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REPORT

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

on initiatives to strengthen cooperation between the
institutions in the examination of petitions submitted to
the European Parliament

Rapporteur: Mr G. AMADEI

WG(VS1)/3196E

PE 92.745/fin.
Or. It.

By letter of 8 October 1984, the Committee on the Rules of Procedure and Petitions requested authorization to draw up a report on the conclusion of an inter-institutional agreement with the aim of improving the procedures applied by Parliament for the examination of petitions submitted to it by Community citizens.

By decision of the enlarged Bureau of 11-13 December 1984, the committee was authorized to report on this subject. The Committee on Legal Affairs and Citizens' Rights was asked for an opinion. Subsequently the Political Affairs Committee and the Committee on Institutional Affairs were also asked for their opinions.

On 25 September 1984, the Committee on the Rules of Procedure and Petitions appointed Mr AMADEI rapporteur, subject to the authorization of the enlarged Bureau.

At its meetings of 29-30 October 1984, 23-24 January 1986, 18-19 March 1986, 2-3 April 1986, 28-29 April 1986 and 24-25 June 1986 the committee considered the draft report. It unanimously adopted the motion for a resolution as a whole on 24-25 June 1986.

The following took part in the vote : Mr AMADEI, chairman and rapporteur; Mr CHANTERIE, vice-chairman; Mr SCHWALBA-HOTH, vice-chairman; Mr ANASTASSOPOULOS, Mr CICCIOMESSERE, Mr DIMITRIADIS, Mr GRIFFITHS, Mr HERMANN, Mr LAFUENTE, Mr MALANGRE, Mr PATTERSON, Mr ROGALLA, Mr SILVA DOMINGOS and Mr WEDEKIND.

The Committee on Legal Affairs and Citizens' Rights sent the attached letter on the subject. The Committee on Institutional Affairs stated in its letter of 1 March 1985 that it had decided not to deliver an opinion.

The Political Affairs Committee adopted a single opinion (PE 97.179/fin.) in favour of both this report and the report by Mr CHANTERIE on improving the procedures for the examination of petitions.

This report was tabled on 30 June 1986.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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A
MOTION FOR A RESOLUTION

on initiatives to strengthen cooperation between the institutions in the examination of petitions submitted to the European Parliament

The European Parliament,

- having regard to the Treaties establishing the European Communities,
 - having regard to Rules 108 - 110 of its Rules of Procedure,
 - having regard to the Joint Declaration¹ of 5 April 1977 in which the European Parliament, the Council and the Commission stress the prime importance they attach to the protection of fundamental rights,
 - having regard to the Solemn Declaration of the European Council meeting in Stuttgart on 19 June 1983, and in particular Item 2.3 concerning the European Parliament,
 - having regard to its resolution of 14 February 1984 laying down the draft of a Treaty of European Union², Article 18 of which provides for the establishment of the right of citizens to address petitions to the European Parliament,
 - having regard to the conclusions of the European Council meeting in Milan on 28 and 29 June 1985 approving the proposals of the Ad Hoc Committee on a People's Europe for greater transparency in administration in the Community, and notably the proposal concerning the conclusion of an inter-institutional agreement to strengthen the citizens' right of petition,
 - having regard to Parliament's resolution of 14 June 1985³ in which it affirmed its will to strengthen the citizen's right to petition the European Parliament and instructed the Committee on the Rules of Procedure and Petitions to submit the necessary proposals,
 - having regard to the report of the Committee on the Rules of Procedure and Petitions and the opinion of the Committee on Legal Affairs and Citizens' Rights (Doc. A 2-74/86),
- A. whereas, by providing for the right of petition in Rules 108-110 of its Rules of Procedure, Parliament has established direct contact with individual citizens as well as public and private bodies active within the Community, thus strengthening its ties with civil society,
- B. noting that the experience of past years shows that petitions are aimed particularly at :
- redress of injustices suffered as a result of contravention of Community law or of Community interest,
 - obtaining, through Parliament's political action, the promotion, amendment or annulment of initiatives and measures by the Community or the Member States within the sphere of Community interest,

¹J C 103, 27.4.77, Treaties 1978 edition p. 214

²J C 77, 19.3.84, p. 27

³J C 175, 15.7.85, p. 273

- C. whereas the steadily growing number of petitions addressed to the European Parliament is a measure of both its growing stature in the eyes of the public and of the effectiveness of this procedure in solving administrative and other problems with which Community citizens may be faced,
- D. pointing out that the Community's legal acts are increasingly affecting the daily life of its citizens and that one of the fundamental rights of Community citizens is to contest the implementation of Community legal and administrative acts, both at Community and national level,
- E. recognizing the Community's, and especially Parliament's, direct interest in achieving transparency of the Community system and in establishing in the Community a flexible and effective system for complaints against injustices and for investigation of any inefficiencies or limitations in Community activity,
- F. stressing that the existing Treaties and the Single European Act already confer on the Community institutions extensive powers of investigation for the purpose of ascertaining whether Community objectives are being met, and that greater cooperation could usefully enhance the effectiveness of the existing petitions procedure,
- G. convinced that such cooperation in this field can be achieved by means of more effective and rapid exchange of information between the European Parliament and the Commission as well as the public authorities of the Member States, not least through the intermediary of the Council,
1. Invites the Commission to take action on the decisions of the European Council referred to above and the suggestions contained in the European Parliament's resolutions concerning :
 - strengthening the right of citizens and other public and private bodies active in the Community's territory to address petitions to Community institutions through the European Parliament;
 - the establishment of an appropriate information system allowing the European Parliament to obtain from other Community institutions as well as from the authorities of the Member States the information necessary for the examination of initiatives or measures which fall within its sphere of competence;
2. Declares its readiness to conclude an inter-institutional agreement which, while respecting the specific spheres of competence, will enable Parliament to investigate more effectively the petitions addressed to it;
3. Calls on the Council to guarantee the European Parliament cooperation from the authorities of the Member States, particularly as regards the exchange of information necessary for the examination of petitions, subject to any reservations of confidentiality which these administrations may explicitly make;
4. Instructs its President to take the necessary steps to give effect to this resolution, which should be forwarded to the Commission, the Council, the Foreign Ministers meeting in political cooperation, and to the Presidents of the Parliaments of the Member States.

B
EXPLANATORY STATEMENT

1. Immediately after the second direct elections (at its meeting of 25/26 September 1984) the Committee on the Rules of Procedure and Petitions considered how to follow up two related questions inherited from its predecessor. Those two questions were (i) the 'Community ombudsman'¹ and (ii) a time limit for Member States to reply to requests for information concerning petitions.
2. On point (i) the committee wholly agreed with the conclusion reached by its predecessor that what was required was not the appointment of an individual ombudsman, but the creation of effective powers of investigation that would enable it to operate as a fully fledged 'ombudsman committee'².
3. On point (ii) the committee decided to pursue that objective by two routes simultaneously, firstly through the Chanterie report and secondly through the present Amadei report. Mr Chanterie has examined possible improvements from a 'maximalist' viewpoint, with a view to future Treaty amendments, as proposed in Parliament's Draft Treaty on European Union and in a formal declaration at the highest political level by the European Council³.

The present report examines what improvements to the petitions procedure might be brought about within the existing limits to the powers available to the Community institutions, with or without the wider changes envisaged by Mr Chanterie.

4. We hardly need to be reminded that petitions are virtually contemporaneous with the emergence of parliaments themselves and have always represented the most direct channel of communication between the citizens and the authorities. In the modern state and in parliamentary democracies they still play an important part, as evidenced most clearly in Europe by the experience of Germany and Denmark. Even if in other European states, as for example in Italy, petitioning is of lesser significance, there seems to be no doubt that it still has a role to play, especially as a complementary adjunct to other channels, such as appeal to administrative and legal tribunals or direct access to individual parliamentarians.

5. This also seems to be the case of the European Parliament which, in fact has devoted to petitions Chapter 14 of its Rules of Procedure (Rules 108-110). Interest in the development of this instrument seems to be shared by the citizens at large who in recent years have been making increasingly frequent use of this channel. This is probably due to a number of factors. In the first place, the direct election of MEPs has put our Assembly in contact with other large groups of citizens who find it natural to seek recourse with an institution that represents them. There can be no doubt, in this respect, that the phenomenon has by no means reached its peak and its likely growth must be taken into account by Parliament.

¹On 11 May 1979 Parliament adopted a resolution calling for a 'Community ombudsman' in which inter alia it instructed the Committee on the Rules of Procedure and Petitions to report on the procedure to be followed.

²The history of the previous committee's deliberations on the 'ombudsman' question is summarized in document PE 89.363.

³Doc. A 2-41/85. Interim report on strengthening the citizen's right to petition the European Parliament and Parliament's resolution of 14 June 1985 (OJ C 175, 15.7.85, p. 273)

A second fact contributing to the consolidation of the institution of petitions at Community level is the fact that action taken by the Community on petitions has in many cases led to the resolution of the problem raised by the signatories. The necessary action might have been taken either by the Community or by the authorities of the Member State, if the problem, though of Community interest, arose in connection with the administrative or legal system of a particular country.

A third factor which can be seen and which in future might assume greater importance, is the fact that this channel is becoming also a form of active political participation in the activities of Parliament and of the Community by such collective bodies as local authorities, movements, etc. In this connection it could actually be said that in the relationship between Parliament and society the institution of the petition has come to occupy partly that area which in national parliaments falls to the legislative or administrative initiative of individual citizens or public and private bodies.

While all these factors account for the essential interest of individual citizens and other bodies in making use of the petition instrument, it is clearly also of direct interest to Parliament, whose role and functions it serves to strengthen. Petitions can in fact prove to be important alarm signals which bring to notice administrative malfunctioning in the Community or in the Member States (within the sphere of Community interest); they can also serve to introduce new elements into the Community decision making system, particularly on the initiative of social or economic groups and local authorities.

To conclude these introductory considerations let it also be said that the development of this instrument seems to be directly linked to the extension of the powers of the authority to which the petitions are addressed; now there can be no doubt that, restricted and unsatisfactory though they are, the new powers envisaged for Parliament in the Single European Act (within the cooperation procedure) will result in a further growth of interest in the Assembly. This in turn will result in further initiatives, petitions and communications, primarily from those who are, favourably or unfavourably, affected by measures which Parliament will be examining 'in cooperation' with the other institutions.

6. Against the background of these factors which lead us to expect a further development of the institution of the petition, it must be said that institutional initiatives outside Parliament in this area have had a chequered history. On the one hand, the European Council has on several occasions stressed the need for more direct contacts between the citizens and the Community (Stuttgart 1983, Fontainebleau 1984 and Milan 1985), but on the other hand there was no adequate follow-up to these declarations. Notable among these is the final declaration of the European Council of Milan of 28 and 29 June 1985 adopting the proposals contained in the final report drawn up by the Committee on a Citizens' Europe⁴ (an ad hoc committee chaired by Mr Adonnino set up by decision of the European Council of Fontainebleau of June 1984).

⁴The Committee on the Rules of Procedure and Petitions will shortly be starting work on a final report on the detailed implementation of the resolution of 14 June 1985.

Among those proposals, in the section entitled 'Special rights of citizens' were specific recommendations concerning petitions to Parliament and in particular the notion of an inter-institutional agreement on petitions.

7. It is this last proposal which seems of greatest interest in relation to a qualitative leap in the evolution of the institution of petitions.

For only through greater cooperation of Community institutions and national administrations with the European Parliament can many of the obstacles holding back the development of the petition institution be overcome.

8. These obstacles are still numerous. The Committee on the Rules of Procedure and Petitions came to realize that its effectiveness was dependent on the willingness of the Member States' authorities to help the committee's rapporteur or the Commission with their inquiries. Where a petition raises matters which are sensitive, or potentially embarrassing, the Member State concerned may seek to resist intervention by a Community institution. The result, whether by design or through the inherent slowness of bureaucracies, is all too often referrals back and forth.

9. In the great majority of cases the committee finds its collaboration with the Commission wholly satisfactory. The committee sets great store by the vast fund of expertise and specialist knowledge to which it has access through the Commission's officials. It therefore much regrets the dispute that has grown up in recent months between itself and the Commission over (a) the committee's right to examine petitions forming the subject of the procedures under Article 169 of the EEC Treaty⁵ and (b) the Commission's general disclaimer of competence for petitions alleging violation of fundamental (or human) rights⁶.

Clearly these problems are not easy to solve, but they will not be solved until the institutions concerned decide to sit round a table and tackle them not only in accordance with the letter but also the spirit of the Treaties.

10. Two articles of the EEC Treaty set out the respective duties of the Member States and the Commission.

Article 5 of the EEC Treaty requires the Member States to take all appropriate measures to ensure fulfilment of the obligations arising out of the Treaty, to facilitate the achievement of the Community's tasks and to abstain from any measure which could jeopardize the attainment of the objectives of the Treaty.

The corresponding provision, by which the Commission's duties as guardian of the Treaties are spelt out, is Article 155 which provides inter alia that in order to ensure the functioning and development of the common market the Commission shall ensure that the provisions of the Treaty, and the measures taken by the institutions pursuant thereto, are applied.

A further provision, of particular relevance to the present report, is contained in Part Six of the EEC Treaty, General and final provisions, which in Article 213 confers on the Commission a power to collect information and carry out checks.

⁵Failure by a Member State to fulfil its obligations under the Treaty

⁶The committee discussed these matters and the proposed inter-institutional agreement with Commissioner Ripa di Meana at its meeting of 23-24 January 1986 (See PE 101.833 and PE 101.916).

11. The purpose of the present report is primarily to invite the Commission and the Council to declare their willingness to give more substance and credibility to the right of citizens to petition the European Parliament. This can be achieved by ensuring access to information and the necessary cooperation, always with due regard to the respective institutional powers laid down in the Treaties. An agreement among the three institutions and coordination of their approaches to the authorities of the Member States would, moreover, have the merit of finally clarifying their respective roles and tasks in the examination of the petitions.

12. A case in point is the problem of the information that is already being supplied by the Commission to Parliament, but only on the basis of Rule 109 of the Assembly's Rules of Procedure. Under the agreement it would in all probability be possible also to clarify the various interpretations that have been forthcoming so far (for instance, in regard to material which is confidential or covered by official secret). There is also need for definition in regard to Parliament's right to examine petitions on matters which are the subject of proceedings under Article 169 of the Treaty.

The establishment of a satisfactory information system among all the institutions concerned and a definition of the respective rights and obligations in respect of requests for and access to information, are matters of great sensitivity and complexity and it is essential that the authorities concerned act in accord when examining them. Parliament does not expect, of course, to have unlimited access to confidential documents; but it would not be impossible, with adequate procedures and safeguards, for specific bodies or individual Members (as for example the 'examiners' appointed by the Committee on the Rules of Procedure and Petitions) to have access to certain materials knowledge of which is essential for the accomplishment of their tasks. Such possibilities, however, in your rapporteur's view, would have very limited application, whereas much greater importance could attach to information of a general nature concerning the operation of national and Community administrations.

13. Lastly, the draft report here submitted for Parliament's consideration has a political significance in that it constitutes an explicit invitation to the other authorities to act consistently with their own declarations concerning the protection and strengthening of citizens' rights. Any further inaction and hesitation on their part have a clear political meaning which Parliament reserves the right to review and challenge.

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND CITIZENS' RIGHTS

Letter from the chairman of the committee to Mr ADAMEI, chairman of the Committee on the Rules of Procedure and Petitions

Dear Mr Amadei,

Thank you for sending me the latest version of your report on initiatives to improve the procedures applied by Parliament for the examination of petitions.

As you already know, when the Committee on Legal Affairs and Citizens' Rights was asked for its opinion on the desirability of issuing an inter-institutional declaration on petitions, it closely followed the preparatory work carried out on the report to be drawn up by the Committee on the Rules of Procedure and Petitions, since it was convinced that an improvement in the procedures for examining petitions was of the greatest importance for the European Parliament. In particular, the committee expressed reservations about the suggestion in previous versions of your draft report that Parliament should promote an initiative to urge the Council and the Commission to sign an inter-institutional agreement on the subject, as it was felt that an inter-institutional declaration was an inadequate means of achieving the desired aim.

I informed my committee of the contents of your letter of 3 June 1986 and it was decided, in accordance with the view expressed by Mr Luster, not to deliver an opinion, having regard both to the timetable envisaged by the Committee on the Rules of Procedure and Petitions and the fact that the work done by our committee had already influenced the approach of the committee responsible.

Yours sincerely,

(sgd) Marie-Claude VAYSSADE

