

**Working Paper for the Summer University on European Citizenship**

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**COMPARATIVE TEST OF DIFFERENT WAYS TO MAKE YOUR  
VOICE HEARD WITH THE EU**

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## Introduction

According to Article 11 of the Treaty on European Union (TEU) the European Union offers different opportunities and instruments for citizens' involvement:

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.
2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

Why are European citizens not making better use of these tools at their disposal to complain and influence the decision-making process at European level? A huge gap exists between the Union and policy-makers on the one hand, and ordinary citizens and Civil Society Organisations (CSOs) on the other. This comparative analysis focuses on some of the different ways through which European citizens can raise concerns with the EU and make their voice heard: complaints, public consultations, access to documents and petitions. Should there be a reform of these systems or more effective help desks for citizens? Is a citizens' guide necessary? Pointing out strengths and weaknesses of the different options, this paper puts forward some simple proposals in order to remove obstacles to citizens' involvement, improve transparency and increase citizens' trust and confidence in European institutions.

## PART 1 - COMPLAINTS TO THE EUROPEAN COMMISSION

When European citizens consider that their rights under EU law have been violated or they think that a Member State is failing in implementing the legislation, they can complain to the European Commission which, as guardian of EU treaties<sup>1</sup>, has the power to end the infringement. For its part, the Commission, after sending a letter of formal notice and a reasoned opinion to the EU country concerned, can open the litigation phase. If the Member State does not comply in a given time limit, the Commission refers the case to the European Court of Justice on the basis of Article 258 of the Treaty on Functioning of the European Union (TFEU)<sup>2</sup>. If the Commission wins the case, the Member State concerned has to take every action to remedy the violations. If it refuses to act also after the decision of the Court, the Commission can bring again the Member State before the European Court, proposing the imposition of financial sanctions in the form of a lump sum and/or penalties per day.

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<sup>1</sup> Art. 17(1) of the Treaty on European Union (TEU). TEU available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:en:PDF>.

<sup>2</sup> Art. 258 of the Treaty on Functioning of the European Union (TFEU) states: "If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union". TFEU available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>.

Sending complaints to the Commission is not always the easiest and most effective way to see its one's case solved. The European Commission provides guidelines to present a "successful complaint"<sup>3</sup>. Nevertheless, following these "guidelines" does not ensure citizens that their complaints will overcome the initial stage and that the infringement procedure will start. Every year, around 80% of the submitted complaints are closed at the very initial stage. In 2016, for example, 3783 complaints were registered, most of them about mobility, environment and financial stability/internal market<sup>4</sup>. Of those complaints, 3026 have been closed and only few of them have led to bilateral discussions with the Member States through the instrument of EU Pilot<sup>5</sup>. 2253 complaints were closed because the Commission stated that there was no breach to the European law: in 86 cases the Commission had no power to act, 667 did not qualified as complaints and in 20 cases the complainants withdrew their complaints<sup>6</sup>. In the light of these data, *what are the main problems that citizens face when complaining to the European Commission? How should complaints at EU level become more efficient, easier and accessible for citizens? What kind of changes can be introduced to make the practice of complaints more citizens friendly?*

### 1.1 Disadvantages of the Complaint System

The first major problem in which the citizens could run into is the duration and slowness of the complaint process: the infringement procedure takes on average a minimum of 1-2 years and an additional 2-3 years for the decision from the European Court of Justice. In addition to the length of the procedure, citizens might face another common obstacle: at the moment of the submission of the complaint, they need to prove the persistence of the infringement of EU law and the article(s) violated. Moreover, the complainant should provide well-argued information and arguments based on precise sources (scientific reports, maps, press releases, letters of officials and so on) in order to enable the complaint to be taken seriously<sup>7</sup>. To this end, citizens need legal support or they can rely on one of the instruments of the *cascade system* provided by the Union, which helps citizens in their claims. Enquiries might be submitted by e-mail or phone to Europe Direct, which answers your questions about the EU<sup>8</sup>. More specific requests can be referred to Your Europe Advice, that offers practical legal advice and useful tips on your rights at European level<sup>9</sup>. However, when more than advice is required, questions can be sent to SOLVIT, an alternative EU/EEA out-of-court problem-

<sup>3</sup> To know more about how to submit a complaint to the European Commission see the European Commission website: [https://ec.europa.eu/info/about-european-union/problems-and-complaints/how-make-complaint-eu-level/submit-complaint\\_en](https://ec.europa.eu/info/about-european-union/problems-and-complaints/how-make-complaint-eu-level/submit-complaint_en).

<sup>4</sup> Data from COM (2017) 370 final, Report from the Commission "Monitoring the application of European Union Law – 2016 Annual Report" of 6.7.2017. Available at: <http://ec.europa.eu/transparency/regdoc/rep/1/2017/EN/COM-2017-370-F1-EN-MAIN-PART-1.PDF>.

<sup>5</sup> EU Pilot is an informal dialogue between the Commission and Member States, used when there is possible non-compliance with EU law without opening the infringement procedure.

<sup>6</sup> Data from COM (2017) 370 final, Report from the Commission "Monitoring the application of European Union Law – 2016 Annual Report" of 6.7.2017.

<sup>7</sup> Pippa Gallop and Anelina Stefanova, *Citizens' guide to the European complaint mechanisms* (CEE Bankwatch Network, 2006)

<sup>8</sup> For more information about Europe Direct visit the website: [https://europa.eu/european-union/contact\\_en](https://europa.eu/european-union/contact_en).

<sup>9</sup> For more information about Your Europe Advice visit the website: <http://europa.eu/youreurope/advice/>.

solving mechanism which deals with cross-border problems related to the misapplication of Union law by national public administrations in the internal market. This instrument usually takes less time than submitting a formal complaint to the European Commission: usually 10 weeks, even if, it may take longer in special circumstances<sup>10</sup>.

Moreover, the Commission has discretionary power in deciding how to deal with complaints and it often prioritises some complaints more than others<sup>11</sup>. In particular, the institution pays more attention to those issues in respect of which more than one complaint has been filed or to those submitted by a group of persons (“collective complaints”). Most of the time, a single complaint could just be an isolated case of maladministration rather than a systematic violation of EU law. In addition, a complaint submitted to the European Commission is not always referred to the European Court of Justice. In order to better handle the large amount of complaints that each year is submitted and to reduce the number of formal infringement proceedings, in 2008 the Commission established a structured problem-solving dialogue with the Member States, which enables to quickly resolve potential branches of EU legislation at an early stage. This system, known as EU Pilot<sup>12</sup>, gives the opportunity to those breaching the law to remedy potential infringements by complying voluntarily with the legislation. All 28 Member States take part in this scheme which seems so far to be pretty successful: 72% of the total EU Pilot files in 2016 were closed following a satisfactory response from national governments. However, this resolution rate is below the 2015 and 2014 levels<sup>13</sup>. Among the complaints submitted to the European Commission in 2016, only 28 cases were referred to the European Court of Justice in the framework of the formal infringement procedure. In most cases, the Court expressed its support to the European Commission. As shown in Table.1, in 2016 24 of 28 the European Court of Justice confirms the Commission decisions.

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<sup>10</sup> SOLVIT centres operate in every EU country, as well as in Norway, Iceland and Liechtenstein. For further information visit: <http://ec.europa.eu/solvit/index%5Fen.htm>.

<sup>11</sup> Communication (2017/C 18/02) “EU Law: Better Results through better application” of 19.01.2017 states: “It is important that the Commission uses its discretionary power in a strategic way to focus and prioritise its enforcement efforts on the most important breaches of EU law affecting the interests of its citizens and business. In this context, the Commission will act firmly on infringements which obstruct the implementation of important EU policy objectives, or which risk undermining the four fundamental freedoms”.

<sup>12</sup> Using the EU Pilot system, the Commission sends a query to the national government concerned, which has to reply no more than 10 weeks later. If the response is unsatisfactory, the Commission may start the infringement proceedings.

<sup>13</sup> For the years 2014 and 2015 the resolution rate was 75%. For an in-depth analysis of the EU Pilot results see: COM (2017) 370 final, Report from the Commission “Monitoring the application of European Union Law – 2016 Annual Report” of 6.7.2017.

**Table.1 - Judgements delivered by the Court in 2016<sup>14</sup>**

	<b>Delivered by the Court</b>	<b>In Commission's favour</b>
<b>Austria</b>	1	0
<b>Belgium</b>	1	1
<b>Bulgaria</b>	1	1
<b>Cyprus</b>	1	1
<b>Czech Republic</b>	1	1
<b>France</b>	1	1
<b>Germany</b>	1	1
<b>Greece</b>	3	3
<b>Hungary</b>	1	1
<b>Italy</b>	1	1
<b>Luxemburg</b>	1	1
<b>Malta</b>	1	0
<b>Poland</b>	2	2
<b>Portugal</b>	4	4
<b>Romania</b>	1	1
<b>Spain</b>	3	3
<b>The Netherlands</b>	2	1
<b>UK</b>	2	1
<b>Total</b>	28	24

Direct appeal to the European Court of Justice is strictly controlled and under limitations: the citizens mostly affected by EU law usually have to rely on national Member State or on the European Commission to bring the case before the European Court. For example, complaints of violations of employment rights in EU law usually concern national labour tribunals and will only indirectly involve the European Court of Justice through the action of national courts. National Courts prove to be in fact more easily accessible by citizens and under certain circumstances, they are the only ones that have the power to take action<sup>15</sup>.

<sup>14</sup> COM (2017) 370 final, Report from the Commission “Monitoring the application of European Union Law – 2016 Annual Report” of 6.7.2017.

<sup>15</sup> Citizens have to rely on national courts when they have to resolve a personal situation or when they are seeking compensation.

## 1.2 Introduction of an Online Platform

As already explained, the complaint system at European level turns out to be such a lengthy and complicated process that not always lead to the beginning of the infringement procedure. Hence, a reform of the system seems to be quite difficult to realize (even if it would be extremely necessary). New technologies and social media would be the more appropriate and simpler way to overcome the weaknesses of complaining to the European Commission. Moreover, considering that European citizens seem not to be good complainants as individuals but they are quite efficient when presenting “group complaints”, a system facilitating collective complaints should be introduced. This support system should take the form of an online platform that, using social media, could give the possibility to European citizens to share their complaints and merge those about the same infringement to EU law. This system would be beneficial both for the Commission and for the European citizens. On the one hand, it would reduce the Commission’s workload and on the other, it would guarantee citizens that their complaints are taken into account by the Commission itself, without transferring them to another problem-solving mechanism. This online platform should enable citizens to combine complaints to the European Commission with other instruments of redress at European level, in particular with petitions to the European Parliament. Sending a complaint to the European Commission is usually a way to keep the institution active on an issue and to put pressure on national authorities, rather than an instrument to directly solve a precise problem. For this reason, combining complaints with petitions to the European Parliament on similar possible infringements to EU law by a Member State, would be useful for citizens to keep their own case alive and to “draw the attention” of the Commission on their particular issue. This system would represent a step forward towards a European Union capable to respond promptly to the needs of its citizens.

## PART 2 - PUBLIC CONSULTATIONS

At European level, there are different ways through which you can influence and have a say on the process of policy-making: participation in public consultations held by the Commission is one of these. The European Commission usually launches public consultations in order to understand citizens’ positions and views on an existing law or on a legislative proposal<sup>16</sup>. This practice responds to the need of creating a regular and systematic dialogue between European institutions, citizens, representative associations and organized civil society, involving them throughout the European decision-making process<sup>17</sup>.

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<sup>16</sup> A detailed definition of consultations is given in COM (2002) 704 final “Communication from the Commission: Towards a reinforced culture of consultation and dialogue”, 2002. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:en:PDF>.

<sup>17</sup> Art. 11(3) of the Treaty on European Union (TEU) states: “The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union’s actions are coherent and transparent.” TEU available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:en:PDF>.

## 2.1 The White Paper on European Governance and the Commission's Minimum Standards

The White Paper on European Governance published in 2001 describes the basic approach and emphasizes the fundamental role played by citizens and CSOs in the development of European policies<sup>18</sup>. In particular, the White Paper aims at strengthening the democratic process of the Union and at bringing citizens closer to the European policy-makers<sup>19</sup>. The 2001 White Paper was the origin of the Commission's 2002 "general principles and minimum standards for consultation of interested parties", which promote and reinforce the culture of dialogue in the EU<sup>20</sup>. Opting for an "inclusive and open public approach", the Commission focuses on the need to make the system of consultations more open, accountable, effective, as well as coherent and consistent<sup>21</sup>. The minimum standards clarify how consultations are run: they have to be carried in a clear and precise language and give 12 weeks to citizens to provide comments<sup>22</sup>. For its part, the European Commission has to provide acknowledgment and feedback on the main issues raised by the participants<sup>23</sup>. The Commission 2002 minimum standards constituted an important reference point in the new Member States during the reform process after the end of the communist period. Nevertheless, it is important to underline that standards are not binding<sup>24</sup>: the Commission wants to avoid a legally binding and a "command and control" approach. The non-mandatory nature of the public consultation process is one of the major obstacles to regular and periodical dialogue between citizens and institutions, so that the Commission often fails in opening consultations on important issues affecting citizens' every-day life. In these cases, it usually invokes urgency for rushing through the consultation process or not consulting citizens before drafting a legislative proposal. When that happens, individuals may decide to turn to the European Ombudsman in order to understand if there is maladministration from the Commission. For example, in June 2014, the Competitive Telecommunications Association submitted a complaint to the European Ombudsman, accusing the Commission of failing to carry out an adequate public consultation prior to its legislative proposal for a Regulation concerning the European single market for electronic communications. In its decision, the Ombudsman declared that there was not maladministration by the Commission. However, it found that the general principles and minimum standards were not followed and

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<sup>18</sup> COM (2001) 428 final "European Governance: a white paper" states: "the legitimacy of the EU now lies with the participation of its citizens". Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:10109&from=EN>.

<sup>19</sup> According to the White Paper on European governance, four major changes have to be introduced in order to reform European governance: more and better involvement of citizens, more effective definition of policies and legislation, engagement in the debate on global governance and refocusing of policies and institutions on clear objectives.

<sup>20</sup> COM (2002) 704 final "Communication from the Commission: Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission", 2002, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:en:PDF>.

<sup>21</sup> See COM (2002) 704 final "Communication from the Commission: Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission", 2002.

<sup>22</sup> Originally, the time limit for participation in public consultations was 8 weeks. It has been recently extended to 12.

<sup>23</sup> Acknowledgment can take the form of an individual or of collective response, depending on the number of comments received.

<sup>24</sup> Tony Venables, *Piecing together Europe's Citizenship – Searching for Cinderella* (Baden-Baden: Nomos Verlagsgesellschaft, 2016), chapter 6.



suggested to the Commission to clarify in its own rules the circumstances in which consultations can be avoided because of a policy priority<sup>25</sup>.

Public consultations have two different aims, which often come into conflict with each other. On the one hand, their main purpose is to reach a broad audience, by drawing the attention of the majority of citizens' interests; on the other, they attempt to improve the efficiency of decision-making by addressing the issue directly to experts. However, the main obstacle of involving ordinary citizens and stakeholders is often the technical nature of the European legislative process: it makes consultations accessible only by a linguistically educated *élite* who has already knowledge on EU affairs or who has an expertise in that specific subject. *How can be reformed the procedure of public consultations, in order to make them more accessible by ordinary citizens and overcome their technical nature? Is it time for a new White Paper regulating public consultations?*

On the Commission website, citizens can find details on open and closed public consultations and information about the responses received and the follow-up taken<sup>26</sup>. Moreover, those who have signed up on the Transparency Register are alerted every time a new public hearing is open. Since only European lobbyists (NGOs, foundations, experts ...) are in the Transparency Register, it follows that the public consultation process is more easily accessible by those who are already lobbying the EU or by experts in the particular subject. Ordinary citizens are not warned when a new public consultation is opened and they have to constantly check the website if they want to get the information. This is one of the main causes why public consultations are usually employed by experts on the subject rather than by other stakeholders and ordinary citizens. The second major problem is the language: public consultations are often carried out in English or in other few official languages. In addition, they often appear bureaucratic and impersonal, especially because they are online processes which do not include any opportunity of expressing their one's views to policy-makers in face-to-face meetings. The absence of specific feedback to participants further increases their impersonal nature: since feedback is anonymous, citizens have no incentives to participate in the process of public consultations a second time. Finally, there is an evident paradox in the practice of public consultations: they are well functioning on soft issues, while, on hard issues they fail in involving a wider audience, other than experts on the subject<sup>27</sup>.

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<sup>25</sup> See "Decision in Case: 904/2014/OV on the European Commission's public consultation prior to its legislative proposal for a Regulation concerning the European single market for electronic communications" available at: <https://www.ombudsman.europa.eu/en/cases/decision.faces/en/60965/html.bookmark>.

<sup>26</sup> For a complete overview of public consultations launched by the European Commission, visit the official website of the European Commission: [http://ec.europa.eu/info/consultations\\_en](http://ec.europa.eu/info/consultations_en).

<sup>27</sup> For an in-depth analysis on the shortcomings of public consultations see: Tony Venables, *Piecing together Europe's Citizenship – Searching for Cinderella* (Baden-Baden: Nomos Verlagsgesellschaft, 2016), chapter 6.

## 2.2 The Public Consultation on the European Citizens' Initiative: an Example of Good Practice

The public consultation launched by the European Commission for the preparation of the legislation on the European Citizens' Initiative (ECI) is one example of "good practice"<sup>28</sup>. It was a real success because it was able to attract opinions and feedbacks not only from experts, but also from ordinary citizens and stakeholders. In addition, the Commission organized a hearing and took into account the responses and opinions from participants when it proposed the legislation to the European Parliament and the Council. In total, the consultation on the ECI had 329 replies, which included innovative ideas and suggestions from stakeholders. Of these replies, 160 were from ordinary and individual citizens, 133 from organisations and 36 from public authorities<sup>29</sup>. In addition, several hearings took place in the European Parliament organized by committees and political groups. In July 2017 the European Commission has opened a new public consultation for the revision of the Regulation of the ECI hoping to reach a large number of opinions<sup>30</sup>. The public consultation addresses to citizens and stakeholders (especially to CSOs and public authorities promoting and working around the ECI) and it aims at gathering views and opinions on the current Regulation, focusing on the challenges and shortcomings that have been underlined in a previous report<sup>31</sup>. The Commission hopes that this public consultation would be as successful as the one of 2010 both in attracting a broad audience and in putting pressures influencing the revision of the ECI's Regulation. The Commission acknowledges the urgency of this revision in order to make the instrument of ECI more accessible and user-friendly both for the ECI organizers and for the signatories<sup>32</sup>.

## 2.3 The Public Consultation on Shadow Banking

Since 2010, several actions were taken at EU level to restore the stability of the financial market. Among these, several consultations has been launched by the European Commission on the reform of the banking structure, on the provisions for the recovery of banks in crisis and on the surveillance of the banking sector<sup>33</sup>. Consultations on legislative proposals in response to the financial crisis did not attract many respondents as the one of ECI. The high technical character limit the accessibility and participation for a broad range of ordinary citizens and stakeholders. One of the few consultations available in almost all EU official language, was launched by the Commission to gather

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<sup>28</sup> The Commission opened the public consultation on 11 November 2009 and closed it on 31 January 2010.

<sup>29</sup> For more information about the public consultation on ECI see SEC (2010) 370 "Commission Staff Working Document: Outcome of the public consultation on the Green Paper on a European Citizens' Initiative", 31.03.2010. Available at: [http://ec.europa.eu/dgs/secretariat\\_general/citizens\\_initiative/docs/sec\\_2010\\_370\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/docs/sec_2010_370_en.pdf).

<sup>30</sup> The public consultation on the revision of the Regulation of the ECI is open from 24.05.2017 to 16.08.2017. For more information about the consultation see: [https://ec.europa.eu/info/consultations/public-consultation-european-citizens-initiative\\_en](https://ec.europa.eu/info/consultations/public-consultation-european-citizens-initiative_en).

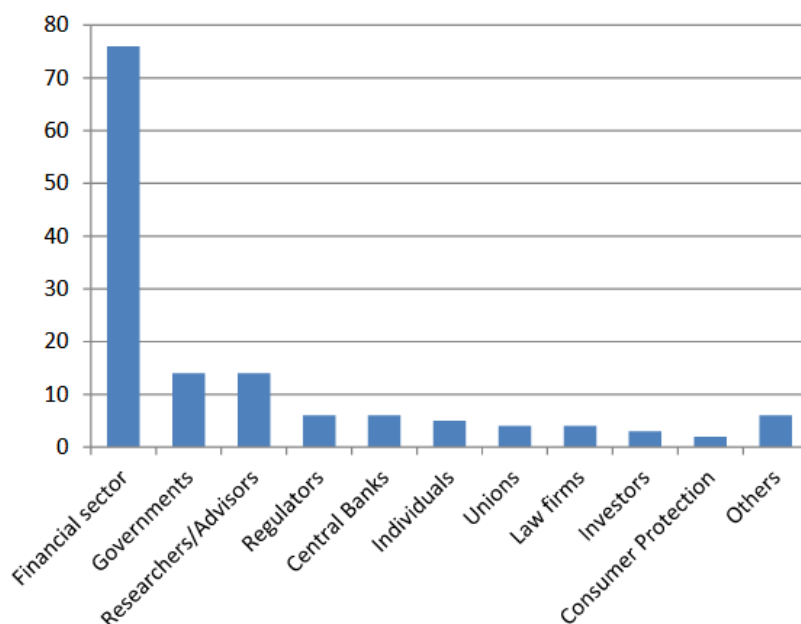
<sup>31</sup> See COM (2015) 145 final "Report from the Commission to the European Parliament and the Council: Report on the application of Regulation (EU) No 211/2011 on the citizens' initiative", 31.03.2015. Available at: <http://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-145-EN-F1-1.PDF>.

<sup>32</sup> To reply to the public consultation on the revision of ECI see: [https://ec.europa.eu/eusurvey/runner/European\\_citizens\\_initiative](https://ec.europa.eu/eusurvey/runner/European_citizens_initiative).

<sup>33</sup> An overview of public consultations during the financial and economic crisis is given in: "Tony Venables, *Draft Report - Economic governance: public consultations during the crisis. Contribution to the European Citizenship and Political Rights Seminar Barcelona, 17<sup>th</sup> October 2013*" (ECAS documents, 2013). Available at: <http://jeanmonnetchair.uab.cat/docs/Venables.pdf>.

reaction to the Green Paper on the Regulation of shadow banking<sup>34</sup>. The consultation received 140 responses. As shown in Table.2, the vast majority of responses came from the financial sector, followed by a small amount of answers from governments, researchers and advisors.

**Table.2 - Number of responses by sector<sup>35</sup>**



Consultations can be divided into three main categories: those easily accessible by ordinary citizens (such as the one on the ECI's Regulation and its revision), those concerning their every-day life but which do not achieve the final aim of reaching a broad public and, finally, those about very technical issues. Consultations of the third group are reached only by experts on the subject matter and they fail in reaching a wider audience. This can be explained by the fact that this type of consultations, such as those about economy and finance are usually complemented by highly technical documents which are available only in English and which require an extensive level of knowledge and expertise. As result, those who are most affected by the subjects matter (as for example citizens, consumers, stakeholders) have difficulty accessing to this kind of consultations and influencing the decision-making procedure. In this context, this kind of public consultation seems far from responding to the 2002 Commission's minimum standards.

<sup>34</sup> The consultation was open from 19.03.2012 to 15.06.2012. For more information about the consultation on shadow banking see: [http://ec.europa.eu/finance/consultations/2012/shadow/index\\_en.htm](http://ec.europa.eu/finance/consultations/2012/shadow/index_en.htm).

<sup>35</sup> Data from "Summary: responses received to the Commission's Green Paper on shadow banking", December 2012. Available at: [http://ec.europa.eu/finance/consultations/2012/shadow/docs/replies-summary\\_en.pdf](http://ec.europa.eu/finance/consultations/2012/shadow/docs/replies-summary_en.pdf).

## 2.4 Is it Time for a New White Paper?

The Juncker Commission, conscious of the shortcomings affecting the process, committed itself in developing a more highly-quality and transparent consultation process in order to improve “not only what the European Union does, but especially how it does it”<sup>36</sup>. The Commission decided to give the possibility to citizens, stakeholders and experts to contribute on the EU law-making, through every stage of the legislative process: starting from the initial idea for new laws to the evaluation of existing laws<sup>37</sup>. The Juncker Commission also launched the instrument of ‘Commission at work – Notifications’ which constantly informs citizens by email about open public consultations launched in all EU policy areas<sup>38</sup>.

Despite the commitment and the willingness of the Juncker Commission in reforming this system only a major structural reform could ensure that persisting. Even though the 2001 White Paper on European Governance is still relevant, maybe it is time for a renewed White Paper combined with updated and revisited minimum standards. This revision would give political impetus to the public consultation process and would improve its efficiency and efficacy. New standards should be not anymore on a voluntary basis, but mandatory. This major change would make consultations more systematic and accessible in more EU official languages. The European Ombudsman has already urged the Commission to opt for a multilingual approach; however, the Commission has not followed this recommendation yet. Obliging the Commission to satisfy the new standards seems to be the only plausible solution that would make consultations accessible to ordinary citizens. Through this reform, everyone would have the possibility to have access to consultations’ documents and, subsequently, to take part also in public consultations about “technical subjects”, such as those regarding economic and financial aspects which influence their daily life. The European Commission should make a better use of the 21<sup>st</sup> century technology. The audience of consultations should be extended through a more systematic use of social media. Social platforms, such as Twitter and Facebook, should become effective ways through which the European Commission could publish open consultations, promoting a permanent dialogue with citizens and attracting a wider and more diversified audience. Finally, institutions should improve their cooperation with NGOs and organisations, giving them the important role of educating and keeping informed citizens about the procedure of public consultations.

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<sup>36</sup> See COM (2015) 215 final “Communication from the Commission: Better regulation for better results – An EU agenda”, page 3. Available at: [http://ec.europa.eu/smart-regulation/better\\_regulation/documents/com\\_2015\\_215\\_en.pdf](http://ec.europa.eu/smart-regulation/better_regulation/documents/com_2015_215_en.pdf).

<sup>37</sup> European citizens can now give their feedback also on roadmaps and inception impact assessment ([http://ec.europa.eu/info/law/better-regulation/initiatives\\_en?facet\\_select\\_field\\_brp\\_inve\\_resource\\_type:parents\\_all=743&field\\_brp\\_inve\\_fb\\_status=All&field\\_brp\\_inve\\_leading\\_service=All](http://ec.europa.eu/info/law/better-regulation/initiatives_en?facet_select_field_brp_inve_resource_type:parents_all=743&field_brp_inve_fb_status=All&field_brp_inve_leading_service=All)), on a legislative proposal by the Commission ([http://ec.europa.eu/info/law/better-regulation/initiatives?facet\\_select\\_field\\_brp\\_inve\\_resource\\_type:parents\\_all=745&field\\_brp\\_inve\\_fb\\_status=All&field\\_brp\\_inve\\_leading\\_service=All](http://ec.europa.eu/info/law/better-regulation/initiatives?facet_select_field_brp_inve_resource_type:parents_all=745&field_brp_inve_fb_status=All&field_brp_inve_leading_service=All)), on existing laws and on draft implementing and delegated Commission acts. Citizens’ views and suggestions on existing EU laws are expressed through the new ‘Lighten the Load – Have Your Say’ instrument (<https://ec.europa.eu/info/law/better-regulation/lighten-load>) and will be reviewed by the REFIT Platform ([https://ec.europa.eu/info/law/law-making-process/overview-law-making-process/evaluating-and-improving-existing-laws/reducing-burdens-and-simplifying-law/refit-platform/role-structure-and-working-methods-refit-platform\\_en](https://ec.europa.eu/info/law/law-making-process/overview-law-making-process/evaluating-and-improving-existing-laws/reducing-burdens-and-simplifying-law/refit-platform/role-structure-and-working-methods-refit-platform_en)).

<sup>38</sup> You can subscribe to the ‘Commission at work – Notifications’ system at: <https://webgate.ec.europa.eu/notifications/homePage.do>.

Finally, the effectiveness of the system should be improved extending the practice also to other institutions. In particular, the European Parliament and the Council of Ministers should have the power to launch their own consultations when discussing about European legislation. In fact, European citizens can now pressure and lobby their MEPs, participate in public hearings organized in the European Parliament's Committees or take part in conferences with stakeholders, delegations and national experts organized in the context of the Council of Ministers. However, these practices are far from being regular actions with the aim of creating a permanent dialogue and engagement with citizens and civil society. A more balanced consultation procedure between the different institutions is needed and should be established to increase the transparency of the decision-making process at European level. The extension of the practice of public consultation to other institutions would be consistent with Article 11 TEU which underlines the responsibility of the institutions in maintaining "an open, transparent and regular dialogue with representative associations and civil society"<sup>39</sup>. It is clear that the practice of public consultations should be a shared competence between all the European bodies rather than exclusively of the Commission. Finally, the transparency of the European legislation system could be increased obliging institutions to organize regular public hearings. This reform would make citizens feel closer to European bodies and would give them the opportunity to be heard and to express their views on hard issues that affect their lives directly, such as economic and financial aspects, asylum, immigration and security policies. It is important to underline how this reformed consultation process should not be a replacement of face-to-face meetings. Online consultations should be combined with constant gatherings between citizens, stakeholders, civil society and politicians, institutions and Member States' representatives. This would certainly help to overcome the impersonal character of public consultations.

### PART 3 – ACCESS TO DOCUMENTS

Access to EU documents was recognized as a right of all European citizens in 1997 with the entry into force of the Treaty of Amsterdam<sup>40</sup>. The European Union further committed itself in the recognition and safeguarding of this human right when it was included in the Charter of Fundamental Rights<sup>41</sup>. Considered necessary for the democratic functioning of the Union itself, the right to have access to documents was put into effect in 2001 by Regulation 1049/2001, which still today defines principles, conditions and limits and which involves directly the European Parliament,

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<sup>39</sup> See Art. 11 of the Treaty on the European Union (TEU) available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:en:PDF>.

<sup>40</sup> Art. 255(1) of the Treaty establishing the European Community (TCE) states: "Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to European Parliament, Council and Commission documents." TEC available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12002E/TXT&from=EN>.

<sup>41</sup> See Art. 42 of the European Charter of Fundamental Rights. Full text available at: [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf).

the Council and the Commission<sup>42</sup>. The possibility to ask for EU documents was finally included in the Treaty of the Functioning of the European Union (TFEU), as a necessary precondition to guarantee transparency in the legislative process<sup>43</sup>. To ask and obtain a document of the Union, you can send a request in any written form (including electronic form<sup>44</sup>) and in any of the official languages of the Union. European institutions have 15 working days to accept or refuse your request<sup>45</sup>. Whether the answer from the institution is not satisfactory or it is (partially or totally) refused, you dispose of 15 additional working days to respond and to exercise your right to appeal<sup>46</sup>.

The procedure which regulates the possibility to have access to EU documents is accurate and straightforward. However, European citizens are not always aware of having this right or - if they are aware of it - they do not know how they can properly exercise it and where to turn when their request is refused. As a result, rather than a right exercised by all citizens, access to documents seems to be a tool used only by a few. Furthermore, submitting a request for access to EU documentary material is not always as simple as it may appear. *Do European citizens need to be more informed about how to submit an “effective” request for access to documents? Are European Institutions and bodies properly guaranteeing this fundamental right to their citizens? In the near future, will this specific right evolve in the right of freedom of information, in the name of openness and transparency that the EU promotes<sup>47</sup>?* This section addresses these questions in order to understand which are the main obstacles to full transparency and openness at EU level. Focusing in particular on the weaknesses of the procedure, some recommendations and proposals are put forward with the aim of creating a more citizen-friendly system.

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<sup>42</sup> Others European bodies are regulated by similar own rules (decisions and rules of procedures) when it comes to access to their documents. The European Central Bank, the European Investment Bank, the European Court of Auditors, the European Economic and Social Committee, the Committee of Regions, Europol and Eurojust have all adopted on a voluntary basis rules on access to their documents identical or similar to Regulation 1049/2001.

<sup>43</sup> See Art. 15 of the Treaty on Functioning of the European Union (TFEU). Full text available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>.

<sup>44</sup> To submit a request for access to documents from an EU institution, European citizens need to fill in the appropriate form in the official website of the Commission (<https://ec.europa.eu/transparency/regdoc/index.cfm?fuseaction=fmb&language=en>), of the European Parliament (<https://www.secure.europarl.europa.eu/RegistreWeb/requestdoc/secured/form.htm?language=EN>) or of the Council (<http://www.consilium.europa.eu/en/documents-publications/public-register/request-document/>).

<sup>45</sup> According to Art. 24 of the TFEU, EU citizens have the right to write to institutions and receive a reply on their own language. For this reason, institutions have to answer in the same language of the request. Regulation 1049/2001 states that the time limit of 15 working days could be extended of up to 15 additional working days in “exceptional cases” (for example in the case of an application relating to a very long document), provided that the EU institution notifies the requester in advance.

<sup>46</sup> Access to documents at European level is ruled by Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents. Available at: [http://www.europarl.europa.eu/RegData/PDF/r1049\\_en.pdf](http://www.europarl.europa.eu/RegData/PDF/r1049_en.pdf)

<sup>47</sup> For an in-depth analysis on the principle of openness in EU law, see: Alberto Alemanno, *Unpacking the Principle of Openness in EU Law: Transparency, Participation and Democracy* (European Law Review Vol. 39, 2014). Available at: <https://ssrn.com/abstract=2303644>.

### 3.1 Obstacles to Complete Access

The first and maybe the most important obstacle to correct and complete access to European public documents is an apparent lack of interest by citizens themselves in turning to institutions when they need a particular information. Ordinary citizens do not seem to be aware of this right or they do not know what the rules are when submitting a Freedom of Information Act (FOIA) Request. As a result, applications for documents appear to be a “tool for insiders” rather than a practice extended to all citizens<sup>48</sup>. As shown in the Table. 3, in 2015 most of the requests submitted did not come from ordinary citizens or individuals, but from the academic world, organized civil society (including interest groups and NGOs) and lawyers, most of them based in Brussels.

**Table. 3 - Social and occupational profile of applicants in 2015 (%)<sup>49</sup>**

	2011	2012	2013	2014	2015
<b>Academics</b>	23.24	22.70	22.08	19.80	22.33
<b>Lawyers</b>	10.69	13.58	14.46	18.30	13.06
<b>Civil Society (interest groups, industry, NGOs etc.)</b>	8.18	10.32	16.62	16.04	15.64
<b>Public authorities (other than the EU institutions)</b>	13.56	7.12	8.24	8.23	6.38
<b>Other EU institutions</b>	8.32	7.64	8.76	12.80	12.56
<b>Journalists</b>	3.35	4.81	4.58	6.00	7.03
<b>Not specified</b>	32.68	33.83	25.26	18.83	22.99
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

*Why do not ordinary citizens exercise their right to ask for information to institutions?* European institutions surely share part of responsibility: their lack of active engagement results in the fact that European citizens are not aware that they have a right to access to EU documents in the first place. Even if institutions use their websites and leaflets to provide guidelines to their citizens for access to documents, these actions are not enough. There is the need for a massive and a more proactive communication campaign from the institutions themselves which through the key role of social media, could aim at increasing the interest, informing and educating about access to EU documents. In addition, institutions should cooperate more closely with those organizations which are already

<sup>48</sup> Tony Venables, *Piecing together Europe’s Citizenship – Searching for Cinderella* (Baden-Baden: Nomos Verlagsgesellschaft, 2016), chapter 6.

<sup>49</sup> See COM (2016) 533 final “Report from the Commission on the application in 2015 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents”, 24.08.2016. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2016%3A533%3AFIN>. From the Report emerges that 26.78% of applications originated from Belgium.

playing a fundamental role in helping and assisting citizens to have access to institutional material. Among these, the human right organization *Access Info Europe*, is one of the major actors in the promotion and protection of the right on the European scene. It helps citizens with applications to documents and provide them with a detailed guide on how to submit a FOIA request<sup>50</sup>. *AsktheEU*, built by civil society organisations, is an online platform which helps citizens to request EU documents<sup>51</sup>. A closer collaboration between the European bodies and the mentioned organisations would be a first step towards a greater involvement of citizens.

Moreover, a number of “black hole areas” represents another major problem when it comes to documentary request: documents about *trialogue meetings* and those including “exceptions to the right of access” are quite closed off to citizens<sup>52</sup>. In particular, in addition to invoking mandatory exceptions mentioned in Article 4 of the Regulation, institutions often deny access to documents on the basis of the protection of the institution’s decision-making process<sup>53</sup>. This behavior is quite problematic and emphasizes the overprotective attitude of European bodies concerning the decision-making work. In 2015, 20.27% of the refused requests was rejected on the ground of the protection of the decision-making process<sup>54</sup>. Similarly, documents about the informal meetings between the Council of Ministers, European Parliament and Commission in the first reading of legislation are still far from being completely accessible to individual citizens, although the European Ombudsman published proposals to make available key documents related to *trialogues meetings* in July 2016<sup>55</sup>. Considering the importance of the informal meetings in the decision-making process, European bodies should make available at least dates, summary agendas and names of the decision-makers present during *trialogue meetings*, if they want to increase transparency of their work and reduce the gap between citizens and European decision-makers<sup>56</sup>.

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<sup>50</sup> To know more about Access Info Europe visit the official website: <https://www.access-info.org/>. You can download their guide on access to EU documents at: [https://www.access-info.org/wp-content/uploads/EN\\_ONLINE\\_Guide\\_on\\_access\\_to\\_EU\\_Documents.pdf](https://www.access-info.org/wp-content/uploads/EN_ONLINE_Guide_on_access_to_EU_Documents.pdf).

<sup>51</sup> To know more about AsktheEU visit the official website: <https://www.asktheeu.org/en/help/requesting>.

<sup>52</sup> According to COM (2016) 533 final “Report from the Commission on the application in 2015 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents”, 24.08.2016, in 2015 15.91% of the submitted requests for access to documents was refused.

<sup>53</sup> According to Art.4 of the Regulation (EC) No 1049/2001, “1. The institutions shall refuse access to a document where disclosure would undermine the protection of: a) the public interest [...]; b) privacy and the integrity of the individual; 2) [...] commercial interests of natural or legal person, including intellectual property, court proceedings and legal advice, the purpose of inspections, investigations and audits”.

<sup>54</sup> Data from COM (2016) 533 final “Report from the Commission on the application in 2015 of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents”, 24.08.2016.

<sup>55</sup> For more information about the proposals from the Ombudsman on *trialogue meetings* see the website of the European Ombudsman: <https://www.ombudsman.europa.eu/cases/decision.faces/en/69206/html.bookmark>.

<sup>56</sup> *Triialogue meetings* allow around 85% of laws to be agreed in the first reading of legislation.



### 3.2 The Right to Appeal

In view of the difficulties that citizens can have *where they should turn to when institutions fail in replying on time or when their request is partially or totally denied?* Citizens of the Union have the right to appeal internally, submitting a confirmatory application to the institution concerned in which they ask to reconsider its position about the refusal<sup>57</sup>. For its part, the institution is obliged to answer, providing access to the document requested or explaining the reasons for the refusal<sup>58</sup>. In the event that the confirmatory application does not succeed in guaranteeing access to the information requested, citizens have an additional possibility to appeal: bring the matter before the European Court of Justice or complain to the European Ombudsman<sup>59</sup>. Citizens have to consider all pros and cons of these two options before deciding where to turn.

On one hand, addressing to the Court requires lot of time and expertise. In fact, appeal to the European Court takes on average two years and it would be difficult for ordinary citizens without a European legal background to assert their positions. Citizens who address to the European Court of Justice need help of a lawyer and this choice could subsequently become very expensive. However, the final judgment of the Court is legally binding, so that, if it is in favor of the citizen, the institution would have to allow the access to the document requested. Moreover, complaining to the European Court helps also in the developing of EU case law on this subject. Since revising the Regulation is not a realistic option, the Court's judgements play a key role in the long term development of the standards for the interpretation of the exceptions included in the Regulation and of the right of access to documents.

On the other hand, complaining to the European Ombudsman should be an easier and quicker way to see your own case solved: it is a free, flexible and fast service and citizens do not need legal support when addressing to it. The EU Ombudsman investigates whether the institution's denial to provide access to documents is founded or not. If it finds that the refusal from the institution is not justified, it intervenes and seeks the release of the requested document. Institutions usually tend to comply with the Ombudsman's recommendations especially because it has the indirect power to pressure the institutions by publicly criticizing them and attracting media attention. However, the main disadvantage of appealing to the Ombudsman is that its recommendations are not binding.

Between these two options, applicants usually opt in favor of the second one. An explanatory example of the important role played by the Ombudsman is the case concerning a request for public access to opinions accessing candidates' suitability to be Judges and Advocates-General at the Court of Justice and the General Court of the EU. At first, the Council refused access because it considered that Regulation 1049/2001 did not apply. After the intervention of the Ombudsman, the Council changed its position and decided to apply the Regulation, opting for more openness. As shown in

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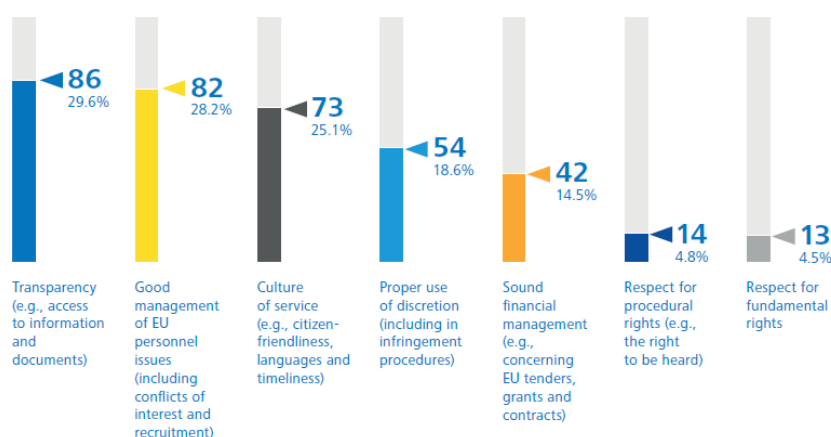
<sup>57</sup> The procedure regulating confirmatory application is described in Art. 8 of the Regulation (EC) No 1049/2001. Confirmatory application has to be submitted within 15 working days from when the citizen has received the answer from the institution.

<sup>58</sup> Institutions have 15 working days to give an answer to the confirmatory application. According to Art. 8.2 in case of a request for a very long document or a large number of documents, the standard time limit could be further extended to additional 15 working days.

<sup>59</sup> Citizens can appeal to the European Court of Justice or to the European Ombudsman only after having submitted a confirmatory application followed by a negative answer.

Table.4 below, the majority of inquiries closed by the European Ombudsman in 2016 were about transparency.

**Table.4 - Subject matter of inquiries closed by the European Ombudsman in 2016<sup>60</sup>**



The high number of cases about access to documents submitted to the Ombudsman shows that barriers to openness at EU level persist. Conscious of the challenges to the right of information at EU level, the European Commission launched in 2012 a proposal for the review of Regulation 1049/2001, with the aim of achieving more transparency in EU legislation. The Commission’s proposal provoked a vivid debate among the institutions. *Trilogue meetings* between the European Parliament, the Commission and the Council were launched in the first half of 2012. However, no compromise between the three institutions was reached: one of the most controversial issues of the debate concerned especially the strict definition of “document” provided by the proposal, which would have restricted rather than expanded the right of access to public documents<sup>61</sup>. This failure in reforming the Regulation, shows that the possibility to reach an agreement between the institutions on the reform of the existing procedure is quite unrealistic.

### 3.3 Towards a Freedom of Information System

Greater public awareness concerning these rules should help to overcome and reduce the gap between citizens and EU decision-makers. To this end, European bodies should change their behavior concerning access to documents: the process should move towards a system of freedom of information, where institutions play a key role in supporting and helping citizens with the research of the document they need. This does not need to involve variations in the legislation; however, a simple change in the practice and in the administrative culture of the institutions could

<sup>60</sup> Data from “European Ombudsman – Annual Report 2016”. Available at: <https://www.ombudsman.europa.eu/en/activities/annualreport.faces;jsessionid=2499898645D0A4B4DBFA5C690C24452C>.

<sup>61</sup> Maya Augustyn and Cosimo Monda, *Transparency and Access to Documents in the EU: Ten Years on from the Adoption of Regulation 1049/2001*.

be enough if the European Union wants really to be a pioneer of transparency and openness. For their part, citizens should follow some “tips” when they submit a FOIA request that would help them in obtaining the documentary evidence they need. Defining the scope of their request and consulting the institutions’ registers of documents would help them to obtain information from European bodies. However, under the existing system of access to documents, citizens need a prior knowledge of which documents to look for and on how to submit the application. Help-desks and offices assisting citizens should be provided at European level in order to allow also people who do not have a background on the functioning of the EU to easily find the document they need in their language. All these proposals would help to increase transparency, which is a prerequisite of good governance, and they are indispensable if the EU wants to close the gap between institutions and citizens. To this end, European bodies should commit to a more proactive attitude in supporting citizens in their requests, as well as actively engage in avoiding the practice of decisions taken “behind closed doors” that seems to be still in vogue at EU-level. Through these practices, citizens’ understanding of the EU decision-making process would increase together with their trust in EU institutions.

## PART 4 - PETITIONS TO THE EUROPEAN PARLIAMENT

With the entry into force of the Treaty of Maastricht, European citizens acquired the right to petition to the European Parliament, which was included in the Treaty on the Functioning of the European Union (TFEU) and in the Charter of Fundamental Rights<sup>62</sup>. Petitions are an important instrument of participatory democracy at the disposal of European citizens to draw the European Parliament’s attention on infringements or on failures to implement the European legislation.

The right to petition is conferred by European citizenship and its scope is very broad: it could be invoked in each area of activity of the European Union<sup>63</sup>. According to the Treaties, every individual or group of people, associations or companies living or based in a Member State can turn to the European Parliament when they consider that there is an infringement of EU law<sup>64</sup>. The submission

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<sup>62</sup> Art. 227 of the TFEU states: “Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Union’s fields of activity and which affects him, her or it directly”.

Art. 44 of the Charter of Fundamental Rights states: “Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition the European Parliament”. Charter of Fundamental Rights available at: [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf).

<sup>63</sup> Art. 20 of the Treaty on the Functioning of the European Union (TFEU) states: “Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, inter alia: [...] (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language”. TFEU available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT>.

<sup>64</sup> See Art. 227 of the TFEU.

can be done by post or electronically, writing in one of the official languages of the Union and including at least the name, nationality, address and signature of the petitioner in the request<sup>65</sup>. Subsequently, the Committee on Petitions (PETI Committee) analyzes and evaluates the admissibility<sup>66</sup>. *What outcomes can you expect when submitting a petition? Is it the best way to draw the attention of European institutions and to put pressure on them in order to influence their agenda? How can citizens make better use of this instrument?* After a brief description on how the PETI Committee handles submitted petitions, this section examines advantages and disadvantages and gives some advice on what citizens should do if they want a satisfactory follow-up.

As soon as the Committee defines the admissibility, the process of examination starts asking for opinions from the Commission on the subject raised<sup>67</sup>. Once the PETI committee has all the information needed, it enters the submitted petitions in the general register and selects some of them to be presented at one of the monthly committee meeting. Here, the petitioners have the opportunity to explain their case and answer questions from members of the Committee. After the presentation, they could expect different outcomes<sup>68</sup>. The Committee can ask for clarifications from the authorities involved, for the intervention of the permanent representation of the Member State concerned as well as it can open an infringement procedure. In the latter case the Commission has to confirm a violation of EU law and the petition has to be related to a subject of general interest. However, an adequate follow-up by the institutions and desired outcomes can not be assured.

#### 4.1 The Broad Scope of Petitions

The number of submitted petitions to the European Parliament has increased since the introduction of the electronic form in 2005, becoming an essential element for participatory democracy in the Union and leading to political actions by institutions, opening of EU Pilot cases or infringement proceedings. The broad range of subjects covered by petitions is surely one of the main factors which motivate people in opting for this instrument. Nevertheless, in 2015 483 of 1431 submitted petitions (corresponding to 33.8%) were declared inadmissible, while the others were admitted<sup>69</sup>. The large number of refusals shows that petitions' broad scope is both a strength and weakness of this tool: citizens often confuse European and national competences and submit to the European Parliament petitions which fall in the national domain and which are subsequently declared

<sup>65</sup> You can start or support a petition through the website of the European Parliament: <https://petiport.secure.europarl.europa.eu/petitions/en/login?error=expired>.

<sup>66</sup> In the case of inadmissibility, the PETI Committee informs the petitioner and suggests him which are the other more appropriate instruments to use.

<sup>67</sup> A petition is admissible when its subject falls within the fields of the activity of the European Union.

<sup>68</sup> In any case, the petitioner will be informed about any action taken and any result reached.

<sup>69</sup> Data from (2016/2146(INI)) "Report on the activities of the Committee on Petitions 2015", 02.12.2016. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2016-0366+0+DOC+PDF+VO//EN>.

“inadmissible”<sup>70</sup>. To avoid this, European bodies should be able to inform more effectively their citizens of what the right to petition is about and what can be achieved when turning to the PETI Committee.

Table.5 shows that the main sectors involved by petitions in 2015 were: fundamental rights (disabilities, children’s rights, discrimination, minorities, access to justice), environmental issues, the internal market and trade agreements.

**Table.5 - Main subjects of petitions<sup>71</sup>**

Issue	Number of Petitions	Percentage (%)
Environment	174	9.2
Justice	142	7.5
Internal market	139	7.3
Fundamental rights	84	4.4
Transport	84	4.4
Health	78	4.1
Employment	74	3.9
Social affairs	60	3.2
Education and culture	57	3.0
Property and restitution	32	1.7
Other	974	51.3

Even though, the Annual Report on the activities of the Committee on Petitions for the year 2016 has not yet been published, we can easily do some predictions on which would be the main subject covered by petitions. The challenge posed by the UK referendum of 23 June 2016, is surely one of the major source of concern for European citizens and UK nationals who are facing an uncertain future. From the 2016 Annual Report we may expect an increase in petitions submitted in English from UK citizens and Brexit as major subject. As a matter of fact, between 1<sup>st</sup> January 2016 and 24<sup>th</sup>

<sup>70</sup> “Report on the activities of the Committee on Petitions 2015”, 02.12.2016 shows that of the 1431 petitions submitted in 2015, 483 were defined inadmissible. Report available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2016-0366+0+DOC+PDF+VO//EN>

<sup>71</sup> Data from (2016/2146(INI)) “Report on the activities of the Committee on Petitions 2015”, 02.12.2016. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2016-0366+0+DOC+PDF+VO//EN>.

April 2017, 136 petitions concerning Brexit have been submitted. Around 70 have been submitted from British citizens<sup>72</sup> and the majority of them relates to UK nationals' rights<sup>73</sup>.

#### **4.2 How to Make Better Use of this Instrument?**

Depending on the complexity of the subject, the timing of the petitions' procedure can vary. Someone can argue that the process is too slow to be really effective and useful because it takes some time in order to see some results. However, this instrument is efficient in influencing and setting the agenda of European bodies especially when collective petitions based on evidence of infringements of European law and signed by hundred thousand of citizens are submitted to the Parliament. In fact, pursuing the general interest, they enable a more effective response. Sometimes, petitions can be a way to support a complaint rather than a tool whose results are immediate. To this end, it is advisable for citizens to address both to the European Commission and to the European Parliament when they think that there is a real infringement to EU law: combining complaints and petitions would give more possibilities to the citizen to see his own case solved. As mentioned in Part 1, a web system enabling citizens to find and combine complaints and petitions on the same subject should be provided. In addition, as frequently repeated, a better communication strategy is essential to improve the system: a more effective use of social media and online newsletters could fill the gap concerning the amount of information provided to citizens<sup>74</sup>. Moreover, all of this shall be accompanied by an improvement of the website of the PETI Committee and the publication of attractive brochures and leaflets that would make citizens more aware about what they can expect and which are the legal limits to this right. Without any doubt the right to petition the European Parliament is a cornerstone of European citizenship, however there is a need to educate citizens about the competences of the Union and about how the petition procedure works.

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<sup>72</sup> Data from "The impact of Brexit in relation to the right to petition and on the competences, responsibilities and activities of the Committee on Petitions", Directorate General for Internal Policies – Policy Department C, June 2017. Available at: <http://www.europarl.europa.eu/committees/en/supporting-analyses-search.html>. In 2015, 74 petitions were submitted from British petitioners.

<sup>73</sup> Also ECIT Foundation submitted a petition to the European Parliament after the Brexit Referendum. ECIT Petition 0101/2017 "To challenge the loss of EU citizenship of 64 million people and to challenge the limitation of the rights all other European citizens as a result of BREXIT" has been presented to the members of the PETI Committee and it is now collecting signatures. To know more about ECIT Petition visit: <http://ecit-foundation.eu/ecit-initiatives/ecit-petition/>.

<sup>74</sup> "The right to petition", Directorate-General for Internal Policies – Policy Department C, July 2015. Available at: <http://www.europarl.europa.eu/supporting-analyses>.

## Conclusions

Although the institutional design of the Union provides a great amount of tools of redress, participation and access to information, citizens are still facing lot of difficulties when it comes to really influence the institutions' agenda and the process of policy-making. From their perspective, it is evident that there are still a lot of gaps when it comes to openness and transparency at European level. Some of the instruments mentioned in the text surely need a reform of the rules, while others could work better with the introduction of help desks and a more effective communication campaign from European bodies. For example, revising and simplifying the legislation would improve the effectiveness of European Citizens' Initiatives (ECIs) in setting the agenda of the EU<sup>75</sup>. Other existing tools for involvement mentioned in the paper are well-functioning but citizens do not make the better use of them because they do not know how these instruments work or what results they can expect. In these cases, European bodies should create help-desks for citizens and provide them with all the information through a better use of technology, leaflets and brochures. In addition, European institutions should publish and distribute a citizens' guide describing all the instruments in order to have access to their documents, influence the policy process and participate in the decision-making. This guide should highlight strengths and weaknesses, providing advices on which instrument is better to use in different circumstances. Finally, NGOs and CSOs should play a greater role in order to improve the citizens' awareness of their rights and how to exercise them. To this end, institutions should share more information and organize regular face-to-face meetings with NGOs and CSOs, establishing a closer collaboration on a daily basis that would contribute to increase citizens' involvement in the complexity of the EU decision-making system.

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<sup>75</sup> You can find the ECI reform issues at: <http://www.citizens-initiative.eu/wp-content/uploads/2016/03/ECI-Reform-Issues.pdf>.