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Committee on Petitions

2004/2129(INI)

29.11.2004

OPINION

of the Committee on Petitions

for the Committee on Constitutional Affairs

on Parliament's opinion concerning the draft treaty establishing a Constitution for Europe.

Draftsman: Marcin Libicki

SUGGESTIONS

The Committee on Petitions calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

Introduction:

The Convention on the Future of Europe was asked to make proposals on three subjects, according to the preface of the new Draft Constitution, at the Laeken Summit in December 2001. The first of these questions was "how to bring citizens closer to the European design and European Institutions".

The Committee on Petitions is best placed within the European Parliament to respond because it is uniquely placed within Parliament's committee structure and has a regular and daily contact with citizens from every member state of the Union. More than any other committee, or organ of the Union, it is made constantly aware by European citizens themselves of their individual concerns and reactions to European issues. It is therefore able to judge what is working and what is not in the everyday life of the Union.

Yet, the Petitions Committee is only a small tip of a very large European iceberg. While it may claim proximity to the citizen, it is evident that the methods and working practices of the non-parliamentary institutions of the Union remain distant and unknown, or at best misunderstood, and rarely trusted. It probably requires more than a Constitution to resolve that problem.

The Draft Constitution contains proposals which will allow the European citizen to better understand the framework within which the EU and the member states conduct their business.

Rights.

The question of fundamental rights and citizenship is immediately addressed in the Draft Constitution, and the Charter of Fundamental Rights is fully incorporated into the text in Part II.

In addition the Union commits itself to accession of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which currently only member states can accede in the framework of the Council of Europe.

For the average petitioner at the moment there is a high degree of incomprehension regarding precisely which rights they enjoy under which agreement. It is particularly hard for them to grasp why the Union now has a Fundamental Charter, yet has no practical means to ensure its enforcement or real implementation. To be told that their concerns are a matter for the ECHR and they have to pursue legal paths in their member states hardly responds to their problem which they have addressed to the European Parliament's Petitions Committee.

Every national of a member state shall be a citizen of the Union. There is no EU nationality. Amongst their inscribed rights is the right to petition the European Parliament, which they have enjoyed under the Treaty since Maastricht.

Efforts employed by the Petitions Committee and the European Parliament to obtain redress for citizens are often successful, particularly when the solution is found in cooperation with member states authorities (national, regional or local,) or when there is a clear violation of EU law and the Commission can exert pressure under threat of infringement. However the infringement procedure merely ensures, if successful, the compliance of the member state with a given Directive. It rarely does anything for the individual petitioner directly.

Therefore, what is required under the terms of the Constitution, in its implementing provisions, or in the context of an interinstitutional agreement are clearly defined procedures which provide for a non-judicial means of redress which would give practical effect to the provisions contained in Title II.

Participatory Democracy.

Title VI provides for and confirms the participation of the citizen in the democratic life of the Union as well as specifying the responsibilities of the European Ombudsman who deals with "maladministration within the Union Institutions bodies or agencies", the importance of personal data protection and the status of churches and non-confessional organisations. Improved rules of transparency are defined.

Such provisions are important for the citizen and therefore for the Petitions Committee, which, it is recalled, supervises the activity and organises the election of the Ombudsman.

Article 46 goes further and gives "citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action", which they have been doing for some time under the petitions process.

Paragraph 4 of Article 46 however creates a completely new opportunity for the citizen - or to be more precise, for one million citizens. That is, provision is made for citizens to initiate a legal act of the Union. This represents an incredible opportunity for the Union itself to be seen to respond in legislative form to the direct concerns of people. It should not however become a means to bypass the Parliament which is the democratic emanation of all the citizens of the EU. It should in other words, be seen as complementary to Parliament's action, not as a substitute for it. It should therefore be channelled through Parliament, before the Commission is invited to officially submit a proposal.

The paragraph specifies that a European Law shall determine the provisions for the specific procedures and conditions required for such a citizens' initiative. It is imperative that such procedures are simple, clear and transparent and provide citizens with the effective right of initiative and their continued involvement in the process leading to the formulation of a legislative proposal.

Such a measure should therefore be considered as an extension, and a very practical one, to the citizen's right of petition in a positive sense. Indeed, it is the essence of the right of petition, taken to its logical consequence.

Quite clearly, when the moment arises, the Petitions Committee would like to be directly

associated as the committee responsible, perhaps with the other competent committees of Parliament depending on the issue in the preparation of the European Law concerned. It claims the right and the responsibility to be an integral part of the process which links the citizen directly to the creation of a European law, as a matter of coherence and principle as well as for practical reasons.

Final remarks:

The Draft Treaty establishing a Constitution for Europe contains many specific provisions on individual rights and policy areas which are regularly discussed in Committee because of the petitions related to them. It should be recalled in this context quite simply that the petitions process is a cooperative one, which enhances the Parliament's ability to exercise the supervision and control of Union activity on behalf of the citizen. If a more adequate means of non-judicial remedy were to be provided for, it would become an even more efficient process for the enforcement of EU law, agreed by Parliament and each member state through the Council.

Similarly, the Petitions Committee constitutes the appropriate parliamentary framework for the citizens' legislative initiative to be promoted and, if necessary refined with the direct and public involvement of the initiators, before accessing the Commission. In the coming period more discussions must take place on this latter issue in order to work out the procedures in more detail.

PROCEDURE

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|---|---|
| Title | [on Parliament's opinion concerning the draft treaty establishing a Constitution for Europe] |
| Procedure number | [2004/2129(INI)] |
| Committee responsible | [AFCO] |
| Enhanced cooperation | Yes |
| Drafts(wo)man Date appointed | [Marcin Libicki] 29.09.2004 |
| Discussed in committee | 29.9.2004 7.10.2004 22.11.2004 |
| Date suggestions adopted | 23.11.2004 |
| Result of final vote | for: [11] against: [0] abstentions: [0] |
| Members present for the final vote | [Marcin Libicki, Michael Cashman, Marie Panayotopoulos-Cassiotou, Maria Matsouka, Manolis Mavrommatis, Robert Atkins, Proinsias De Rossa, Rainer Wieland, Mario Borghezio, Carlos José Iturgaiz Angulo, David Hammerstein Mintz, Alexandra Dobolyi] |
| Substitutes present for the final vote | |
| Substitutes under Rule 178(2) present for the final vote | |