
EUROPEAN PARLIAMENT

Working Documents

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Report

drawn up on behalf of the Committee on the Rules of
Procedure and Petitions

on Petition No. 52/80 by Mr Louis Worms concerning a
request for financial redress

Rapporteur: Mr H. SIEGLERSCHMIDT

PE 80.261/fin.

On 13 October 1980 the President of the European Parliament referred to the Committee on the Rules of Procedure and Petitions, pursuant to Rule 108 (4) of the Rules of Procedure, Petition No. 52/80 by Mr Louis Worms concerning a request for financial redress.

At its meeting of 3 December 1980 the committee declared that this Petition was admissible and decided, pursuant to Rule 109 (1) of the Rules of Procedure, to obtain the opinion of the Legal Affairs Committee.

At its meeting of 21/22 December 1981 the committee decided, on the basis of the opinion of the Legal Affairs Committee, to request the Committee on Petitions of the Netherlands Parliament for more detailed information as to the reasons for the award of compensation and instructed Mr Sieglerschmidt to report to the committee on this matter.

By letter of 19 February 1982 the President of the Second Chamber of the States-General placed at the committee's disposal the correspondence in this connection.

At its meeting of 25/26 May 1982 the committee decided, pursuant to Rule 109 (1) and (4) of the Rules of Procedure, to draw up a report; Mr Sieglerschmidt was appointed rapporteur on 24 June 1982.

At its meetings of 29/30 September, 3/4 November and 22/23 November 1982 the committee considered the draft report. At the latter meeting the motion for a resolution was adopted by 8 votes to 4 with one abstention.

The following took part in the vote: Mr NYBORG, chairman; Mr PONIRIDIS, vice-chairman; Mr SIEGLERSCHMIDT, rapporteur; Mr BERKHOUWER (deputizing for Mr JURGENS), Mr COTTRELL (deputizing for Mr PROUT), Mr D'ANGELOSANTE, Mr FORTH, Mr MALANGRÉ, Mr VAN MINNEN, Mr NORD, Mr PATTERSON, Mr SIMPSON and Mr VANDEMEULEBROUCKE.

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A.

The Committee on the Rules of Procedure and Petitions hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement :

MOTION FOR A RESOLUTION

on

Petition No. 52/80 by Mr Louis Worms concerning a request for financial redress

THE EUROPEAN PARLIAMENT,

- having regard to the petition by Mr Louis Worms of 1958 in which he first reported irregularities in the equalization process for imported ferrous scrap,
 - having regard to the report of the High Authority of April 1961,
 - having regard to the report of the Internal Market Committee of December 1961 (Doc. 109/61),
 - having regard to the judgment of the Court of Justice of the European Communities of 12 July 1962,
 - having regard to Petition No 1/1966-67 by Mr Louis Worms in which he sought 'financial rehabilitation',
 - having regard to the results of the consideration of Petition 1/1966-67 by the Legal Affairs Committee and the Internal Market Committee,
 - having regard to Petition No 52/80 by Mr Worms in which he once again requests the European Parliament for financial redress,
 - having regard to the report of the Committee on the Rules of Procedure and Petitions and the opinion of the Legal Affairs Committee (Doc. 1-945/82),
- (a) having regard to the finding of the Internal Market Committee of September 1958 that Mr Worms had performed a very great service to the Community by disclosing the irregularities which incontestably existed,
- (b) having regard to the fact that, by judgment of 12 July 1962, the application lodged by Mr Worms with the Court of Justice of the European Communities under Article 40 of the ECSC Treaty claiming that the High Authority had been guilty of a wrongful act or omission in the performance of its functions was dismissed and that no legal claim therefore exists,

- (c) having regard to the fact that it seems impossible to prove beyond any doubt the causal connection between the petitioner's giving information concerning the scrap frauds and the persecution which he alleges, this being attributable to difficulties in producing evidence,
 - (d) aware, however, of the difficulties of establishing a clear causal connection in such a case,
 - (e) having regard to the compensation of 20,000 guilders paid at the instigation of the Committee on Petitions of the Second Chamber of the States-General of the Netherlands Parliament without acknowledgement of a legally enforceable obligation,
1. Takes the view that Mr Worms has saved the Community considerable damage by reporting the scrap frauds;
 2. Is of the opinion that since the Netherlands are only indirectly concerned in this matter the European Community has an even greater moral obligation to pay Mr Worms compensation;
 3. Emphasises the fact that the award of such compensation is also at least symbolic acknowledgement of the services which he has incontestably performed for the Community and is a form of moral rehabilitation;
 4. Requests the Commission therefore to pay Mr Worms, on behalf of the European Community, compensation for reasons of natural justice, the amount of which should be proportionate to the compensation awarded by the Kingdom of the Netherlands;
 5. Instructs its President to forward this resolution to the Commission of the European Communities.

EXPLANATORY STATEMENTI. Background

1. Mr Worms' first petition was submitted to the European Parliament as long ago as November 1958. In that petition Mr Worms first reported scrap frauds and at the same time drew attention to the boycott directed against him. These scrap frauds arose in connection with the equalization system for imported ferrous scrap. The equalization system for imported ferrous scrap was introduced in 1953 when it became clear that, because of the shortfall in supplies obtained by the steel works themselves, on the one hand, and the disparities in supply as between the Community Member States, on the other, it was necessary to import ferrous scrap from third countries. The difference between the price of imported ferrous scrap, which was as a rule higher than the price of ferrous scrap on the internal market in the Community, and the latter price was refunded by the Imported Ferrous Scrap Equalization Fund. In addition there was a Joint Office of Scrap Consumers and several regional offices which were associations of local consumer undertakings.

Mr Worms, who, as an important Netherlands scrap merchant, was himself engaged in the sale of scrap and had access to the equalization payments through his business contacts, pointed out irregularities which on closer investigation raised the following two questions :

- (a) Did the Joint Office of Scrap Consumers or the Imported Ferrous Scrap Equalization Fund accept or deem to be satisfactory certificates of origin relating to ship-breaker's scrap which had, however, claimed to cover contracts relating to scrap from third countries?
- (b) Were certificates of origin in which third countries other than those stated in the contracts declared to be the country of origin accepted or deemed to be satisfactory?

It emerged that the answer to both questions was in the affirmative. Although at first the High Authority stated that the frauds merely concerned false certificates issued by an official in the Netherlands Ministry for Economic Affairs, it soon became clear from Mr Worms' information that the frauds were far more extensive. The first investigations carried out in 1958/59 by firms of auditors and chartered accountants had already established that by that time approximately 250,000 tonnes of ferrous

scrap had been wrongly included in the equalization process. At the same time it was, however, emphasized that those figures were not yet final. The quantities of scrap included in the equalization process also included ships. Mr Worms had pointed out when reporting the frauds that equalization payments had also been made in respect of fictitious ships, wooden ships and ships which had been declared several times. According to the High Authority, the investigations in this connection had produced no results, although in at least one case of fraud it had been ascertained that an equalization payment had been made in respect of a sunken ship which lay on the seabed.

2. The first petition requested compensation for all persons who had suffered damages on account of the frauds. The Internal Market Committee, to which the petition was referred for a report, reached the conclusion after numerous meetings that 'Mr Worms has performed a very great service to the Community by revealing the irregularities which incontestably existed'¹ and notified the President of the High Authority of this in September 1959. In addition, the committee acknowledged that the 'High Authority seems only to have considered that there might have been frauds and irregularities when a Netherlands scrap merchant, Mr Worms, reported them'². The High Authority, which was obliged to accept the Internal Market Committee's comment that 'it should have become aware of its responsibilities earlier and shown greater vigilance'³, was requested 'to complete all inquiries as to the working methods used in the imported ferrous scrap equalization process as quickly as possible and to notify the European Parliament of the results of these inquiries in form of a report'⁴. The High Authority submitted the desired report to Parliament in April 1961. On the basis of the findings that 'the first system established in respect of ferrous scrap has not worked well and conclusions must be drawn from this for the future'⁵ and that, as far as the irregularities were concerned, they involved not Community funds but the funds of those taking part in the system who were themselves victims of the irregularities which, as you know, Mr Worms reported,⁶ the Internal Market Committee drew up a report.

¹ See Report drawn up on behalf of the Internal Market Committee on the control activities of the High Authority (Doc. 3-VII) concerning the origin of the quantities of scrap included in the equalization process by the Imported Ferrous Scrap Equalization Fund, E.P. Document 109, 1961-62, p.3

² idem, loco citato

³ idem, loco citato

⁴ idem, loco citato

⁵ idem, p. 4

⁶ idem, loco citato

In this connection it appointed a sub-committee to investigate the situation more closely. The aim of this closer investigation was supposed to be to examine the political responsibility of the High Authority for the working method used in the system and the procedure in connection with the investigation of the irregularities and to draw constructive conclusions from this experience so as to avoid similar difficulties in the event of other future establishments of the European Communities. In the report of the Internal Market Committee, which was submitted in December 1961 and dealt in substance with the 'control activities of the High Authority concerning the origin of the quantities of scrap included in the equalization process by the Imported Ferrous Scrap Equalization Fund'⁷ but not with the claims brought by Mr Worms for financial redress, the committee emphasized that 'the High Authority, which was represented by several members at all meetings of the sub-committee,... was quite prepared to clarify the ferrous scrap affair and in fact answered with great objectivity all the questions which it was asked orally or in writing'⁸. The main points of the Internal Market Committee's report were the description of the work of the equalization mechanism as regards the participation and role of the High Authority in this field and the emphasis on the fact that until the first report by Mr Worms the High Authority had 'never heard of any suspicions of cases of fraud'⁹. In the conclusions of the report by the Internal Market Committee it was emphasized that 'the High Authority, in creating the equalization system for imported ferrous scrap, omitted to take into account the possibility of fraud, to say nothing of the proportions which it might assume'¹⁰. Finally, the Internal Market Committee repeated the finding which the High Authority had already reached in its own report 'that it can only establish or approve any future equalization systems if it is certain beforehand that it is possible to carry out an appropriate preventive check'¹¹

⁷ See footnote 2

⁸ *idem*, page 4

⁹ *idem*, page 11

¹⁰ *idem*, page 15

¹¹ *idem*, page 16

3. The application lodged on 1 July 1961 with the Court of Justice of the European Communities claiming that the High Authority was guilty of a wrongful act of omission in the performance of its functions was dismissed on 12 July 1962 and Mr Worms was ordered to pay all the costs.

Mr Worms has claimed before the Court of Justice of the European Communities that the High Authority :

- (a) failed to use its powers against the Joint Office of Scrap Consumers and failed to instruct the Joint Office to continue working with him;
- (b) failed to act to break the boycott of the Netherlands scrap merchants against him;
- (c) failed to act with sufficient vigour to clear up the scrap frauds and to prosecute the guilty parties.

4. The Court of Justice pointed out to Mr Worms that :

- (a) when carrying on its strictly commercial activities the Joint Office of Scrap Consumers was governed by national law. The Joint Office of Scrap Consumers' choice of sellers with which it negotiated the purchase of ferrous scrap was an activity governed by private law in which the High Authority had no power to interfere;
- (b) it had not been shown that the alleged boycott had had the effect of preventing, restricting or distorting normal competition within the common market within the meaning of Article 65 of the ECSC Treaty so that the matter did not fall within the scope or responsibility of the High Authority;
- (c) Mr Worms had not produced proof of the existence of a causal connection between the injury which he claimed to have suffered and the lack of energy on the part of the High Authority in the suppression of the scrap frauds.

5. In submitting Petition 1/1966-67 Mr Worms requested 'financial rehabilitation'. In this connection Mr Worms pointed out that he had already been morally rehabilitated by the report of the Internal Market Committee which found that he had performed a great service for the Community. In addition Mr Worms stated that 'whilst many reports estimate the extent of the frauds at ten thousand million guilders I continued to assert that hundreds of thousands of million guilders were involved. Moral recognition of the services which I have performed for the Community entitles one to suppose that a person in that position should receive compensation for the damages he has suffered as a direct result of this service.

These damages amount to several hundred thousand guilders¹². In addition Mr Worms stated that 'the Court of Justice of the European Communities has in my opinion dismissed my claim for damages purely for reasons of expediency. The judgment of the Court of Justice is based on expediency because acceptance of my claim for damages would have had unforeseeable consequences for the ECSC. It would have led to a chain reaction of applications brought by persons who considered that they had been adversely affected and would have claimed reimbursement of the equalization payments overpaid by the ECSC, which would have resulted in the financial ruin of the Community ...'¹³. Consideration of the petition, which was referred to the Internal Market Committee as the committee responsible, was at first postponed until the Legal Affairs Committee had given its opinion on the question of the admissibility of the petition within the meaning of Rule 47 (2) of the Rules of Procedure then in force.

6. In the opinion submitted by the Legal Affairs Committee that committee established that the conditions for the admissibility of petitions pursuant to Rule 47 (1) and (2) of the Rules of Procedure of the European Parliament then in force were fulfilled and that the petition could be examined by the European Parliament even if it related to questions which had already been decided by Parliament itself or by the Court of Justice of the European Communities. The committee said that although Article 38 of the Protocol on the Statute of the Court of Justice of the ECSC stated as follows :

'An application for revision of the judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision',

there was no provision which also stipulated that the European Parliament should refuse to consider a petition if questions in the above sense had already been dealt with¹⁴.

¹²PE 15.591, p. 1

¹³idem, p. 2

¹⁴PE 16.191/fin., P.4

The committee stated that, apart from the advisory and supervisory powers with which it had been entrusted by the Treaties in the wide sense, Parliament had above all to act independently in relation to the citizens of the Community. It stated that the right of petition was a very important one and that Parliament should not dissuade the person concerned from exercising that right¹⁵. Therefore as far as the exercise of the right of petition was concerned, in contrast to the prior decision of the Court of Justice of the European Communities, the provisions relating to revision of a judgment (Article 38 of the Protocol on the Statute of the Court of Justice of the ECSC) were not binding. Petition 1/1966-67 differed materially from the petition submitted by Mr Worms in October 1958; therefore the Legal Affairs Committee recommended the Internal Market Committee to examine it as to its substance. Finally the Legal Affairs Committee found that :

- (a) pursuant to the provisions of Rule 47(3) of the Rules of Procedure the petition should be referred to the High Authority with the opinion of the committee responsible; in addition, the committee could submit a report to Parliament;
- (b) compensation for Mr Worms, if any were made, could in no circumstances be based on a legal claim on the part of Mr Worms in the proper sense since the Court of Justice had not acknowledged that he had such a claim;
- (c) the examination could only extend to the question whether compensation should be awarded for reasons of natural justice; in this connection Parliament could not however disregard the finding of the Court of Justice that 'the applicant has not produced any proof of the existence of a link of causation between the injury which he claims to have suffered and the lack of energy on the part of the High Authority in the suppression of the scrap frauds'¹⁶.

7. In connection with the examination of the petition by the Internal Market Committee as the committee responsible, the latter referred once more to the previous developments in the case, in particular to the judgment in the case of Louis Worms against the High Authority. The Internal Market Committee stated that in the first place it objected to Mr Worms's assertion that the Court of Justice of the European Communities had dismissed the claim for damages purely for reasons of expediency. In addition, the Internal Market Committee considered statements made in Petition 1/1966-67 in which Mr Worms had also declared that 'as a result of carrying out a simple civic duty I was confronted by a horde of international swindlers and their accomplices who were offered an

¹⁵PE 16.191/fin., P. 5

¹⁶PE 16.191/fin., loco cit.

almost unique opportunity of ruining me,¹⁷ and in which had made a series of accusations against both Members of the European Parliament and the then Vice-President of the High Authority and also against Netherlands judicial officers and the Minister of Justice of the Kingdom of the Netherlands. The Internal Market Committee stated in particular in this connection that it was not for it to intervene in national affairs, as to the accusations against Netherlands authorities, but referred to the numerous inquiries in the Netherlands which were the result of the revelation of the scrap frauds affair. As to the accusations against the Members of the European Parliament and the Vice-President of the High Authority the Internal Market Committee stated that after the scrap frauds had been revealed Mr Worms' first petition and the inquiry into the whole equalization system had been dealt with in a total of sixteen meetings, and emphasized the efforts of the then Vice-President of the High Authority to clear up the cases of fraud. Mr Worms was found guilty of defamation by the Supreme Court of Appeal for the accusations made against the then Vice-President of the High Authority.

The Internal Market Committee concluded its consideration of Petition 1/1966/67 with the finding that :

(a) the petition submitted by Mr Worms dated 5 April 1966 was admissible in accordance with Rule 47(1) and (2) of the Rules of Procedure of the European Parliament;

(b) compensation requested by Mr Worms could in no circumstances be based on a legal claim since the Court of Justice had not acknowledged that the applicant had such a legal right;

(c) the petition could therefore only be considered on the basis of the rules of natural justice;

but took the view that :

(a) there was no causal connection between the damage which the applicant claimed to have incurred and the service which he performed for the Community when he denounced certain cases of fraud in connection with the scrap trade;

(b) in this case no new fact had come to light since the above mentioned judgment was delivered¹⁸.

Accordingly the Internal Market Committee rejected Mr Worms' claim for the payment of compensation.

¹⁷PE 15.191, p. 2

¹⁸PE 17.027/fin., p. 19

8. The Committee on Petitions of the Second Chamber of the States-General of the Kingdom of the Netherlands examined in 1978 and 1979 a further petition submitted by Mr Worms in which he requested compensation of 20,000 guilders, a sum which was necessary, according to Mr Worms, in order to meet a claim by a Netherlands bank in receivership.

By Decision of 14 June 1979 the Committee on Petitions of the Chamber proposed that :

(a) the Prime Minister be asked to recommend payment of compensation in the amount of 20,000 guilders;

(b) for all other purposes the petition be filed without further action.

In this connection the committee recognised that:

(a) it must be assumed that following the revelation of the frauds the petitioner suffered damage in the form inter alia of lost business;

(b) no criminal proceedings could be brought against the authors of the fraud in the Netherlands because the High Authority (as it then was) of the European Coal and Steel Community (ECSC) had omitted to call to account the bodies for which it was responsible, although this did not alter the fact that the report submitted in the meantime to the European Parliament by Mr Alain Poher made it clear that large-scale frauds had been committed;

(c) the revelation of the fraud had saved the ECSC and its organs immense sums of money;

(d) not only the ECSC but also the Kingdom of the Netherlands as a member of the ECSC had benefited from the disclosure of the scrap frauds;

(e) there was therefore a moral, albeit not legally enforceable, obligation on the Kingdom of the Netherlands to award some compensation to the petitioner.

9. The Committee on Petitions was informed by a letter from the Prime Minister of 18 October 1979 that following the decision by the Second Chamber to endorse the committee's proposal the Prime Minister was also in favour of this proposal to pay Mr Worms compensation of 20,000 guilders; this sum was then paid to Mr Worms.

II. Examination of the admissibility of the petition

10. By Petition 52/80 Mr Worms makes a fresh claim for financial redress. As this is the third petition in the same connection it seems appropriate to consider whether a fresh decision should be taken in respect of a petition of this nature which has been repeatedly submitted, in other words whether it is admissible. The opinion of the Legal Affairs Committee¹⁹ forms the basis of the

¹⁹Annex IV

following comments in this connection. According to that opinion a petition which is repeatedly submitted in connection with the same matter should as a rule be regarded as inadmissible unless it is admissible on the basis of special circumstances. The crucial factor as regards the assumption that such special circumstances exist should be principally whether new facts are available which might be capable of enabling a decision to be made by the relevant committee on the petitioner's request which differs from the decisions reached on petitions submitted previously on the same matter. In deciding whether such facts are present the test to be applied need not be so strict as is generally the case with applications to the Court of Justice of the European Communities and to the courts of the Member States for judgments to be reviewed.

11. In his petition Mr Worms points out that it is based on a very important fact²⁰. This refers to the decision of the Second Chamber of the States-General of the Kingdom of the Netherlands awarding him compensation. If the Parliament of a Member State reaches a decision which is contrary to a decision taken by the European Parliament in the same matter this should be regarded as a new fact in the sense described above and should therefore as a rule result in the petition concerned being admissible²¹.

III. Examination of the justification for the request made in the petition

12. In examining whether the petitioner's request to pay him compensation is well-founded the answer to three questions is crucial, in other words :

(a) Did Mr Worms save the European Community damages through his report in which in 1958 he revealed large-scale scrap frauds for the first time.

(b) Did Mr Worms suffer damages through a business boycott or other measures?

(c) What connection is there between the revelation of these scrap frauds by Mr Worms and any boycott by those concerned?

13. As regards the first question, (a), the Internal Market Committee of the European Parliament found that the European Community as such did not incur any material, in other words financial, losses because the damages suffered because of the frauds were incurred by the members of the Joint Office of Scrap Consumers. The Joint Office of Scrap Consumers was in fact a body governed by private law. Evidently the Second Chamber of the States-General of the Kingdom of the Netherlands takes a different view of the facts. The letter from its President to the President

²⁰ Annex I, p. 1

²¹ See Annex IV, p. 33

of the European Parliament dated 19 February 1982²² states that Mr Worms saved the then European Coal and Steel Community tens if not hundreds of millions of guilders. The report of the Committee on Petitions of the Second Chamber²³ on this matter also states that the revelation of the frauds prevented the European Coal and Steel Community and its bodies from incurring damages of millions of guilders.

These statements which contradict the observations of the Internal Market Committee of the European Parliament, might be explained by the fact that the Second Chamber of the States-General puts a broader interpretation on the concept of damages to the Community. It seems however perfectly possible to speak of financial damages to the European Coal and Steel Community in the wider sense if, although there was no charge on its budget, economic undertakings which were under a duty to the High Authority to make payments to the equalization fund have suffered considerable losses.

The question how far the supervisory duties of the High Authority extended in relation to the Joint Office of Scrap Consumers may be left undecided; it is however certain that the High Authority did not make adequate use of the existing powers of supervision in relation to the body working under its control, which it has itself to some extent admitted and for which Parliament's Internal Market Committee expressly criticised it. In this connection reference should be made to the comments in point 1.

There is no doubt however that great harm was done to the Community's reputation by the revelation of the frauds, harm which would certainly have been even greater if those criminal activities had reached even greater proportions. This is what the Internal Market Committee meant when it stated that 'Mr Worms has performed a very great service for the Community by reporting the irregularities which incontestably exist'. The question whether the petitioner has protected the Community from damage must therefore be answered in the affirmative, even if it is assumed that no financial damages were incurred on the part of the European Coal and Steel Community.

14. As regards the second question, (b), in answering it account must be taken of the findings contained in the above mentioned letter from the President of the Second Chamber of the States-General and in the report of the Committee on Petitions

²² Annex II

²³ Annex III

of the Second Chamber which is based principally on a letter from Mr van der Goes van Naters dated 23 June 1978²⁴. At the same time when the scrap frauds were revealed Mr van der Goes van Naters was a Member of the Common Assembly of the European Coal and Steel Community.

The Committee on Petitions of the Second Chamber of the States-General considers that it is probable, as the President of the Second Chamber states in his letter of 19 February 1982²⁵, that Mr Worms' business transactions were impeded by boycotts; this cannot nevertheless be proved beyond the shadow of a doubt. The report of the Committee on Petitions states that it must assume that the petitioner suffered damages after the revelation of the frauds.

In his letter of 23 June 1978 to the Committee on Petitions of the Second Chamber, Mr van der Goes van Naters points out that he has been in contact with Mr Worms for 20 years in connection with the scrap affair and that he was very often able to check the latter's information. Later on he writes :

' I can therefore assure you that everything he says is true' and states that the boycott directed against Mr Worms still continues. In a letter of 2 March 1982²⁶ addressed to your rapporteur Mr van der Goes van Naters gives several examples to illustrate the statement quoted above.

Even the statement of the facts in the judgment of the Court of Justice of the European Communities of 12 July 1962 (Case 18/60) dismissing the petitioner's application establishes inter alia that Hansa-Rohstoff-Verwertungs-GmbH terminated the contract with Mr Worms by letter of 29 November 1957 after the applicant, Mr Worms, had reported to the Netherlands Minister of Economic Affairs a case of fraud in connection with the agency work for his principal.

The above mentioned individuals and bodies have correctly pointed out that it is difficult in such cases to produce precise evidence. If doubts remain as to the probative value of circumstantial evidence courts themselves however often draw upon practical experience in order to reach the connection upon which their judgment is based. This no doubt means in this instance that swindlers and persons involved in cases of fraud have a need to avenge themselves on the person who has revealed an offence or even simply a mistake. On their part the question whether Mr Worms suffered damages owing to a boycott must therefore be answered in the affirmative, not in the narrower legal sense but in a wider sense.

²⁴This letter was made available by the Committee on Petitions of the Second Chamber, see Working Document PE 78.600/Annex II

²⁵Annex II

²⁶See PE 78.600/Annex II

15. As regards the third question, (c), it has no doubt been answered in the affirmative by the comments made in point 14 above. A strictly legal link of causation between the revelation of the scrap frauds by Mr Worms and the boycott directed against him cannot be established on the basis of the available information. In addition, it would not be for Parliament to take issue with the findings reached by the Court of Justice of the European Communities in this connection. In his letter of 2 March 1982 to you rapporteur Mr van der Goes van Naters correctly observes with regard to this issue that 'The European Parliament is not a court of law. It is bound only by general standards of political and moral equity and in applying them uses the criterion of the probability of alleged injury'. Quite obviously the Second Chamber of the States-General and the Netherlands Government were also guided by these considerations in reaching their decision to award Mr Worms compensation.

Finally, it should be noted on this point that it was possible to clarify the connection between the revelation of the scrap frauds and the boycott as far as possible and indeed satisfactorily.

IV. CONCLUSIONS

16. The following conclusions may be drawn from the foregoing :

- (a) Mr Worms protected the Community from considerable damage;
- (b) there is sufficient probability that Mr Worms suffered disadvantages owing to a business boycott and other measures and that
- (c) these measures were a result of his revelation of extensive scrap frauds;
- (d) Mr Worms has however no legal claim to damages, as the Court of Justice of the European Communities has already established in its judgment of 12 July 1962;
- (e) in view of their only indirect involvement in this matter, the moral obligation to pay compensation acknowledged by the Netherlands exists to a still greater extent on the part of the European Community;
- (f) for all these reasons the Commission should be asked to pay Mr Worms compensation on behalf of the European Community for reasons of natural justice; the amount of this compensation should be in proportion to the compensation awarded by the Kingdom of the Netherlands.

EUROPEAN PARLIAMENT

ANNEX I

PETITIONS

pursuant to Rule 48 of the Rules of Procedure

Petition No. 52/80

by Mr Louis WORMS

Subject: Request for financial redress

I turn to you, Madam President, and the Members of the newly-elected European Parliament, with a request for financial redress. My petition is based on a new and very important fact.

A previous petition submitted in due and proper form to the European Parliament on 5 April 1966 was rejected; I stand by all that it contained.

The Committee on Petitions of the Second Chamber of the States-General - the Dutch Parliament - after conducting a detailed investigation at my request into the consequences for my wife and me of the so-called 'scrap affair', unanimously adopted a resolution which was subsequently unanimously approved by the Dutch Parliament and implemented by the Dutch Government.

The contents of this resolution speak for themselves and I have therefore attached a copy to this letter together with the copy of a letter from the Prime Minister informing me that the resolution would be carried out.

The sum of Hfl. 20,000 mentioned in the resolution was the amount which I had requested in order to meet a claim from a Dutch banking company which was going out of business.

What has now induced me to address to you a further petition seeking financial redress although, as stated above, the decision of the Dutch Parliament, which stands out as a shining example in a world which reeks of injustice, has already made things abundantly clear?

It is a very great effort for me to control my emotions in order to explain this to you but I shall try to do so.

I should like to quote two of the conclusions from the resolution, which was drawn up by members of the Netherlands Parliament belonging to the government parties and the main opposition parties:

- that it is probably true that the petitioner suffered damages following the exposure of the fraud, amongst other reasons because of lost business transactions;

- that those who perpetrated the fraud could not be prosecuted in the Netherlands as the then High Authority of the European Coal and Steel Community (ECSC) had failed to call the bodies under its responsibility to account, a fact which does not, however, alter the point that the report submitted to the European Parliament at the time by Alain Poher showed that there had been large-scale fraud.

Many of the most credible people would testify from first-hand experience to the often highly treacherous methods used against me to make my life impossible. A ship broker, for that is my profession, works on a 'no results, no pay' basis. Many was the time when business deals, for which I had made great efforts and equally large sacrifices, were sabotaged, with the result that I ended up in great financial difficulties; people even said openly: 'If Worms has anything to do with that deal, we'll sabotage it'. I was also denied my right to commission on the basis of totally false pretexts. I could give examples which would appear incredible if there was no-one to testify to them; as often as not perfidiousness is incredible. Although I shall not be silent on this point I will not go into it further at this stage.

The then High Authority has now simply been declared to have been at fault - 22 years ago - by the whole Netherlands Parliament.

It may be that the majority of people who heard about the scrap affair did not understand what was really involved and what the attitude of the High Authority was; they looked frantically for ways of disowning me and did not shrink from stooping to the lowest practices: fortunately, there was much to oppose them, for example the 'Scrap Fraud Committee', but even they were no match for the gangsters who wanted to keep me quiet.

World demand for steel in the 1950s and 60s was insatiable and blast furnaces in Europe were working at full capacity.

To make one ton of steel half a ton of scrap was needed, but there was a structural shortage of scrap in the Member States of the European Coal and Steel Community.

To put it mildly the High Authority followed the course of least resistance as far as the supply of scrap was concerned and, when it came to my outspoken complaint, it hid behind a smoke-screen by repeatedly obscuring the real extent of the vast scrap fraud in statements before the European Parliament; the smoke-screen has been lifted - 22 years later - those guilty of the fraud have been able to escape legal proceedings with one exception and have left Europe with 6½ million unemployed - this is the truth.

My continued existence was a threat to that rabble and we can see from American publications what that 'Mafia' does to its opponents. I am astonished that I have lived this long.

Furthermore, those guilty of the greatest fraud are not to be found in the Netherlands; on this point the Poher report was unambiguous.

At the time I brought an action for damages totalling some Hfl 600,000 in the Court of Justice of the European Communities in Luxembourg.

On 12 July 1962 the Court stated that it was not competent to give a judgement in this matter and referred it to the national government - at least that was how I understood it at the time. Internationally renowned lawyers were perplexed at the Court's decision. Now at last the Netherlands Government has finally reached a unanimous verdict and I turn to you again to request payment of the damages which have inevitably grown in the meantime. At least financial compensation for the damage which 22 years of almost indescribable suffering have brought us will perhaps help to put matters right even at this late stage.

I say 'us' deliberately, as I would not have been able to carry on without the support of my wife and I am fully aware of the great sacrifices which she has silently endured; we made a conscious choice and we do not regret it.

Once again millions are out of work in Europe, a situation which poses a serious threat to democracy. Now you know where I place the responsibility for this situation. The former Vice-president of the European Parliament, Mr van der Goes van Naters, who was then a member of the 'Scrap Fraud Committee' said at one stage: 'It is inconceivable that those who have been defrauded should be protecting the thieves'.

European unification was the ideal of those people who had themselves suffered greatly as a result of the insanity of war; this ideal should be given some substance and this cannot be done by protecting people who have committed major frauds.

Madam President, Members of the European Parliament, I ask you for legal Redress, and I deliberately write this word with a capital letter; more than 22 years of injustice is a long time in terms of human life.

I await your answer and ask you to accept the assurance of my highest consideration.

(sgd) L. Worms

Luxembourg, 23 September 1980

Louis WORMS
Shipbroker
Nationality . - Dutch
Fruithoflaan 107/11 b - Box 114
2600 Berchem - Belgium

The supporting documents have been forwarded to the Committee on the Rules of Procedure and Petitions.

ANNEX II

SECOND CHAMBER OF THE STATES-GENERAL

The Hague, 19 February 1982

Dear Mr President,

In reply to your letter of 22 January 1982, I have been able to obtain further information from the Committee on Petitions.

The latter has made available some of its correspondence with the Prime Minister, the Minister for Economic Affairs and the Minister of Justice, together with a letter from Mr Goes van Naters.

The Committee considered it to be common knowledge that Mr Worms had exposed the scrap frauds, thereby saving the European Coal and Steel Community tens if not hundreds of millions of florins. As a member of the ECSC, the Netherlands also benefited, albeit indirectly and to a limited degree, from the savings made. The Committee therefore recommended that an amount of Hfl 20,000 be granted to Mr Worms, since it considered the Government to be under a certain moral obligation to him. It was also considered probable that difficulties were being created for Mr Worms in the form of boycotts directed against him, although this could not be proved.

The amount of Hfl 20,000 was an arbitrary one, just sufficient at the time to save Mr Worms from imminent bankruptcy.

In the opinion of the Committee, however, Mr Worms had no legal claim on the Government; the sum finally awarded to him was hence considered by the Committee to be the belated fulfilment of a moral obligation.

The President of the Second Chamber
of the States-General,

(sgd.) Dr D. Dolman

To the President of the
European Parliament

ANNEX III

Second Chamber of the State General

1978-1979 Session

15 324

No 85

Report by the Committee on Petitions

Report on the Petition by L. Worms, Berchem (Belgium), relating to compensation¹
Adopted, 14 June 1979

The Committee², having regard to the information communicated by the Minister for Economic Affairs in writing and verbally and by the Minister of Justice in writing,
having regard to the official report submitted to the committee,
whereas the petitioner complains that the State, represented by the Ministry for Economic Affairs, does not award him any compensation for damages which he has incurred as a result of the revelation of scrap frauds in the 1950's and 1960's; in the meantime an official of the Ministry of Economic Affairs gave false evidence, on the basis of which that official was prosecuted, found guilty and dismissed; it must be assumed that the petitioner suffered damage after revelation of the frauds in the form inter alia of lost business;
no criminal proceedings could be brought against the authors of the fraud in the Netherlands because the High Authority (as it then was) of the European Coal and Steel Community (ECSC) omitted to call to account the bodies for which it was responsible, although this does not alter the fact that the report submitted in the meantime to the European Parliament by Mr Alain Poher made it clear that large-scale frauds had been committed;
the revelation of the fraud has saved the ECSC and its organs immense sums of money; not only the ECSC but also the Kingdom of the Netherlands as a member of the ECSC has benefited from the disclosure of the scrap frauds;

¹The petition and the documents which were made available to the committee in its examination may be consulted by Members in the secretariat of the Committee on Petitions, 37 Buitenhof.

²Members : Kappeyne van de Coppello (VVD), Langedijk-de Jong (PvdA), Worrell (PvdA), Van den Broek (CDA), Wessel-Tuinstra (D'66), Dijkman (CDA), Korte-van Hemel (PvdA), Tripels (VVD) und Patijn (PvdA).

there is therefore a moral, albeit not legally enforceable, obligation on the part of the Kingdom of the Netherlands to award some compensation to the petitioner; this obligation is not principally that of an individual ministry but, rather an obligation on the part of the Kingdom of the Netherlands represented by the Government;

takes the view

that it seems justified to grant the petitioner compensation of 20,000 guilders, to be borne by the Kingdom of the Netherlands, proposes to the Chamber that :

- A. the Prime Minister be asked to recommend payment of compensation in the amount of 20,000 guilders,
- B. for all other purposes the petition be filed without further action.

Langedijk-d-Jong
Committee chairman

Ploos van Amstel
Committee secretary

EUROPEAN PARLIAMENT

LEGAL AFFAIRS COMMITTEE

Opinion

on

Petition No. 52/80 by Mr Louis Worms concerning a request
for financial redress.

Draftsman: Mr H. SIEGLERSCHMIDT

12 November 1981

The petition was referred to the Legal Affairs Committee on 19 December 1980. The Committee on the Rules of Procedure and Petitions is the committee responsible.

At its meeting of 29 January 1981 the Legal Affairs Committee appointed Mr Sieglerschmidt draftsman of an opinion.

At its meeting of 19 October 1981 the Legal Affairs Committee considered a working document submitted by Mr Sieglerschmidt.

At its meeting of 11 November 1981 the Legal Affairs Committee again considered the working document and unanimously adopted its opinion for the Committee on the Rules of Procedure and Petitions as contained in 'IV Conclusions'.

Present: Mr Ferri, chairman; Mr Luster, vice-chairman, Mr Dalziel, Mr Malangré, Mr Magahy, Mr Sieglerschmidt, Mr Tyrrell, Mrs Vayssade and Mr Vié.

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1. Background

1. It was in November 1958 that the European Parliament's Internal Market Committee first considered a petition lodged by Mr Worms one month earlier in which he denounced certain frauds concerning the Imported Ferrous Scrap Equalization Fund. That petition sought compensation for all those who had suffered loss as a result of the frauds connected with the fund. In addition Mr Worms complained that he was being boycotted.

The outcome of numerous meetings of the Internal Market Committee was an opinion forwarded in September 1959 to the President of the High Authority in which it was pointed out that by revealing the irregularities Mr Worms had performed a service to the Community. In December 1961 the Internal Market Committee submitted a comprehensive report dealing with the operation of the equalization system as a whole, and the High Authority's control activities in relation to the origin of the quantities of scrap included in the equalization process by the Equalization Fund.¹ The report did not however contain any reference to Mr Worms' claims for compensation. It merely called upon the High Authority to take strong action against the irregularities and frauds that had come to light in the scrap sector.

2. On 12 July 1962 an application by Mr Worms lodged with the Court of Justice of the European Communities on 1 July 1961 alleging against the High Authority a wrongful act or omission in the performance of its functions under Article 40 of the ECSC Treaty was dismissed and Mr Worms was ordered to pay all the costs of the action.

In the proceedings before the Court of Justice of the European Communities Mr Worms claimed that the High Authority had:

- (a) failed to use its powers against the Joint Office of Scrap Consumers and failed to instruct the Joint Office to continue working with him;
- (b) failed to act to break the boycott of Netherlands scrap merchants against him;
- (c) failed to act with sufficient vigour to clear up the scrap frauds and to prosecute the guilty parties.

3. The High Authority, in whose favour the Court found, replied to Mr Worms in its defence as follows:

¹ Report on behalf of the Internal Market Committee on the control activities of the High Authority (Doc. 3-VII) concerning the origin of the quantities of scrap included in the equalization process by the fund for imported scrap, Doc. 109/1961-62

- (a) in its commercial activities the Joint Office was subject to national law; its decisions as to the suppliers from whom it bought scrap were a matter of private law with which the High Authority had no power to interfere;
- (b) there was no evidence that the alleged boycott had had the effect of preventing, restricting or distorting normal competition within the Common Market within the meaning of Article 65 of the ECSC Treaty and that accordingly the High Authority was not competent and not liable;
- (c) Mr Worms had not shown a causal connection between the loss he claimed to have suffered and the insufficient vigour on the part of the High Authority in tackling the scrap frauds.

4. In petition 1/1966-67 Mr Worms sought 'financial rehabilitation'.

The first question that arose on examination of the second petition was whether it was admissible, particularly in the light of measures taken following the submission of the first petition and the proceedings before the Court of Justice. In its opinion, the Legal Affairs Committee found that the requirements for the admissibility of petitions pursuant to Rule 47(1) and (2) of the European Parliament's Rules of Procedure at that time had been fulfilled and stated that Parliament could examine the petition even though it related to matters already decided by Parliament itself or by the Court of Justice of the European Communities. Petition 1/1966-67 was distinguishable from the petition lodged by Mr Worms in October 1958. As far as the prior decision by the Court of Justice was concerned, the provision on revision of judgments (Article 38 of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community) was not relevant to the exercise of the right of petition.

The Legal Affairs Committee concluded that:

- (a) under Rule 47(3) of the Rules of Procedure the petition should be forwarded to the High Authority together with the opinion of the committee responsible; in addition the committee could submit a report to Parliament;
- (b) the award of compensation, if any, to Mr Worms could not be made on the basis of a claim in law by Mr Worms in the proper sense since the Court of Justice had declined to recognize any such claim;
- (c) examination of the petition could only extend to the question whether compensation should not be awarded on the ground that it would be just and equitable to do so; but Parliament could not ignore the Court's finding that the plaintiff was unable to show any evidence of a causal connection between the loss alleged and the lack of vigour on the part of the High Authority in combating the scrap fraud¹.

¹See PE 16.191/fin., 23.11.1966

5. The outcome of the examination of the petition by the Internal Market Committee as committee responsible was the rejection of the request for compensation. The Internal Market Committee referred extensively to its first opinion dating from 1961 and the judgment of the Court of Justice of 12 July 1962 and further stated that no new facts had come to light in this matter since the Court's decision. The Internal Market Committee further decided not to submit a report to Parliament but instead to forward its opinion together with the petition to the High Authority.

6. In 1978 and 1979 the Petitions Committee of the Second Chamber of the States-General of the Netherlands Parliament considered a petition by Mr Worms claiming compensation in the amount of 20,000 guilders which he said was needed to be able to meet the claim of a Netherlands bank in receivership.

By decision of 14 June 1979 the Petitions Committee of the Second Chamber proposed that:

- (a) the Prime Minister be asked to recommend payment of compensation in the amount of 20,000 guilders,
- (b) for all other purposes the petition be filed without further action.

The Committee recognized that:

- (a) it must be assumed that following the revelation of the frauds the petitioner suffered damage in the form interalia of lost business;
- (b) no criminal proceedings could be brought against the authors of the fraud in the Netherlands because the High Authority (as it then was) of the European Coal and Steel Community (ECSC) had omitted to call to account the bodies for which it was responsible, although this did not alter the fact that the report submitted in the meantime to the European Parliament by Mr Alain Poher made it clear that large-scale frauds had been committed;
- (c) the revelation of the fraud had saved the ECSC and its organs immense sums of money;
- (d) not only the ECSC but also the Kingdom of the Netherlands as a member of the ECSC had benefited from the disclosure of the scrap frauds;
- (e) there was therefore a moral, albeit not legally enforceable, obligation on the Kingdom of the Netherlands to award some compensation to the petitioner.

7. The Petitions Committee was informed by a letter from the Prime Minister dated 18 October 1979 that following the decision by the Chamber to endorse the committee's proposal the Prime Minister was also in favour of paying Mr Worms compensation of 20,000 guilders which he subsequently received.

II. Admissibility of the petition

8. By petition 52/80 Mr Worms makes a further claim for financial redress. The Committee on the Rules of Procedure and Petitions has found the petition to be admissible, but it would seem to be appropriate to discuss the question of admissibility in this opinion because otherwise the confirmation of this petition's admissibility might be seen as setting an unintended precedent. This is now the third time that Mr Worms has petitioned the European Parliament in connection with the same matter. Normally this would result in a petition being found inadmissible unless there were special circumstances.

It might be objected that there is nothing to support such a practice in either the old or the new Rules of Procedure. Clearly this does not mean that the converse is true, i.e. that the Rules of Procedure exclude a finding of inadmissibility in these circumstances. The position seems so obvious that it probably never occurred to anyone to propose a provision to that effect. It should be clear from the outset that petitioners may not approach Parliament more than once in connection with the same matter. Some thought ought to be given to whether the Committee on the Rules of Procedure and Petitions should not adopt an interpretation of Rule 108(5) of the Rules of Procedure along those lines pursuant to Rule 111 of the Rules of Procedure.

9. The crucial factor for the admissibility of the petition in a case of this kind should be whether it discloses new facts such as to enable the committee responsible to depart from decisions on previous petitions on the same matter. The tests to be applied when deciding whether such facts are present need not be as strict as is generally the case with applications to the Court of Justice of the European Communities and to the courts of the Member States for judgments to be reviewed.

10. Furthermore, the committee should adopt the finding of the committees of Parliament to which petition 1/1966-67 was originally referred to the effect that the existence of a decision by the Court of Justice of the European Communities on a matter forming the subject of a petition should not automatically render it inadmissible. Indeed, it is often at that point when the petitioner has exhausted all the available legal remedies that it falls to Parliament, where proceedings appear to have resulted in injustice or hardship, to help the petitioner to succeed where possible and to seek the amendment of the legal rules in question in order to avoid repetition of such cases in future.

11. These principles must now be applied to the present petition 52/80 by Mr Worms. The second sentence of his petition reads: 'My petition is based on a new and very important fact'. The petitioner refers to the grounds of the decision by the Petitions Committee of the Netherlands Parliament in connection with his application, to the decision itself which was unanimous and to the Prime Minister's decision in his favour taken on the basis of this proposal from the Netherlands Parliament (see paragraph 5 of this opinion). It may perhaps appear doubtful whether these 'new facts' would be regarded as sufficient to justify the review of judicial proceedings. But having regard to the considerations set out above, there can be little doubt that where the Parliament of a Member State takes a decision which contradicts a previous decision by the European Parliament in the same matter, this should generally lead to the petition in question being found admissible.

12. Only in this way can Parliament examine whether the decision of the national parliament was based on facts not known at the time of the decision by the appropriate committee of the European Parliament on petition 1/1966-67, or whether a different appreciation by the Netherlands Parliament of already known facts might justify departing from the 1967 decision by the European Parliament committee.

13. A further significant factor in a decision on the admissibility of a petition in the circumstances described is whether the previous petition was lodged before or after direct elections to the European Parliament. While the elections cannot be treated as breaking the continuity of Parliament, where there is doubt, the petitioner should be given an opportunity to put his request to the directly elected representatives of the people of the states brought together in the Community.

14. The answer to the question whether petition 52/80 by Mr Worms is admissible, despite the fact that it is the third petition on the same matter, should therefore be yes.

III. Substance of the petition

15. Both the Legal Affairs Committee of the European Parliament (see paragraph 4 of this opinion) and the Netherlands Parliament (see paragraph 6 of this opinion) have unanimously reached the conclusion that Mr Worms has no legally enforceable claim to compensation. In any case, Parliament is not entitled to interfere with a judgment by the Court of Justice of the European Communities. However the Netherlands Parliament takes the view that there is a moral obligation. Likewise the European Parliament's Legal Affairs Committee in its opinion of 14 November 1966 asks whether compensation should not be awarded on general equitable grounds, while nevertheless clearly stating that the petitioner was unable to provide any evidence of a causal connection.

16. The allegations made by Mr Worms on page 2 of his petition beginning with the words 'Many of the most credible people' are insufficient to establish such a causal connection. Nor does the report of the Petitions Committee of the Netherlands Parliament, of which the draftsman of this opinion has a translated extract, contain any evidence thereof.

IV. Conclusions

The Legal Affairs Committee recommends that prior to any definitive ruling on this petition, the Committee on the Rules of Procedure and Petitions should:

- (a) ascertain whether the allegations on page 2 of the petition can be adequately substantiated;
- (b) ascertain from the Petitions Committee of the Netherlands Parliament what facts created a moral obligation to award compensation to Mr Worms.