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*Committee on Petitions*

**2008/2301(INI)**

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## **DRAFT REPORT**

on the deliberations of the Committee on Petitions during the parliamentary  
year 2008  
(2008/2301(INI))

Committee on Petitions

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**on the deliberations of the Committee on Petitions during the parliamentary year 2008 (2008/2301(INI))**

*The European Parliament,*

- having regard to its previous resolutions on the deliberations of the Committee on Petitions,
  - having regard to the results of its fact-finding missions in 2008 to Romania, Bulgaria, and France and the corresponding reports and recommendations approved by the Committee,
  - having regard to Articles 21 and 194 of the EC Treaty, which confer on all EU citizens and residents the right to petition the European Parliament,
  - having regard to Rules 45 and 192(6) of its Rules of Procedure,
  - having regard to the report of the Committee on Petitions (A6-0000/2009),
- A. recognising the importance of the petitions process and its specific attributes, which enable the responsible committee to seek solutions and explanations for EU citizens who petition Parliament,
- B. having regard to the growing number of EU citizens who petition Parliament,
- C. whereas several of the recommendations adopted in the 2007 Annual Report have yet to be implemented by Parliament's authorities,
- D. mindful of the fact that, in spite of considerable progress in the development of the structures and policies of the Union during this period, citizens remain directly aware of many shortcomings in the application of the policies and programmes of the Union as they affect them directly and whereas these are frequently the subject of petitions received,
- E. considering that, as a result, Parliament has a responsibility to ensure better application of Community law by the individual Member States in the interests of EU citizens and residents, and thus to work in cooperation with Member States to achieve this objective,
- F. whereas, however, many Member States remain reluctant to cooperate actively with the responsible committee, in particular by failing to attend meetings of the committee, and whereas this denotes a lack of loyal cooperation with the institution,
- G. whereas failure to cooperate actively with the work of the responsible committee in the interest of the correct application of Community law raises doubts about the desire of the Member State concerned to correctly apply EU policies and objectives and therefore exposes the authorities to measures in the form of sanctions and penalties which are available under the terms of the Treaties as well as to public criticism,

- H. recognising, however, that many Member States demonstrate a good level of cooperation and do work with the Parliament in an effort to respond to the concerns of citizens as expressed through the petitions process,
- I. recognising the constructive contribution made to the petitions process by the services of the Commission, which regularly provide, at the request of the responsible committee, preliminary assessments of many petitions received, and noting that in 2008 this has also involved an increased workload for the officials concerned, notably in the Commission's DG Environment and DG Internal Market,
- J. whereas such cooperation could and should be further enhanced, notably as regards procedures related to Articles 226 and 228 of the EC Treaty in duly justified cases,
- K. whereas the infringement procedure does not provide a remedy for petitioners even when a Member State is obliged by the Court of Justice to modify its legislation to bring it into conformity with EU legislative acts,
- L. whereas the inability to provide a non-judicial remedy directly to EU citizens who have been or have become victims of the lack of proper application of EU law constitutes a basic injustice which requires further consideration by the EU institutions, and in particular by the European Parliament,
- M. whereas Parliament should review its own procedures in order to facilitate actions, notably under Rule 121 of its Rules of Procedure, before the Court of Justice when the rights of petitioners are at stake,
- N. whereas, when a Member State has, in the opinion of the committee responsible, failed to respect the fundamental rights of EU citizens who petition Parliament or has otherwise failed properly to implement the objectives of EU directives, Parliament should also consider new procedural options, similar in kind to those provided for in Rule 95 of its Rules of Procedure,
- O. having regard to the motions for resolutions submitted to plenary in 2008 and adopted by an overwhelming majority of Members, pursuant to Rule 192(1) of its Rules of Procedure on the basis of petitions received concerning the impact of the Nord Stream gas pipeline under the Baltic Sea and concerning misleading directory companies,
- P. having regard to the recommendations made by the Committee on Petitions following a visit to Fos-sur-Mer to urge the French authorities not to proceed with the construction of an incinerator plant, but to support an alternative methanisation plant, given the existing high levels of atmospheric pollution and the obligation to ensure the highest levels of health and safety of the local population,
- Q. having regard to the recommendations made by the Petitions Committee to the Romanian authorities about the need to preserve and protect the integrity of Saint Joseph's Roman Catholic Cathedral in Bucharest, and calling for the demolition of the partly-built twenty-storey office building only three metres away from the cathedral wall,
- R. bearing in mind the concern expressed by the Committee on Petitions in relation to

certain infrastructure projects in Bulgaria in the Rila Mountains visited during a fact-finding visit in 2008,

- S. recognising the positive and constructive cooperation with the European Ombudsman in 2008, the support provided by the Committee on Petitions for his recommendations contained in two Special Reports and the importance of his responsibilities in investigating allegations made by EU citizens of maladministration within EU institutions and bodies, and welcoming the pragmatic but necessary modifications to his statute approved by Parliament,
- T. whereas in 2008 the Committee on Petitions received 1 884 petitions, an increase of approximately 20% on the number received in 2007, and whereas the resources of the Committee secretariat actually decreased during that period,
1. Welcomes the involvement of petitioners at each meeting of the Committee on Petitions and continues to encourage individual EU citizens and community associations to come forward with issues which concern the area of activity of the European Union and which affect them directly, believing that this process enables the European Parliament as an institution to better defend and promote the fundamental rights of all EU citizens as defined in the EU Treaty;
  2. Urges EU citizens to remain vigilant in relation to the way in which Member States apply the Treaties and EU legislative acts, notably as regards issues related to the environment, social and employment rights, the free movement of persons, goods and services, financial services, citizens' fundamental rights including their right to legitimately acquired property, recognition of their professional qualifications and all forms of discrimination;
  3. Emphasises that, in accordance with the principle of subsidiarity, Parliament cannot regard as admissible petitions which seek to appeal against decisions of competent authorities or judicial bodies of Member States;
  4. Calls on all Member States and their national, regional and local institutions to fully cooperate with the responsible committee of the European Parliament when investigating allegations or proposals contained in petitions, on a loyal and constructive basis, with a view to finding solutions to issues raised through the petitions process;
  5. Requests that a full review of possible procedures to ensure remedial action for EU citizens be conducted by the responsible bodies in the European Parliament, the Commission and Council and that a new interinstitutional agreement incorporating reinforced powers for committees of inquiry, be negotiated in order to further strengthen the rights of EU citizens;
  6. Believes that such a review would complement any eventual implementation of the Lisbon Treaty by providing additional safeguards based on the declared rights and obligations of EU citizens and EU institutions;
  7. Calls on the Commission, once again, to ensure that greater recognition and emphasis is

placed on the petitions process, notably as regards application of the infringement procedures and the requirement to inform the Committee on Petitions directly and officially when decisions are taken to initiate proceedings under Articles 226 and/or 228 which are related to the issues raised in individual petitions;

8. Calls on the Commission to be more ready to actively prevent breaches of Community law by raising the importance and significance attached to the "precautionary principle", and expresses its concern that, under questioning, many Commission officials fail to recognise the importance of this principle to EU citizens who alert the institutions to the risk of abuse or denial by Member States, notably in the environmental field when large infrastructure projects may be planned;
9. Recognises that well-meaning petitioners are not always right and that solutions may not be found for their complaints due to weaknesses in the applicable Community legislation itself;
10. Therefore, calls on responsible legislative committees to bear in mind proposals or suggestions which may from time to time be made by the Committee on Petitions regarding the application by Member States of specific EU legislation, with a view to possible revision or further investigation;
11. Instructs its President to forward this resolution, and the report of the Committee on Petitions, to the Council, the Commission, the European Ombudsman, the governments and parliaments of the Member States, their committees on petitions and their national ombudsmen or similar competent bodies.

## EXPLANATORY STATEMENT

### Introduction

Throughout this legislature the Petitions Committee has worked to ensure that issues and concerns which were brought directly to the attention of the European Parliament through the petitions process by European citizens and residents, under Article 194 of the Treaty, have been properly considered and answered.

Although the Committee continues to struggle to keep up with the growing demands made upon it, it has in many areas obtained a respect and recognition for its activity which it did not have several years earlier. For example, advances have been made to ensure not only the greater transparency of citizens' concerns by a growing participation of petitioners in meetings of the Committee where they have been able to defend and promote their concerns, but also essential improvements have been made to individual members' ability to access petitions and all related documents, through the development of a new computer data base.

Petitions fall into different categories and for people who only observe the Committee's activity from a distance (even within the Parliament) it is not always clear what the real purpose of the Committee's task is. This is partly because it does not have a single task, but a very varied set of options which enable it to identify the most useful course of action for each petition submitted. It is also because its procedures used are very different from those of legislative committees which, because of Parliaments responsibilities, attract most prestige and most attention institutionally. Even for the public in the twenty seven Member States it is not always apparent as to what a petition is or what the Parliament can do about it.

It may therefore be helpful, in this annual report, to begin by trying to identify the different types of petitions which the Committee receives.

- *Campaign type petitions*: these are signed by a very large number of citizens in support of a more political objective where the number of signatures is an indication of the amount of public interest in a given subject. Examples include those who protest about bullfighting in Spain, the slaughter of baby seals, the humanitarian suffering caused by the conflict between Israel and the Palestinian people, the situation in Iraqi Kurdistan, democratisation in Belarus, the atrocious humanitarian situation in Zimbabwe, a 'single seat' for the Parliament in Brussels and so on.
- *Influence type petitions*: these may be signed by a large number of persons also, but they are intended to impact upon specific legislative proposals which may be under consideration within a given Parliamentary committee. Examples include the software patents scheme, asylum and rights for third-country nationals, the energy-climate package, REACH and so on.
- *Application of EU law and Treaty rights*: these are the most demanding because they seek non-judicial solutions or explanations concerning the way Member States apply legislative acts, or respect their treaty obligations related amongst other issues, to fundamental rights. They are the most controversial and for the Parliament they have the highest profile. They provide a litmus test regarding how EU citizens respond to European legislation and they often alert the Parliament to serious short-comings within Member States. It is through this type of petition that the members of the

Petitions Committee have been branded the 'Directive Detectives'. Not necessarily a very comfortable description to live with, even if it does describe a certain approach which the Committee has been called upon to adopt more and more frequently.

Examples include the petitions received concerning large infrastructure projects which impede upon environmental or heritage rights recognised in EU law, problems related to the treatment of waste, problems relating to the protection of nature and wild-life, fundamental rights to legitimately acquired property and many other areas of responsibility for which the EU has competence.

- *Individual rights petitions*: which are usually of a more personal character and consist of appeals from individuals regarding the many problems related to the application of the internal market and free movement of persons. Such examples here include the recognition of professional qualifications, rights to pensions or other social entitlement, residence requirements, cross-border travel and identification, individual claims for asylum and so on. (Issues covered can also be addressed to the SOLVIT unit at the Commission although petitions received tend to be often too complex for SOLVIT to resolve.)

From such a simplified categorisation it may be seen perhaps more clearly why it is necessary to have a broad range of rules and procedures to deal with each petition received, especially when petitions do not always fall within one of these categories alone. It also shows, up to a point, why such questions as admissibility of petitions may not always be so straightforward under the existing rules and why, again, a broad interpretation is usually adopted which gives any benefit of doubt to the petitioner rather than try to exclude a legitimate issue from parliamentary scrutiny.

Nevertheless, it is important to note that especially in 2008, a growing proportion of petitions received have been deemed inadmissible. These were not only petitions for which the substance was clearly of Member State competence, or where the issue concerned an appeal against legal decisions taken by a competent judicial organ, or where the matter was better dealt with by the European Ombudsman or national petitions/ombudsman services. These were petitions which were received but which were so short as to be relatively meaningless, or were otherwise insufficient in substance or in comprehension. The latter category has grown because of the ease with which petitions are submitted electronically linked to the lack of adequate registration facilities capable of differentiating the wheat from the chaff. Although some steps have been taken to address this matter, it does denote a structural problem which must be resolved by Parliament's administration.

One final introductory point which should be borne in mind for the future relates to the different categories of petition. Under the terms of the Lisbon Treaty European citizens are given a significant additional right and an important practical opportunity to become even more involved in the EU political process by means of the so-called "Citizens' Initiative". Although such initiatives are supposed to be addressed in the first instance to the European Commission (which, bearing in mind that the right to petition is to Parliament may appear somewhat confusing!) they will eventually provide the citizen with a real opportunity to propose new legislation. This important extension to the petitions process should naturally have repercussions on the work of the Petitions Committee in the future, if and when the Lisbon Treaty is hopefully implemented. This was discussed on a number of occasions in 2008 in the Petitions Committee.

Numbers of petitions.

A one dimensional guide to the work of the Petitions Committee is provided by statistics. As with a lot of statistics they hide more than they explain, yet in an annual report one is obliged to pay attention to the numbers. Thus, in 2008 the Petitions Committee registered 1886 petitions compared to 1506 in 2007, which was fifty per cent more than in 2006. The largest number of petitions was received from Germany and Spain, followed by Romania and Italy, Poland and the UK. Ireland also submitted a considerable number of petitions, the - largest *per capita*, bearing in mind the size of the population.

A larger proportion of individual petitions were received from Germany and Romania whereas Spain and France were more likely to contribute petitions which were backed up by NGOs or community associations and local bodies complaining about the alleged lack of respect for the application of EU Directives. It would appear that German and Italian citizens are more likely to have submitted petitions concerning the EU itself. For the first time the number of petitions submitted electronically were more than those submitted by letter (59.2 v 40.8%). The proportion of inadmissible petitions has also increased from about 30% to 40%.

***Concerned country in 2008***  
(Countries with more than 10 petitions)

<b>Country</b>	<b>Petitions received</b>
Germany	265
Spain	226
Romania	207
Italy	184
Poland	105
United Kingdom	99
Greece	97
France	86
Bulgaria	65
Ireland	58
Finland	36
Belgium	31
Netherlands	24
Malta	21
Austria	20
Hungary	17
Czech Republic	14
Sweden	12
European Union	330

**Key issues of 2008.**

*Top ten themes in 2008. (NB: some petitions concern more than one theme)*

<b>Main theme</b>	<b>Number of petitions</b>	
Environment	309	(12.7%)
Fundamental Rights	208	(08.6%)
Property & Restitution	149	(06.2%)
Justice	147	(06.1%)
Social Affairs	118	(04.9%)
Transport	117	(04.8%)
Health	116	(04.8%)
Internal Market	111	(04.4%)
Education & Culture	105	(04.3%)
Employment	89	(03.7%)

The main focus of attention of petitioners continues to be the environment, its protection and preservation. The Committee is indeed in a unique position to assess the reactions of European citizens to the way in which Member States apply, or do not apply, European law in this respect. It was because of serious concern for the environment in the Baltic region that the Committee first organised a public hearing and then prepared a detailed report on the impact of the proposed Baltic Sea - Nordstream gas pipeline, based upon petitions received from Poland and Lithuania in particular.

Demonstrating very clearly the Committee's desire and willingness to cooperate with other parliamentary committees, in this case the Foreign Affairs Committee and the Industry & Energy Committee, the hearing which took place at the end of January 2008, proved very effective as a means of providing information from all interested parties to both MEPs and petitioners who were present and who also spoke at the hearing. Commissioners Piebalgs and Dimas also made statements. The report which was subsequently approved by a very large majority in plenary provided benchmark positions for the Parliament in relation to the need to further diversify energy policy while prioritising the need to safeguard the very fragile environmental domain of the shallow Baltic Sea.<sup>1</sup>

Ireland figured prominently in the Committee's discussions on environmental petitions during the course of the year. The Committee was represented at the hearing of the National Planning Board when it considered the opposition to the landfill site from the Nevitt Lusk Action group (Petition 295-05) due to the potentially negative impact on the region's horticultural production and the lack of consideration by the Irish authorities for the provisions of the Water Framework Directive given that the site was over a significant aquifer.

The Committee also continued to voice its concerns about the way in which Ireland's National Roads Agency had ignored EU Directives when it planned the route of the M3 motorway near Tara given the devastating impact on part of the nation's most important heritage sites. The Commission indeed added this factor to an on-going infringement procedure against Ireland for not having properly implemented the Environmental impact assessment Directive.

Communications with the Irish Environment Minister nevertheless demonstrated that many of

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<sup>1</sup> Report by Marcin Libicki.

the Committee's concerns have been heeded and acted upon, notably as regards a number of petitions related to drinking water. A number of new Irish petitions received and considered in 2008 concern the proposed LNG facility near Shannon, the construction of a container terminal near Cork, proposed incinerator plants at Carranstown and College Nobber,<sup>1</sup> and other problems with the siting of landfill in Haulbowline.

The Committee's ongoing concern for the rights of property owners also took up a lot of Committee time in 2008. In addition to the Spanish urbanisation issue, which is now the subject of a specific report by the Committee for the second time, the Committee has also been contacted by many citizens from several of the most recent Member States to join the EU who are confronted with the thorny question of property restitution dating from previous political regimes before democratisation. This, it must be said, remains a Member State competence, although there is an obligation of all Member States to establish and maintain a functioning legislative framework to respond to such claims. A fact-finding visit by members of the Committee to Romania last June enabled a most useful discussion to take place on this subject with the Romanian Parliament and Justice Ministry.

The Petitions Committee received over four hundred letters concerning the problems faced by small and medium sized companies, including charitable foundations and other services, with misleading 'Directory Companies'. This proved to be a widespread phenomenon which led to many small companies being intimidated for payments for a service which they had not knowingly contracted into as a result of deliberately misleading proposals having been made. The Committee welcomed petitioners to its meetings to make their case to members and a special workshop was organised in the context of a report which was submitted to plenary in December 2008<sup>2</sup>. The Committee, supported by the whole Parliament, has demanded better legal safeguards for potential victims of such practices and a revision of existing EU law to ensure Member States are better equipped to tackle the phenomenon.

Another of the high-profile issues investigated by the Petitions Committee was concerned with the practices of a number of Jugendamt offices in Germany which have the responsibility for handling child welfare in the event of the divorce or separation of parents. The main problems arose with parents of different nationalities where there were serious fears of discrimination.. Again, the Committee had to remain mindful of the fact that many of the specific complaints were matters of national competence. Nevertheless, in conjunction with the Bundestag and the Ministry responsible progress was made and in some cases the petitioners received apologies. A document produced by the secretariat at the end of the year provided helpful clarification for members allowing them to place the claims in perspective while indicating the seriousness with which the Committee views the problem.

The Petitions Committee conducted reviews of the implementation of the Report by the Equitable Life Committee of Inquiry, adopted in June 2007, which had been established as a result of the petitions received. The report itself catalogued a series of shortcomings in the regulatory framework in the UK financial services sector related to the implementation of Community law. A detailed assessment was provided for the President of the European

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<sup>1</sup> The Committee has on a number of occasions considered that national authorities should consider methanisation plants as alternatives to proposed incineration plants as they impact much less on the air quality.

<sup>2</sup> Report by Simon Busuttil on behalf of the Committee on Petitions.

Parliament in June 2008, following discussions with petitioners. Then, following the publication by the British Parliamentary Ombudsman of her report. A Decade of regulatory failure regarding Equitable Life, further discussions were held with her during the December meeting of the Committee. A detailed communication is still awaited from the British Government on this issue by the European Parliament which has expressed its strong dissatisfaction with the delay and the obfuscation practiced by the British authorities.

### **Committee procedures.**

As was indicated in the introduction, the Petitions Committee is called upon to address many different types of petition covering many varied areas of EU activity. That it does so at all bears witness to the importance which the institution attaches to the views of the European citizen; it also sets it apart from most national parliaments who have not established such proactive bodies to defend the rights of citizens.

The work of the Committee is based upon the Treaty obligations and Parliament's rules of procedure, and close cooperation with the European Commission and the different authorities in Member States. Its methods have developed rather pragmatically in response to the demands made upon it and a number of advances in terms of transparency and public participation have been made in the course of this legislature in particular. These have been reported on before in previous annual reports.

A working group of the Bureau of the European Parliament has made a number of recommendations in its Third Interim Report which, if they are implemented, would further consolidate the role and responsibilities of the Petitions Committee. The Constitutional Affairs Committee, acting partly on the advice of the Petitions Committee, has also made a number of proposals which will modify the existing Rules of Procedure and hopefully simplify them.

Yet, in spite of what may hopefully be considered to be advances, the Committee must recognise that its practical enforcement powers remain much too limited. If and when the Lisbon Treaty comes into effect this may change a little. However, it does seem sensible at this juncture to begin to consider in more detail with the other institutions, ways in which the Committee (and therefore the Parliament) can exert more real power regarding, for example the infringement procedure, under Articles 226 and 228 of the Treaty, which give considerable discretionary power to the Commission and none at all to the Parliament. Furthermore, the views of the Committee should be able to carry more impact when cases are brought before the European Court of Justice under these procedures because it does not have the practical means to communicate its considered opinions - or resolutions which Parliament has approved based upon its findings - to the Court under current provisions and this therefore leaves an important gap in evidence which the Court may choose to take into account in its deliberations.

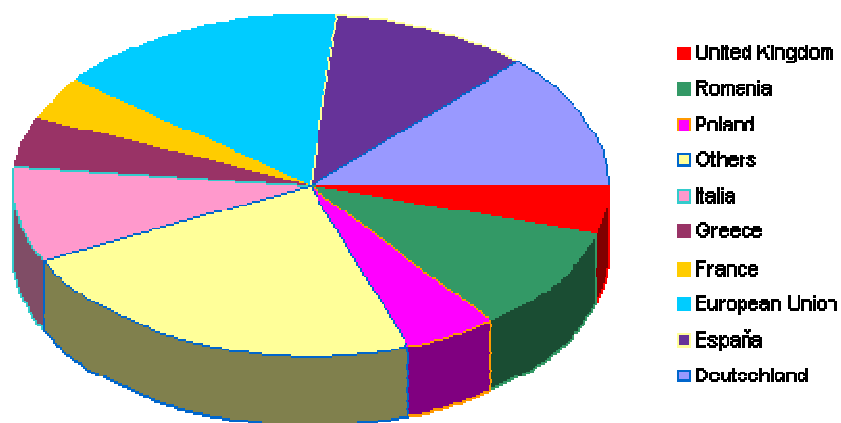
The Committee should therefore begin to consider in more detail ways in which its real powers could be enhanced. Injunction procedures, compensation procedures for petitioners whose rights have been affected by badly applied EU legislative acts, more specific rules related to the effective implementation of the Charter of Fundamental Rights, should all be reviewed so that in the next legislature the petitions process might really come of age.



## ANNEX: Petitions received by Parliament in 2008

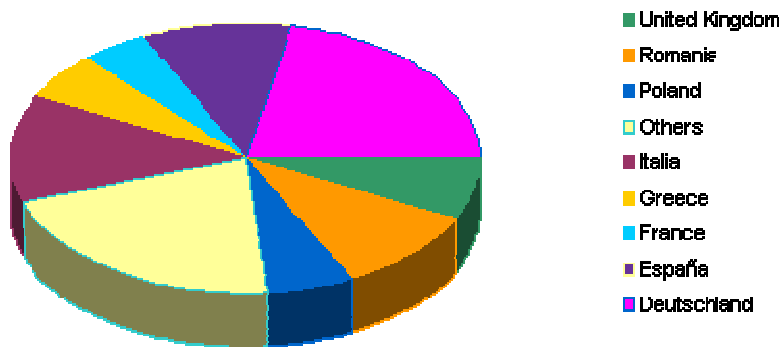
Concerned country	Number of petitions	%
European Union	330	15,9
Deutschland	265	12,8
España	226	10,9
Romania	207	10,0
Italia	184	8,9
Poland	105	5,1
United Kingdom	99	4,8
Greece	97	4,7
France	86	4,1
Others	476	22,9

**Number of petitions 2008**



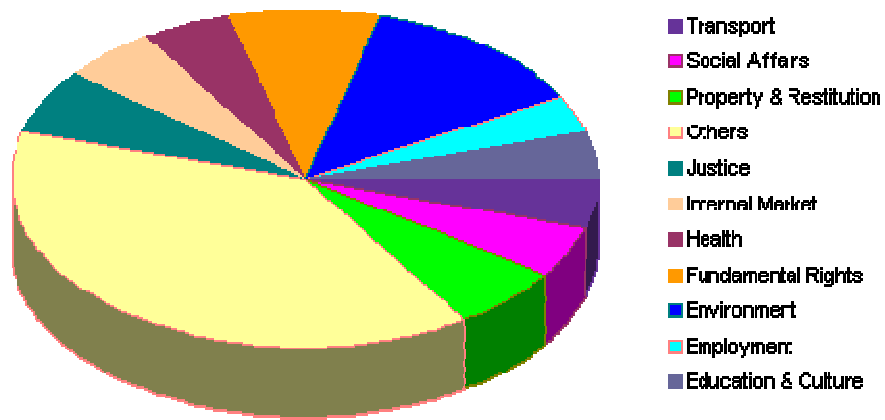
Prime petitioner nationality	Number of petitions	Percentage
Deutschland	413	21,8
Italia	245	12,9
España	197	10,4
Romania	189	10,0
United Kingdom	144	7,6
Poland	112	5,9
Greece	102	5,4
France	90	4,8
Others	400	21,1

**Number of petitions 2008**



Petition themes	Number of petitions	Percentage
Environment	309	12,7
Fundamental Rights	208	8,6
Property & Restitution	149	6,1
Justice	147	6,1
Internal Market	130	5,4
Social Affairs	118	4,9
Transport	117	4,8
Health	116	4,8
Education & Culture	105	4,3
Employment	89	3,7
Others	940	38,7

**Number of Petitions 2008**



Petition Language	Number of petitions	Percentage
German	437	23,2
English	395	20,9
Italian	222	11,8
Spanish	193	10,2
Romanian	155	8,2
French	131	6,9
Polish	101	5,4
Greek	87	4,6
Others	165	8,7

**Number of Petitions 2008**

