



Press and Information

Court of Justice of the European Union

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Advocate General's Opinion in Case C-261/13 P  
Peter Schönberger v European Parliament

## **According to Advocate General Jääskinen, decisions adopted by the European Parliament's Petitions Committee may not be challenged before a Court**

*Despite conflicting case-law of the General Court, that principle must also apply, according to the Advocate General, to any decision declaring a petition inadmissible*

EU law and, in particular, the Charter of Fundamental Rights of the EU confer the right to petition the European Parliament on any citizen of the Union and any legal person residing or having its registered office in a Member State.<sup>1</sup>

The right of petition is restricted to matters which fall within the sphere of activities of the E U and which affect the petitioner directly. Where a petition entered into the register<sup>2</sup> does not satisfy those conditions, it will be declared inadmissible by the Petitions Committee of the European Parliament. The Petitions Committee will inform the petitioner of that decision and in most cases, will suggest that the petitioner bring the matter before the competent national or international body.

If, on the other hand, the petition is admissible, it is examined as to its substance. Where appropriate, the petitioner receives a direct reply, unless the petition is first of all sent to other institutions or bodies for analysis, for an opinion or for information.

According to the case-law of the General Court,<sup>3</sup> the action taken by the Parliament pursuant to a petition declared admissible is not subject to review by the EU courts, since the Parliament retains full political discretion in that regard.

By contrast, the assessment as to the admissibility of a petition must, still in accordance with the case-law of the General Court, be subject to judicial review, since such review is the only guarantee of the effectiveness of the right of petition. A decision declaring a petition inadmissible and that no further action is to be taken on it is, according to the General Court, liable to affect the very essence of the right of petition and therefore constitutes a decision which may be the subject of an action for annulment.

Hearing an appeal against a judgment of the General Court applying that case-law, the Court of Justice is called upon, for the first time, to decide whether the decisions adopted by the Petitions Committee are subject to review by the EU courts.

In his Opinion today, Advocate General Niilo Jääskinen suggests that the Court should not apply the case-law of the General Court but rather find that the judicial review exercised of the decisions of the European Parliament's Petitions Committee of the must be precluded, in so far as those decisions are not challengeable acts.

<sup>1</sup> Under the Rules of Procedure of the European Parliament, natural or legal persons who are not citizens of the European Union and who neither reside nor have their registered office in a Member State also have the right to petition the European Parliament. However, the Petitions Committee is not required to examine those petitions under those rules.

<sup>2</sup> Petitions which do not satisfy certain formal conditions for admissibility such as the requirement to show the name, nationality and permanent address of each petitioner, are not entered in the register. Such petitions are filed with no further action taken on them and the petitioners informed of the reasons therefor.

<sup>3</sup> Case [T-308/07 Tegebauer v Parliament](#).

According to Advocate General Jääskinen, the right of petition is a tool for direct political dialogue and is the expression of democratic interaction between a citizen and elected representatives which should, except in exceptional cases, remain shielded from intervention by the EU courts.

The substance of the right of petition lies, according to Advocate General Jääskinen, in the possibility of formally making the Parliament aware of certain issues, without conferring on the applicant the right to claim legal protection directly. It is not an individual right intended to produce legal effects with regard to the situation of a petitioner, but a political tool to participate in democratic life.

The corollary to the right of petition is therefore the Parliament's duty to establish mechanisms to enable applicants to access the Parliament using efficient and transparent procedures. Only the establishment of those mechanisms may therefore be subject to review by the EU courts by means of an action for failure to act. Review by the EU courts is thus required only if the Parliament's conduct reflects a serious and persistent infringement of the right of petition, calling into question the application of the petitions instrument in itself. That would particularly be so if the Parliament were to refuse to receive petitions or in the event of a failure to respond to petitions.

In the present case, Mr Schönberger, a former official of the European Parliament, addressed a petition to the European Parliament in respect of his staff report for 2005. The Petitions Committee declared his petition admissible but informed Mr Schönberger that it was unable to deal with the substance of his petition and that it would be forwarded to the Director-General for Personnel in order for him to take appropriate action. The General Court rejected the action brought by Mr Schönberger on the ground that the petition was considered to be admissible and was therefore non-challengeable. If, according to Advocate General Jääskinen, Mr Schönberger's action is to be dismissed as inadmissible, it is only because decisions of the Petitions Committee are non-challengeable. Advocate General Jääskinen therefore proposes that the appeal brought by Mr Schönberger against the General Court's judgment be dismissed, whilst substituting the grounds of the judgment under appeal.

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**NOTE:** The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

**NOTE:** An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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*The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.*

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*Pictures of the delivery of the Opinion are available from "[Europe by Satellite](#)" 📠 (+32) 2 2964106*