Finally, a number of petitions have led to favourable results, the majority of which were tabled before the parliamentary year which has just ended, particularly in the following cases:

Petition 353/2002, by Mr Henry Fulda (British) on his problems relating to an application for German pension benefits

The petitioner, who was obliged to flee from Germany in 1939 and has held a British citizenship since 1947, applied for German pension benefits in 1992. He was informed that his pension entitlement was conditional upon his applying for German citizenship, which he categorically refused to do. Having lost his appeal to a German court, he referred the matter to the Petitions Committee of the German Bundestag which upheld the court's judgement. A copy of the petition was forwarded to the German Ministry for Social Affairs and the political groups in the Bundestag. The petitioner referred the matter to the European Parliament in the hope that it would bring pressure to bear on the German authorities.

Following the action taken by the EP, the petitioner has recently indicated that the German authorities have changed their decision and that he is now entitled to pension benefits retroactively from 1 January 1995.

Petition 164/01, by Mr Alexandre Leitao Pereira da Silva (Portuguese), concerning his deportation from Germany.

The petitioner, who had been found guilty now of a number of offences in Germany relating to his drug addiction, was informed that that he faced deportation to Portugal, despite successful detoxification therapy, a move which would have destroyed his family (including an under-age child for which the petitioner and his wife have parental responsibility). Since he is forbidden to take up employment, his wife alone was supporting both the petitioner and their child.

Acting on a request from the committee, the Commission initiated infringement proceedings against Germany in September 2001, given that measures taken for reasons of public order must comply with the principle of proportionality and be compatible with the protection of family life. In 2002, the German authorities decided to overturn the deportation order, given the development of the petitioner's personal situation and a residence permit was issued to him.

Petition No 811/2002 by Mr Arne Lemström (Finnish) concerning payment of navigation duties

The petitioner, who owns a Finnish-registered sailing vessel in the Mediterranean, indicates that, on arriving in Greece from Turkey, he was required to pay navigation duties under Article 11 of Law 2743/1999. The petitioner questions the legality of these navigation duties in the light of Community law.

The Commission took the view that navigation duties of this kind could be defined as a measure equivalent to customs duties on import and therefore on 12 September 2000 sent a letter of formal notification to the Greek authorities. The reply from the Greek authorities was unsatisfactory indicating that they had no intention of ending such duties while arguing

unconvincingly that the measure did not infringe Community law.

The Commission therefore decided on 18 July 2001 to forward a reasoned opinion to Greece calling on it to cease levying this duty.

Petition 405/99 by Nuala Flynn (Irish) on behalf of the 'Slivermines Action Group' concerning environmental issues

The petitioner expresses concern at pollution caused by waste from an opencast mine in the village of Silvermines in central Ireland, which provides a habitat for unique flora and fauna.

The Commission took the view that European secondary environmental legislation had been infringed on several counts, for example water quality in terms of heavy metal content and the absence of authorisation for the waste discharge and of any waste management plans. Accordingly, a dual infringement procedure was initiated against Ireland before the Court of Justice in 1999 for non-compliance with Article 7 of the Directive on pollution caused by certain dangerous substances discharged into the aquatic environment (76/464/EEC), and Article 7 of the framework directive on waste (75/442/EEC).

The Irish authorities recently indicated that the limit discharge values established in the authorisations issued for the Silvermines site complied with the quality objectives of the new national legislation adopted in conformity with the European directive; in addition the local authorities had drawn up waste management plans as required by Community legislation in force. The Commission accordingly decided to withdraw its legal action against Ireland.

Petition 269/98 by Mr Giuseppe Borri (Italian) and his wife concerning import tax on cars in Portugal

The petitioner objects to the tax (imposto automovel) he was required to pay to register his vehicle in Portugal on moving there from Switzerland, his previous place of residence. More specifically, although the petitioner is a European citizen, he was refused exemption from the tax, which is only granted to Portuguese nationals.

The Commission, having been consulted by the Committee on Petitions, believed that this could be a case of discrimination on grounds of nationality, in breach of Articles 12 and 14 of the Treaty. The Portuguese authorities, contacted by the Commission through Portugal's Permanent Representation, indicated that they shared this view and that, pursuant to a law promulgated on 29 December 2000 with effect from 1 January 2001, Portugal has extended to all citizens of EU Member States the exemption from this car tax when moving from a third country to Portugal.

Petition 786/97 by Mr Bijan Shayegh (British) on various problems relating to his business activities in Spain

The petitioner, who is of Iranian origin and resident in Northern Ireland, has since 1980 been managing a boarding house in Spain. He objects to the refusal of the Spanish authorities to accept his E101 form when he travels in Spain, indicating that they require him to pay welfare contributions in respect of self-employed activity in that country (since Spanish social

security legislation assumes, in the absence of proof to the contrary, that a person is self-employed if he or she is the owner of an establishment which is open to the public). The matter has been taken to the Spanish courts.

The Commission informed the Spanish and British authorities that Article 14a(2) of Regulation (EC) No 1408/71 was applicable. Under this provision, the petitioner, having left Spain in 1987 to take up residence in Northern Ireland, should be subject to British social security legislation alone. Finally, the Spanish and British authorities, after consulting each other and contacting the petitioner through the committee, managed to resolve the situation in respect of the petitioner. The petitioner has accordingly been issued with a 101 form attesting to his affiliation with the British social security system, including during the short periods when he is working in Spain.

Petition No 897/96 by Mr Gwynn Clague (British), bearing 25 signatures, on ERDF funding for an entertainment park in Wales

The petitioner objects to the decision of the local council to proceed with the development of an entertainment park without abiding by the correct planning procedure thereby detracting from the quality of life and devaluing the property of local residents. The project has since had to be abandoned through lack of funds and the petitioner accordingly asks the European Parliament to investigate the role of the Union in funding this ill-fated project.

On a request from the committee the Commission carried out an investigation, particularly into eligibility criteria. It was revealed that ineligible expenditure not covered by the original request was included and contracts were concluded after the expiry date of the programme. In view of these findings the Welsh authorities were informed that ERDF funding would be considerably reduced and withheld completely if the agreed objectives were not achieved within a firm and non-renewable deadline. Finally, the Welsh National Assembly decided to grant additional funding to make up the shortfall and the Commission authorised payment of the balance.

Statistics relating to petitions considered

During the period under consideration the committee received 1514 petitions compared to with 1283 the previous year. Under Rule 174(10) of the Rules of Procedure, it also received 114 petitions from non-Community citizens resident in third countries. During this period the committee ruled 642 petitions admissible and 202 inadmissible (compared with 744 and 293 the previous year). Consideration of 573 petitions was closed (compared with 506 the previous year). 1080 petitions are still under consideration compared with 1041 the previous year.

The Commission was asked to provide information concerning 361 new petitions and further information concerning 124 petitions under consideration (compared with 543 and 152 the previous year).

In 17 cases the committee asked the President of Parliament to contact the national authorities (compared with 16 the previous year). In 32 cases the petitioners were referred to another authority outside the European institutions (compared with 65 the previous year).

4 petitions were forwarded to other committees for an opinion (compared with 3 last year).

12 complaints were forwarded by the European Ombudsman to be processed as petitions (for more detailed statistics see annexes).

**Germany, Austria, Belgium (Chamber of Representatives), Spain (?), Luxembourg and the Netherlands currently have petitions committees operating at national level. France, the United Kingdom, Italy, Denmark, Sweden (?) and Portugal have parliamentary procedures for the processing of petitions.*

***The 'Lamberts' judgement of 10 April 2002 in case T-209/00 concerned an action for damages against the European Ombudsman; while dismissing the substance of the application, the Court ruled the action itself admissible; the Ombudsman subsequently presented an appeal to the Court of Justice on 24 June 2002.*

****The SOLVIT system operates through a network of coordination centres set up by the Member States to resolve cross-border problems in the internal market. It was launched in June 2002 on the basis of a communication followed by a recommendation (7 December 2001) from the Commission endorsed by the Council of Ministers on 1 March 2002 (http://europa.eu.int/comm/internal_market/sovit/).*

ANNEX I

Pétitions reçues par le Parlement européen:

<u>Année parlementaire</u>	<u>Nombre</u>	<u>% augmentation/baisse</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
2001-2002	1283	+ 45
2002-2003	1514	+ 18

ANNEX II

Données statistiques relatives aux pétitions examinées au cours de la période de référence(12.3.02 - 10.03.03)

1. Pétitions reçues: 1514 * (1283) [310-1601/2002 + 1-222/2003]
2. Déclarées irrecevables: 202 (293)
(Examen de recevabilité/irrecevabilité réalisé pour 22% des pétitions reçues)
3. Déclarées recevables: 642 (744)
4. Cloturées: 573 (506)
5. No. of pétitions "en cours" à la fin de:

2000 - 2001	689
2001 - 2002	1041
2002 - 2003	1080
6. Nationalité du pétitionnaire (voir Annexe III)
7. Pétitions avec environ 1000 signatures (voir Annexe IV)
8. Contacts établis avec les autorités nationales ou d' autres organes indépendants:
 - par la commission même 17 (16) ??
 - délégués au pétitionnaire 32 (65) ??
9. Informations demandées à:
 - la Commission
 - première information 361 (543)
 - informations complémentaires 124 (152)
 - la DG IV 2
 - la DG V 1
 - au Service Juridique --
 - au STOA 3
 - aux Questeurs 1
10. Avis demandés à d'autres commissions ou délégations: 4 (3)
11. Art. 226 (voir Annexe V)
12. Médiateur européen
 - reçues de 12 (9)
 - transmises au -- (2)

* Entre parenthèses le chiffre de l'année dernière.

ANNEX III

Classement des pétitions par nationalité des pétitionnaires:

Nationalité des pétitionnaires

Allemagne	323
Autriche	19
Belgique	42
Danemark	8
Espagne	203
Finlande	25
France	149
Grèce	95
Irlande	38
Italie	236
Luxembourg	2
Pays-Bas	50
Portugal	47
Royaume-Uni	202
Suède	20
Non communautaire	55

ANNEX IV

Pétitions collectives (comportant mille signatures et plus):

Nombre de signatures

N° 340/2002, présentée par M. Flavio Agnoletto, de nationalité italienne,
en faveur de la commercialisation du biodiesel pur, exempté d'accises 1135

N° 535/2002, présentée par M. John Mulcahy, de nationalité irlandaise,
au nom de "*Save the Swilly*", sur la protection marine du Lough Swilly,
comté de Donegal, Irlande 10000

N° 595/2002	3500
N° 721/2002	1285
N° 725/2002	2000
N° 828/2002	1580
N° 866/2002	3000
N° 891/2002	6426
N° 1010/2002	1156
N° 1336/2002	1080
N° 1347/2002	3000
N° 17/2003	1045
N° 91/2003	1442
N° 118/2003	8000
N° 212/2003	6000

ANNEX V

Report by Mrs Mary BANOTTI **The Mediator For Transnationally Abducted Children**

The Mediator For Transnationally Abducted Children has no statutory role. However as the Mediator's role has become more widely known there have been an increase in queries concerning all aspects of legislation concerning rights of access for non-custodial parents and the difficulties they are experiencing in having their rights respected.

At the close of 2002 the proposal for a Council Regulation concerning the Jurisdiction and Recognition and Enforcement of Judgements in Matrimonial Matters and Matters of Parental Responsibility and Maintenance (A5-0385-2002) was adopted.

Access and maintenance are inextricably linked and I have many outstandingly complex cases where non-custodial parents are being denied access for no valid reason and at the same time are being pursued for maintenance for children to whom they have no access. This Regulation encompasses previous legislation and is now operative.

In September 2002 I hosted an information meeting in the European Parliament for MEPs in conjunction with REUNITE to brief Members on International Child Abduction and as a result of this meeting a guide for MEPs has been produced and distributed to all MEPs. It is available in English and French.

Also in September I attended the Special Commission in the Hague as the European Parliament's representative and participated fully in the deliberations on the workings of the Hague Convention. As Vice-President of ICMEC I attended board meetings of the International Centre for Missing and Exploited Children and hosted three meetings.

The European Parliament was also represented at an International Conference on P.A.S. (Parental Alienation Syndrome). This is a phenomenon which is becoming increasingly recognised as a problem with children who are denied access to one parent by the other. The custodial parent seeks to alienate the non-custodial parent from their children, this practice is regrettably common and has a very damaging effect on the child. It is important that both judicial authorities and social workers working with children in these cases are aware that such behaviour exists and must not colour the decisions made concerning access and visiting rights.

In May 2002, the Secretary and Assistant Secretary-General of the Hague Convention attended the EP Committee on Civil Liberties, briefing Members on the workings of the Hague Convention and underlining the importance of making sure that any legislation we prepare as European Union in this area does not hamper the workings of the Convention.

I spoke at a further conference on relations with the Islamic world in Paris in October 2002.

Throughout the year I have participated in several television and radio programmes and contributed to Newspaper articles on the theme of International Child Abduction including ARTE, Euronews and the international Herald Tribune

As Mediator I am contacted in a number of ways.

1. Referral by the Petitions Committee and the Committee on Civil Liberties
2. Referral by individual MEPS
3. Directly through my office
4. The Internet - e mail

I attended court proceedings in December which concerned the ultimate tragedy where an abducting parent took extreme action in murdering his child and then committing suicide rather than return the child to the custodial parent. This is a stark message for all who work in this field - many times the child's life may be in danger - emphasising that police forces must react quickly in order to find an abducted child.

Below I am including a list of cases for the last year that I am currently dealing with

Petitioner

Country to which child has been abducted

Switzerland	Finland
Belgium	Sweden
UK	Sweden
Belgium	Germany
France	Germany
UK	Jordan
Ireland	Jordan
South Africa	Germany

ICPAC
Irish Centre for Parentally Abducted Children

	Clients	Advice-line calls	Booklet requests	Abduction/retention	Cases Resolved
April	<i>9</i>	<i>18</i>	<i>8</i>	<i>2</i>	<i>2</i>
May	<i>11</i>	<i>12</i>	<i>1</i>		
June	<i>12</i>	<i>13</i>	<i>13</i>		
July	<i>3</i>	<i>12</i>	<i>3</i>		
August	<i>1</i>	<i>8</i>	<i>1</i>		
September	<i>8</i>	<i>16</i>	<i>4</i>		
October	<i>8</i>	<i>25</i>	<i>6</i>		
November	<i>1</i>	<i>5</i>	<i>2</i>		
December	<i>3</i>	<i>8</i>		<i>4</i>	
January	<i>7</i>	<i>28</i>	<i>5</i>		
February	<i>8</i>	<i>45</i>	<i>7</i>		
March	<i>2</i>	<i>67</i>	<i>2</i>		

Summary of activity from April 2002 - March 2003

Client enquiries concerned information, abductions and unlawful retentions to and from the following countries; *Ireland, England, Spain, Greece, France, Italy, Jordon, Georgia, Moldova, USA, Philippines, Libya, Lebanon, Nigeria, New Zealand, Algeria, Brazil,*