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## SUMMARY

Academic research focusing on contemporary trends in petitioning is relatively scarce, although in the last few years, both in Germany and abroad, a number of noteworthy innovations have been introduced, largely triggered by the use of the internet. These innovations have an important place in the context of the debate on e-participation and e-parliament. In addition, the significance of the subject can be seen in the fact that the exercise of the right to petition by citizens has not only remained at a high level but is also tending to increase. In other words, petitioning cannot be simply written off as a relic of a bygone age. Precisely because society is becoming increasingly complex, petitions can provide citizens with an additional – and sometimes also »ultimate« – possibility for drawing attention to grievances and injustices and also submitting suggestions for solving a specific problem.

The occasion that prompted the Office of Technology Assessment at the German Bundestag (TAB) to conduct intensive research into the subject of electronic petitioning was the introduction of »public petitions« by the German Bundestag in 2005. These petitions are submitted electronically, published on the internet and can be signed and debated on the e-petition platform of the German Bundestag. TAB monitored this experimental model scientifically up to the year 2007 and published a report on its findings. Here, we present the results of a second study on the subject, tracing the further development of the public petitions system of the German Bundestag and also describing the modernization processes taking place at the petition bodies of other parliaments in Europe.

### ELECTRONIC AND PUBLIC PETITIONS

Often, »electronic petitions« are understood to mean the electronic submission of petitions to the body responsible for receiving petitions. This facility opens up a new submission channel, either via e-mail – possibly using an electronic petition form that can be attached to an e-mail – or by means of an online web form. This last variant is often termed an online petition. Submitting petitions electronically does not imply any changes to the actual petition procedure.

A second meaning of the term »electronic petition« refers to petitions published on the internet. However, these petitions do not necessarily also have to be submitted electronically. Although it is true that electronic petition submission can facilitate subsequent electronic utilization, the submission process and the sub-



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sequent handling of the petition in the petition system are in principle entirely independent of one another in terms of their use of the internet.

If we consider only the petitions published on the internet, we can draw the distinction between a passive or receptive variant, and an active or interactive variant. In the first case, the petition and in some cases also the respective decision can simply be consulted. In the second case, various interactive and communicative possibilities offered by the internet and implemented in an electronic petition system are added. These possibilities can include e.g. signing a petition online on the internet, electronic »promotion« of a petition, directly contacting the petitioner or public discussion of petitions in online forums.

The following distinctions have proved useful for the description and analysis of electronic petition systems:

- > electronically submitted petitions,
- > public electronic petitions,
- > public electronic petitions with communicative and participative elements.

### MODERNIZATION OF THE PETITION SYSTEM IN GERMANY

In describing the modernization trends of the petition system in Germany, we inevitably accord a central place to the reforms initiated by the German Bundestag in 2005. In addition, we investigate the current developments in the parliaments of the individual German Länder, which are reviewing their own »internet strategy« in the light of the German Bundestag's moves towards modernization at the national level. The large variety of other public and private petition bodies and complaint offices is not further considered here.

#### *Public petitions of the German Bundestag*

To view the 2005 reform solely in terms of the introduction of the internet to the petition system would not be doing it full justice. A more important aspect is that since the reform the German Bundestag – under certain conditions – publishes petition texts and – on reaching a quorum – conducts public committee meetings with the participation of petitioners. In addition, supporting signatures can be collected on the e-petition platform of the German Bundestag for the petitions published on the platform, and these petitions can also be discussed in public online forums.

Judging by the popularity of the e-petition platform alone, public petitions can be seen as an unqualified success. The share of electronically submitted petitions to the German Bundestag rose from 17% in 2006 to 34% in 2010. At the same time, public petitions appear to be particularly attractive for citizens, since their share of submitted petitions rose from 5% to 24%. Overall, from September 2005 to the end of 2010, more than 3 million signatures were counted for about 2,100 public petitions, and more than 100,000 written contributions to discussions were posted on the forums.

However, the observation already made three years ago in the first analyses of petitions to the German Bundestag remains true, namely that electronic and public petitions tend to substitute conventional petitions rather than leading to an overall growth in petitions. Growth linked to the »internet factor« is currently not visible.

The reason for this may be that the new facility has only had very limited success in attracting new parts of society that have so far largely abstained from petitioning. Although the people submitting public petitions are much younger than those submitting non-public conventional petitions, both groups continue to be better educated than the average of the population as a whole and remain predominantly male.

#### *Admissibility of public petitions*

Public petitions to the German Bundestag are subject to a special admissibility assessment procedure. The admissibility criteria are contested and lead to critical debates in the user forums of the e-petition platform, where the lack of transparency of this process and the low admission rates are sharply criticized. Roughly 60% of the surveyed persons who submitted public petitions in 2009 were unable to understand the reason for their non-admission. Out of 4,039 petitions submitted for publication in 2010, only 559, or 13.8% were admitted as public petitions. There are many reasons for this low level: a good 50% of non-admitted public petitions are multiple petitions, i.e. petitions that have already been submitted with the same or similar content. 8% were not admitted because they were classified as unsuitable for debate in public, and similar percentages were not admitted because they were either judged to be evidently unsuccessful or considered as not pertinent or based on false assumptions (6%). Only few petitions were not admitted as public because they concerned personal requests and complaints (1.5%), imperilled social peace (0.7%) or could have a negative effect on international relations (0.5%). It should be noted though that



petitions not accepted as public petitions are still handled by the conventional non-public procedure.

### *Signing of public petitions*

After publication of a petition, support signatures can be added to it on the internet within six weeks, and it can be debated in an online forum. More than 3 million signatures have been collected for about 2,100 public petitions since 2005. However, very few petitions attained sufficient attention among the (internet) public to achieve a large number of signatures. The average number of signatures per public petition was roughly 1,170 for the period 2005 to 2010. However, 85% of all public petitions received less than 1,000 signatures, and only nine (0.4%) received more than 50,000 electronic signatures within the six-week time limit. The maximum number of online signatures was 134,015. This figure is nothing exceptional when considering mass petitions in general: back in the 1950s and 1960s, there were already petitions with a few hundred thousand paper-based signatures.

No misuse of the petition signing function was observed. In general, it would appear appropriate not to set a higher level of identity checking for the petitioners and supporting signatories that use internet than for those who use the conventional paper-bound process. Further the claim could not be confirmed that a small number of people sign very many petitions, thereby perhaps distorting the overall picture of support for public petitions. The vast majority of signatories (83.8%) had signed only one or two petitions over an observation period of 16 months. »Heavy users« who added their signatures to three or more petitions are too small a group to have any decisive influence on the overall result for petition signatures.

However, the ability to sign petitions online has led to the misconception by petitioners and the public that obtaining the quorum of 50,000 signatures would be decisive in determining the success or failure of a petition. This is not the case. Non-public and public petitions are handled in the same way as a matter of principle, regardless of the number of signatures.

On obtaining the quorum of 50,000 signatures, the members of the petition committee have the duty to discuss the content of the petition with the petitioners in a public session of the committee. The public sessions of the petition committee have been very positively received both by petitioners and members of parliament. Roughly five meetings are held per year, each dealing with five to ten public petitions.

### *Discussion forums for public petitions*

Another innovative component of the petition reform of 2005 is the establishment of discussion forums for every public petition. More than 100,000 written contributions have been submitted by about 10,000 participants since 2005. Contributions to discussions can be made by the registered users directly in a forum. The forums are moderated by the petition body. In the case of breaches of the rules it intervenes in the form of warnings and even deletion of postings. However, serious breaches of the rules are rare.

In the surveys of the various groups of petitioners, the establishment of forums as a general principle was welcomed and positively received by the vast majority. A content analysis of 19 selected discussion forums revealed that the forums were regarded as mainly informative and factually pertinent. This again corresponds to the results obtained from the surveys of petitioners and users of the e-petition platform of the German Bundestag. Of the users surveyed in 2009, 91% considered the discussion in the forums to be informative, and 87% that it was pertinent.

However, one problem is the gap between intentions and reality. Roughly two thirds of the forum users surveyed in 2009 wished to establish contact between members of parliament and citizens by means of the forums. However, this contact does not take place in the forums. A similar proportion of users thought that the forums should support the petition committee in its assessment of a petition. Again, this is not the case, because the discussion forums are not systematically evaluated and taken into account in the petition process.

### *Evaluation of success in the petition system*

For the first time, information on the success of petitions can be provided on the basis of the petitioner questionnaires, in addition to the existing assessments of success based on petition statistics.

The activity report of the petition committee for the year 2009 answers the question regarding the success of petitions with the fact that almost half of the processes were positively concluded in the broad sense of the term. This figure includes 38.1% of the concluded processes that were settled by advice, information, referral and communication of material, 7.6% where the request was satisfied and 3.5% that were forwarded to the German government.



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The assessments of the petitioners on this subject are much more negative. Only about a third of the surveyed petitioners were satisfied with the handling of their petition by the German Bundestag after the conclusion of the procedure. Roughly the same proportion agreed with the statement that »all in all« the submission of the petition had been worth the effort. Only 20.7% of the petitioners with conventional petitions and 15.2% of the petitioners with public petitions had the impression that the German Bundestag had actively advocated their case.

Against the background of this largely critical assessment of success by the petitioners – which is mirrored by comparable surveys in other countries – it may appear surprising that 63% of the persons who submitted conventional petitions and as many as 75% of those who submitted public petitions declared that in a similar situation they would again submit a petition. This apparent contradiction between the critical assessment of success and the persistent intentions to continue using the system can be explained by the fact that the motives for submitting petitions are varied and are not confined to the straightforward fulfilment of the request. For some petitioners, it is just as important that politicians and the general public learn of their request, so that a »solution« along the lines wished by the petitioner may perhaps be attained in the medium or long term.

### *Modernization of the petition systems of the German »Länder«*

The parliaments of all 16 individual German states (Länder), including the city states, have parliamentary petition bodies. Four Länder also have a parliamentary ombudsman. Overall, the state parliaments receive a similar annual number of petitions – roughly 20,000 – as the national German Bundestag. Consequently, the significance of the petition systems at the level of the Länder should not be underestimated.

The public petitions of the German Bundestag have caught the attention of the petition bodies of the state parliaments, in many cases triggering reforms. Petitions can now be submitted electronically to the majority of state parliaments. However, a variety of different systems are used. It is foreseeable that in the near future the remaining six Länder will also introduce possibilities for the electronic submission of petitions.

Public petitions based on the model of the German Bundestag (with online signature and discussion forums) are currently only offered by the city state of Bremen (since January 2010). However, the introduction of this model in the parliaments of Rhineland-Palatinate and Schleswig-Holstein is imminent for 2011. Schleswig-Holstein will not be establishing discussion forums. Overall, there is

considerable interest in the experience of the German Bundestag with public petitions but no automatic mechanism for the adoption of this model at individual state level. Some committees hold public sessions, including the participation of petitioners, on a case by case basis. There are no plans to introduce a quorum for this facility.

## MODERNIZATION OF THE PETITION SYSTEM IN THE UNITED KINGDOM

The petition system of the United Kingdom is very closely tied to the birth of English parliamentarism. Admittedly, the importance of this petitioning and participation process has declined considerably since the Middle Ages, due to changing historical environments and political and institutional conditions. However, the petition system in the United Kingdom has been attracting renewed attention for a good ten years. At all levels of the political system, reforms of the petition system have been implemented or are currently under discussion. Despite major differences in the relevant political and institutional aims and their practical implementation, the use of the internet is a striking common feature of the current efforts at modernization.

### *The petition system of the Westminster Parliament*

In contrast with common practice in Europe, petitions cannot be submitted to Westminster directly by citizens but only through the intermediary of elected members of parliament. This means that a petitioner must first have access to a member of parliament (MP) – generally the petitioner's local MP – who can then bring the petition before Parliament (this process is known as the »MP filter« or »sponsorship model«).

Subsequently, the submitted petitions are forwarded to the relevant special committees and ministries. The special committees are obliged to include the petitions on their agenda, whereas the ministries are only obliged since 2007 to respond to »substantial« petitions. The text of the petition and the answers rendered by the executive are published – including on the internet – by the parliamentary documentation service (Hansard).

The main criticism of this procedure is the continuing lack of results and the ineffectiveness of the petition system. Proposed reforms have been under discussion in the parliamentary committees since 2005. The aim is to achieve better integration of the petition system in the parliamentary processes, in combination with increased public awareness, e.g. by the introduction of an electronic



petition system and by debating particularly interesting petitions in Parliament's Westminster Hall or, if a quorum is attained, in plenary session. However, the majority of MPs are of the opinion that the MP filter should remain in place. The reintroduction of a petition committee is also not demanded. However, the efforts at reform have come to a standstill. The reasons for this are probably the change of government in 2010, insufficient resources and a diffuse and not easily comprehensible scepticism on the part of the government towards any upgrading of the parliamentary petition system. Parliament is evidently too weak in relation to the executive to implement a modernization course of its own for the petition system.

#### *The Prime Minister's e-petition system*

The e-petition service of Number 10 Downing Street was established in November 2006 and deactivated shortly before the election of the new British Parliament in May 2010. It will no longer be operated in its original form. Users were able to submit and publish their requests and collect signatures on this e-petition platform. To obtain a response by e-mail from the government, the petitioner had to achieve a quorum of at least 500 online signatures.

Judging by the usage figures, the Prime Minister's e-petition system was outstandingly popular. Between December 2006 and January 2010, more than 67,000 e-petitions were submitted. Of these, the petitions admitted for consideration obtained a total of 11.8 million electronic signatures. Roughly 7% of the e-petitions managed to attain the quorum of 500 signatures. One petition received 1.8 million supporters.

Criticism has focused on the lack of integration of the e-petitions system in the decision-making routines of the executive, with the result that the further processing of the petitions was largely at the discretion of the Prime Minister's office. Also, this system fitted well with the policy of the government of the time, namely to further increase the concentration of power in the hands of the Prime Minister and to influence public opinion through direct communication with the electorate. Another problem was that many citizens could wrongly interpret the e-petition with quorum as a plebiscitary exercise with significant influence on decision-making. In addition, public debate of the pros and cons of a petition was not envisaged in the context of the e-petition platform.

The new government has announced a modified revival of e petitions to the Prime Minister or to the British Government. If these plans are implemented, the chances that the House of Commons will modernize its own petition system will

be even slimmer, because two new systems would be very difficult to justify. In any contest between the executive and legislative, Parliament would most likely be defeated.

### *Petitions to the Scottish Parliament*

The exceptionally modern e-petition systems introduced first in the Scottish and then the Welsh Parliament are linked to the constitutional reforms of the Blair government, which shifted administrative and legislative competencies from central government to the national assemblies of Scotland, Wales and Northern Ireland (devolution). The particularly favourable conditions of a newly constituted parliament and the clear will to demarcate the new structures from certain elements of the Westminster system were used to create a petition system designed to follow the principles of accessibility, openness, responsiveness and the encouragement of participation by individual citizens, with respect for equal opportunities.

The Scottish Parliament was the first elected assembly in the world to introduce an electronic petition system and integrate it into parliamentary procedure. In particular, the technological functionalities of internet-based signing and discussion of petitions on the »E-Petitioner« system have attracted considerable international attention and recognition by academics and politicians alike. Enthusiasm for the pioneering use of communication technology by the Scottish petition committee has for a long time prevented many observers from recognising other remarkable features provided by the petition system of the Scottish Parliament. This system is characterized by an intensive effort to involve petitioners in the petition process and to make all of its stages transparent.

As a guarantee of appropriate processing, a petition committee was established, usually meeting in public session with the active participation of petitioners. The petition system has neither a MP filter nor a quorum. In addition to written and electronic submissions (by email), petitions can be presented in person, by telephone, as a video and in future even by SMS.

The petition system is marked by an exceptionally high degree of transparency and publicity. Accessibility for citizens is not confined to the fact that the committee hearings are held in public as a matter of principle and can be accessed online by webcast. In addition, all petitions - whether submitted by conventional means or electronically – together with the details of the petitioners, the number of signatories, the relevant background information, opinions and documents used in processing the petitions and the minutes of the meetings are published



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and can be accessed on the internet. On the question of the contents of the discussion forums, the discussions were initially made available to the members of parliament in a summary of about two pages. However, this system was subsequently abandoned due to the excessive work involved and the insufficient interest shown by delegates.

The number of petitions submitted annually to the petition committee of the Scottish Parliament has hovered around 100 over the last few years. All petitions without exception are published on the internet. Approximately 90% of petitions are submitted electronically by e-mail. The proportion of petitioners that also use the »E Petitioner« for collecting signatures and public discussion has risen from 20% initially to almost 100% at present. Roughly 30% of petitions obtain more than 100 signatures.

In addition, the status and performance of the system is continuously monitored, including with the aid of academic evaluations, and continual efforts are made to identify and implement further improvements. For example, the E-Petitioner software has now become outdated and will be replaced. Petitioners are encouraged to clarify the content of their petition by videos, which are made available to the public by internet. The committee keeps the public informed via a blog and also uses social networks such as Facebook. However, it by no means confines its activities to the internet and other modern communication technologies, but also, for example, holds committee hearings outside the capital and cooperates with selected consortia and institutions in its publicity work.

### *Petitions and the Welsh National Assembly*

With a view to the admissibility conditions for petitions - a petition committee has been in existence since 2007 - the Welsh National Assembly has opted for a quorum, albeit at a low level: the petition must be supported by at least ten signatories or by a corporate body. In Wales too, many petitioners are invited to attend the committee sessions to present their case in person.

Since April 2008, and now with new, improved software, petitions can be submitted, published and signed via the internet. In contrast with Scotland, but along the lines of the German Bundestag, personal registration is required, and, as in Germany, this requirement is a source of controversy. Discussion forums on the individual e-petitions are only established at the petitioner's request and are not integrated in the e-petition system. This procedure differs from both the Scottish and German models. However, this possibility is hardly used.

During the third legislative period (2007 to 2011), the petition committee processed a total of 215 petitions; of these, 95 were submitted to the committee as e-petitions.

### *Ombudsman institutions in the United Kingdom*

The United Kingdom, like other countries, provides citizens with many channels for registering complaints concerning the actions of the administration and for obtaining redress. However, unlike many continental European countries, the United Kingdom does not have an extended system of administrative courts providing citizens with a multistage procedure for taking action against administrative acts. Consequently, in the UK, citizens have to rely on political and quasi-political remedy in the event of wrongful administrative acts. Remedy must partly be sought via the complaints procedures of the official administration concerned, which in some cases offers multiple complaint levels, and, after exhausting this formal complaints channel, via ombudsman institutions.

As a result, in the United Kingdom, a highly complex and almost confusing system of individually differentiated ombudsman bodies exists at all levels of the State. At the national level, the Parliamentary Health Service Ombudsman (PHSO) based in the House of Commons is without doubt the most important complaints body. Separate ombudsman institutions also exist in the two devolved systems of Scotland and Wales: the Scottish Public Services Ombudsman (SPSO) and the Public Services Ombudsman for Wales (PSOW). At local government level in England, the Local Government Ombudsman (LGO) has been established.

To submit complaints to the PHSO, the complainant must have the support of a member of parliament (this rule does not apply to complaints concerning the health system). The PHSO itself has so far advocated the dismantling of this access barrier in vain, because MPs do not wish to give up their central role as the intermediary authority between (constituency) citizens and government. In the course of investigating and processing complaints, the PHSO can exercise extensive powers of inquiry derived from the parliamentary rights of control and inspection. In particular, this includes the right to inspect official documents and the possibility to question members of the administration. If the investigations confirm the existence of misconduct by the administration, the PHSO generally issues the demand for redress. Redress can take the form of both formal apology to the citizen and the payment of compensation. However, the ombudsman has no authority over the institution the complaint was directed at.



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Utilization of the PHSO service is considerable. In its last annual report (2009/2010), the organization states that it received more than 23,600 inquiries. However, only 356 complaints led to a detailed examination.

To compare the parliamentary petition systems of Germany and the UK, we would not only have to take into account the different structure of political institutions in Britain but also the parallel nature of the British parliamentary petition system and ombudsman institution, which does not exist at the national level in Germany. The fact that in the British context one generally talks of »public petitions« underlines the different purposes ascribed to petitions on the one hand, which are addressed to politicians and the public administration, and complaints on the other hand, which are more personal in nature and are addressed to the ombudsman institutions.

### MODERNIZATION OF THE PETITION SYSTEM IN THE EUROPEAN PARLIAMENTS

The survey of the petition bodies at central state parliamentary level included the 27 member states of the European Union, together with Switzerland and Norway. This study was able for the first time to specify which parliaments of these 29 countries process petitions (and in which chambers). Including the ombudsman institutions, a total of 59 petition bodies were identified at national level.

Three configurations of parliamentary petition systems can be distinguished in Europe:

- > In 19 countries, petitions can be addressed both directly to parliament and to a national ombudsman institution.
- > Three countries (Germany, Italy and Switzerland) do not have a parliamentary ombudsman institution at central state level but do have parliamentary petition bodies.
- > Seven countries, mainly the Scandinavian countries and the Baltic countries influenced by them, have only a national ombudsman, whilst parliament itself does not handle any petitions.

#### *Overall trends*

The petition systems in the member states of the European Union are marked by significant dynamics. This is partly due to the democratization processes in Cen-

tral and South-East Europe, which in most of these countries has led to the establishment of both ombudsman institutions and parliamentary petition bodies. It can be shown that past experience of arbitrary government and the absence of a due process of law in these countries have led to a comparatively higher level of formal legal obligation in the petition procedure and also to particular efforts to increase its responsiveness towards citizens.

In eight other member states of the EU, new ombudsman institutions have also been established since 1980 – most recently in Luxemburg in 2003. Meanwhile, with the exception of the former communist countries, no new parliamentary petition bodies have been introduced at central state level. At present one modernisation trend is directed towards the regional and local level, where new petition systems are being established in individual countries, while a second trend is directed towards increased use of digital information and communication technology.

#### *Modernization at the level of the parliamentary bodies*

E-mail is already a standard feature of parliamentary petition systems, but the same cannot be said of their web-presence. Only ten out of 21 parliamentary petition bodies have their own website. Moreover, many of these petition bodies currently have little or no interest in establishing or improving their presence on the internet. A system for public e-petitions at overall national level as in Germany does not exist anywhere else. This picture will change once Lithuania, Luxemburg implement their current modernization plans in this field.

Some countries do not rely on modernisation by services on the internet alone but on the wide variety of media available for informing the population about the petition system and enlisting their participation. These media facilities range from broadcasts produced either by the petition bodies themselves or in cooperation with television channels (Austria, Czech Republic) to the support of petitions via SMS (Scotland) and the use of blogs (Scotland and France). Other countries have waived the requirement that petitions must be submitted in writing (for example Portugal, Slovenia and Hungary), whilst others have a network of distributed offices or cooperation partners in their country (France, Portugal, Slovakia and Wales) or have established call centres (e.g. a telephone hotline for children in Portugal). These comprehensive strategies take into account the fact that internet only has high appeal for specific population groups, but not for others.

The parliamentary petition systems of Austria, Bulgaria, Germany, Lithuania, Luxemburg, Portugal, Slovakia and the Czech Republic have been identified



as protagonists of modernization at national level. Parliaments that operate a specialized petition committee generally have a petition system that is closer and more responsive to citizens and tend to be more open to public participation. Among the parliaments without a petition committee are those that follow the Westminster model of accepting petitions only through the intermediary of a member of parliament (MP filter). Petition systems that can rely on a petitions committee tend to have slightly higher degree of assertiveness, which may stem from a stronger role of parliament compared to the executive power in the countries concerned.

*Comparison of parliamentary petition bodies with ombudsman institutions*

Comparison between the parliamentary petition bodies and the ombudsman institutions shows that ombudsman institutions are much more homogenous. Here, the emphasis is on the protection of individual rights and the handling of complaints concerning administrative actions. The concrete structure of the complaints system differs only in detail between ombudsman institutions.

The differences between the ombudsman institutions are found more in the additional functions (e.g. conflict mediation and the provision of expert advice in the legislative process). The fact that complaints to ombudsman institutions concern public affairs less frequently than is the case with petitions to parliament, with the consequence that involvement of the public is less frequently sought, does not imply that opening up the system for »greater public involvement« is not a concern of the ombudsman institutions.

In countries that have both a petition system in the lower house of parliament and a parliamentary ombudsman institution, the petitioning level of the ombudsman institution is invariably higher. None of the parliamentary petition bodies receive more than 50 petitions per 100,000 inhabitants per year, whereas roughly two thirds of ombudsman institutions do receive more than 50. All ombudsman institutions have a high or medium level of responsiveness. In direct comparison between the responsiveness of the ombudsman institution and the lower house petition system of a country, the ombudsman institution scores higher in all cases but one (the exception is Lithuania).

Today, all ombudsman institutions offer an extensive or very extensive range of internet-based services. When it comes to the online signing or discussion of petitions on the internet, the parliamentary petition bodies seem to be more active.

*The German petition system compared to the rest of Europe*

In general, the parliamentary petition systems in Europe have so many national peculiarities that it is impossible to speak of a single dominant model. Germany is one of the few countries that gets along without a parliamentary ombudsman (the others are Italy and Switzerland). It is also one of the few countries to have introduced quorums into the petition procedure (as have Austria, Portugal, Slovakia and the Czech Republic). The consideration of both personal complaints and public affairs by the parliamentary petition body, as in Germany, is by no means a rarity. The majority of petition bodies surveyed handle petitions concerning the private as well as the public domain (»res privata« in addition to »res publica«).

On the question of the intensity of petitioning activity, the petition system of the German Bundestag has one of the highest levels of activity in comparison to the petition systems of other parliaments. However, if ombudsman institutions are also included in the comparison, since many petitions that are submitted to the petition committee in Germany would be submitted to the ombudsman institution in other countries, Germany drops to a lower middle place in the rankings.

In the criterion of responsiveness, the German petition system scores highly. However, we should note that Germany performs comparatively weakly in terms of petitioner support and involvement during the procedure. Here, a more detailed analysis of the services and activities of other countries, together with an assessment of their transferability, may be merited.

At national level, the German Bundestag's public e petitioning system is unique in the EU. Of the countries wishing to expand their internet-based services, Luxembourg is explicitly planning its e-petition system with reference to the one of the German Bundestag. Increased communication between the countries establishing e petitioning systems for the first time or expanding their existing services would appear to be advisable. This exchange of experience should without fail include the ombudsman institutions with highly developed and particularly innovative web services.

Medium term one can expect petitioners who want to be able to find out instantaneously about the progress and status of their petition online. The plans of the Lithuanian government already take this type of demand into account. It is envisaged that the users of the system will be able to follow the progress of the procedure and to obtain information on the proceedings – by pull or push technologies. It is also envisaged that submitted petitions may be revised, sup-



plemented or even withdrawn. The IT ideal revealed in these plans, transposed to the petition system, is one of user involvement at any point, flexibility and reversibility. This model may contain some suggestions how to improve the e-petition system of the German Bundestag.

Overall, the TAB analyses presented here rebut the assertion that the German Bundestag's petition system is a special case. Overall, the petition systems based at the parliaments of European countries have a highly heterogeneous character and for various historic reasons do not follow any one general model.

#### *Further needs for empirical research*

The petition system of a country can be seen as a complex configuration of different bodies. The present report deliberately focuses on the parliamentary petition systems at national level. In subsequent studies, this perspective should be broadened. Firstly, the analysis at national level should also take into account the possibilities of petitioning the head of state, government, prime minister and individual ministries. Secondly, the study should be extended to the regional and local levels. In particular in the case of countries where different nationalities or moves towards greater autonomy play a major role, such as in Switzerland, Belgium or Spain, analyses of the sub-national level, as presented in this report for the UK, would bring to light important additional knowledge of the respective petition systems. One possible starting hypothesis could be that states with weak parliamentary petition systems at the overall national level can compensate for these weaknesses at a sub-national level.

Another set of questions that is relevant both in practice and to political science theory concerns the transformation of petitions systems and their functions in the age of the internet. Here, research should consider not only the parliamentary petition bodies instituted at national level but also all other petition bodies that increasingly make use of the internet when providing their services. Moreover, it would be important to determine the changes to petitioning in the context of a changing civil society. Firstly, one line of research should be to investigate how internet activities affect and modify established petition systems. For example the internet can be leveraged upstream for mobilization and promotion, concurrently through online discussion forums on the internet or downstream through the analysis and further processing of the information published by the petition bodies. The new information provided could then be picked up in the media. Secondly, studies should be conducted into whether forms of petition are

emerging on the internet that enter into competition with the existing formalized services.

The demand for empirical research should be seen in combination with a need for theories that can both guide empirical research and assist in interpreting the results. In particular, there is a need for comparatistic approaches in political science theory that are able to correlate the transformation of the petition systems in Europe with the various macro-political variables (the parliamentary system, political culture, the forms of representation available to particular interest groups, forms of citizen participation, competition between political parties and the role of the judiciary).

#### HOW TO IMPROVE THE PETITION SYSTEMS

The current reforms of the petition system can be seen in the context of three main developments: promotion and expansion of citizen participation, increased use of the internet in the political sphere and computerization of parliaments, often designated by the buzzword »e-parliament«. In this respect, it is noticeable that in the debate on the vitalization of democracy, prominent place is given to citizen-oriented petition and complaints procedures, including e-petitions. E-petitions are considered to be among the procedures that supplement – rather than substitute – representative democracy. They are characterized by substantial citizen participation, genuine control competencies and a legitimization that is less a given attribute of formal democracy but has to be achieved in the public arena, which in turn requires maximum transparency.

The use of the internet goes hand in hand with these developments. However, use of internet alone does not lead to increased process transparency, broader access and improved chances for participation. To attain these aims, political reforms and institutional changes are required. Otherwise internet use threatens to become nothing but a bogus appearance of modernization.

In many cases the combination of political and institutional reforms with technical modernization seems to be succeeding particularly well for petition systems. Consequently, these systems are rightly the focus of the internet strategies of many parliaments. However, their importance for the »e parliament« should not be overestimated. Here, as a rule, the main aim is the provision of information, whereby parliaments inform citizens of their work, rather than the provision of communication facilities whereby they enter into dialogue



with their voters or engage their (inter)active participation, as is the case in some e-petition systems.

*Starting points for improving the public petitions of the German Bundestag*

Against the background of the analyses presented in this report, various starting points have been identified for further improvement of the current system of public petitions of the German Bundestag, and options for further development are discussed. These proposals have been developed on the basis of four guiding principles:

- > for the public: understandable and precisely described targets and aims of the overall process and each procedural step;
- > for the petitioners: extensive participation possibilities and decision-making powers in the process;
- > equal treatment of public and non-public petitions as a matter of principle;
- > avoidance of process stages that are exclusively possible on the internet.

The argument for a pragmatic approach of incremental improvements is backed by the fact that the German Bundestag after seven years of public petitions can boast a well-established procedure that is widely used and publicly known and also shows a considerable degree of modernization in international comparison. Also, the newly commissioned software development that should enter operation in 2012 will provide an improved e-petition platform with high capability for future expansion, whilst reducing or eliminating known problems of use.

The proposed improvements concentrate on problematic aspects of the current practice in three key parts of the public petitions process: admissibility, signing and online discussion.

In the case of admissibility of a petition as »public petition«, petitioners and the public criticize the low acceptance rate of petitions for consideration. Many conflicts can be avoided simply by defining more clearly the admissibility criteria and explaining the reasons in case of non-publication in a comprehensible way. Moreover, alternative selection procedures can be considered. If selection is at random – for example a weekly draw of ten petitions for publication – there would no longer be a need to provide reasons for refusal. In addition, every petition without exception would have the same chance to be published. One disadvantage of this procedure could be that some petitions not well suited for public discussion are opened to the public. Alternatively the petition committee

could select those submissions that it considers to have particularly interesting contents and that promise the most in terms of pertinent substance from online discussion and a possible public committee session.

On the question of the signing procedure, it is evident that the six-week time limit for signing and discussion and the three-week time limit for attaining the quorum of 50,000 signatures required for invitation to a public committee session should be aligned. In some cases, the setting of the time limit – within certain limits – could be left to the discretion of the petitioners themselves, who could then consider whether they are primarily interested in a rapid procedure or in a comprehensive debate and mobilization for signatures. Moreover, the existing practice, whereby signatures on the internet and on paper or fax are counted together, could be adopted in the procedural principles and in the public information on the petition system. Finally, the current publication of the names of the signatories on the internet does not seem to be absolutely necessary. It could be fully avoided or attenuated by the option for anonymisation. Today signature lists that are submitted for mass or group petitions are also not accessible to the general public.

One innovative and in principle proven component of the public petition is the mandatory establishment of a discussion forum on the e-petition platform. However, the expectations of petitioners and users on one side and members of parliament on the other regarding the purpose of these forums differ widely. A clarification of this question would doubtless help to avoid unrealistic expectations and subsequent disappointments. In addition to the question whether politicians should also take part in the forums – something that many citizens expect – the key problem is whether the contents of the debates on the petitions should be taken into account when considering petitions. If this is the idea and purpose of the forums, the appropriate technical and human resources will have to be provided in order to draw up appropriate evaluations that can be taken into account in the petition process. If the forums are to be kept open not only during the signature collection phase, as is the practice at present, but also during the entire petition handling process, current questions concerning the petition could be tackled in the discussion forum by the public, by the petition supporters and also by political representatives. This suggestion too can only be implemented if the necessary human resources are provided.

As a basic principle, every effort must be made to ensure that all functions of the petition process are provided both by conventional and electronic means. Obstacles between the »paper world« and the »internet world« should not be built up but broken down. For example, public petitions are not accessible to



all who cannot or do not wish to use internet, because electronic submission is mandatory for these petitions. This obligation is difficult to justify.

The petition committee should generally utilize the facilities and the potentials of a wide variety of media. This does not only apply to digital media – the keywords here being in particular digital videos, smart phones and social networks – but also to the traditional media: many people wish to submit petitions in person or by telephone. To foster active publicity work by the petition committee, cooperation with radio and TV broadcasters would seem appropriate. Successful examples of this type of cooperation can be found in other countries.

The introduction of public petitions was only partially successful in winning over new population groups that had previously made only little use of petitions to the German Bundestag. Whilst the system has had some success in attracting young people to petitioning, the petitioners are still predominantly male, educated well above the average and politically committed. If one aims to expand participation in the petitioning process, addressing only the internet is not sufficient. A few other measures merit mentioning as examples: Population groups that do not have German as their mother tongue could be addressed in their own language. The obligation to submit petitions in writing could be rethought. In cooperation with citizens' offices, public libraries, schools, clubs or media, attempts can be made to bring the petition committee based in Berlin closer to people and the regions.

Not all these suggestions are resource-intensive or personnel-intensive. However, in the final analysis, sufficient financial and human resources will have to be set aside in order to satisfy the basic right to petitioning in a modern shape. An increase in the current staffing level of the petition committee, compared to the other petition bodies, seems to be entirely justified in view of the central importance of the petition committee for compliance with Article 17 of German Basic Law and also in view of the continuous modernization requirements.

#### *Further development options*

In the framework of the current standing orders of the German Bundestag, public petitions constitute an outstanding premium service due to their discourse oriented functionality and their wide acceptance. However, given their limitation to a small percentage of all petitions, they also represent a niche service. Up to now, the attempt to integrate them into existing procedures and to avoid special regulations and processes has not been successful in every aspect. Finally, three possible scenarios for the future transformation of the German

Bundestag's petition system will be outlined, together with the related advantages and disadvantages.

Firstly, we can imagine transforming public petitions from the exception to the rule. Most petitioners would welcome this development. The principle of handling every petition by the same procedural rules could again be installed. The public petition as (only) an »additional service« would therefore be given up.

Making all petitions public as a matter of principle would solve many detailed problems. For example, at present, it is not possible for petitioners to check in advance of their submission whether a petition with an identical or similar content already exists, because more than 95% of all petitions are not publicly accessible. Another possible argument for the publication of petitions on principle is that the strongest supporter for implementing the decisions of the petition committee is the public, because the committee does not have any implementing competence in relation to the executive.

Naturally, aspects of privacy and data protection would have to be taken into account. This could be achieved by allowing the petitioners themselves to decide whether they wish their petition to be considered as public or non-public. Moreover, the personal details that may be listed in petitions, in particular names, could or would have to be anonymised as a general principle.

Secondly, certain problems in the admissibility of public petitions could be avoided by introducing a national ombudsman competent for petitions pertaining to the »res privata« domain, thereby allowing the petition committee to concentrate on petitions in the domain of »res publica«. The argument against this proposal, which has been debated recurrently over the last 50 years, is that the petition committee could thereby lose its trademark »universal competence«. Moreover, the division into »matters of general public interest« and other matters is problematic. From the surveys of persons submitting conventional (non-public) petitions, we know that 84.5% of petitioners wish to initiate a change in the law by their petition, and therefore see themselves predominantly as political actors. There would also be a risk that the petition committee of the German Bundestag would lose some of its political weight. In any case, this conclusion is indicated by the survey of the petition bodies and ombudsman institutions of the European parliaments. At present, the petition committee of the German Bundestag is rated in international comparison as one of the most clearly profiled petition bodies in terms of its competencies and responsibilities, human resources, willingness to reform and its public perception. There is every reason to ask whether this position could be maintained with the establishment of a national ombudsman.



## SUMMARY

Thirdly, petition systems could be further developed as an element of direct democracy. This type of procedure does not yet exist at national level, with the exception of Article 29 of German Basic Law on territorial reorganisation. The introduction of quorums in the petition system, starting for the first time in 2005 (50,000 signatures required to handle a petition in a public committee session) and the planned introduction of a further quorum of 100,000 signatures for the discussion of a petition in plenary session with subsequent transfer to the special committees, are indications that petitions are slightly moved in the direction of an instrument of direct democracy, which is generally referred to as »popular initiative« (Volksinitiative) in the individual German Länder. This change can be seen as a notable appreciation and revaluation of petitions. The objection that the right of petition could lose its character as a clearly demarcated individual right could be raised against a development of this nature. The right of petition, precisely because it does not pose special requirements, provides individuals and minorities with access to the state and to the parliament in particular.

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AT THE GERMAN BUNDESTAG**

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