



## Reports of Cases

### JUDGMENT OF THE COURT (Grand Chamber)

9 December 2014\*

(Appeal — Petition addressed to the European Parliament — Decision to file the petition — Action for annulment — Concept of a ‘challengeable act’)

In Case C-261/13 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 8 May 2013,

**Peter Schönberger**, residing in Luxembourg (Luxembourg), represented by O. Mader, Rechtsanwalt,  
appellant,

the other party to the proceedings being:

**European Parliament**, represented by U. Rösslein and E. Waldherr, acting as Agents,  
defendant at first instance,

THE COURT (Grand Chamber),

composed of V. Skouris, President, K. Lenaerts, Vice-President, A. Tizzano, T. von Danwitz, A. Ó Caoimh, J.-C. Bonichot (Rapporteur), Presidents of Chambers, A. Borg Barthet, J. Malenovský, E. Levits, A. Prechal, E. Jarašiūnas, C.G. Fernlund and J.L. da Cruz Vilaça, Judges,

Advocate General: N. Jääskinen,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after hearing the Opinion of the Advocate General at the sitting on 17 July 2014,

gives the following

\* Language of the case: German.

## Judgment

- 1 By his appeal, Mr Schönberger seeks to have set aside the judgment of the General Court of the European Union in *Schönberger v Parliament* (T-186/11, EU:T:2013:111; ‘the judgment under appeal’), by which the General Court dismissed as inadmissible his action for annulment of the decision of 25 January 2011 (‘the contested decision’) whereby the European Parliament’s Committee on Petitions (‘the Committee on Petitions’) concluded its examination of the petition submitted by Mr Schönberger.

### Background to the dispute

- 2 On 2 October 2010, Mr Schönberger, a former official of the Parliament, submitted a petition to the latter, pursuant to Article 227 TFEU, in which he requested the Parliament to take measures relating to his personal situation as an official of the Parliament in order to give effect to a recommendation made by the European Ombudsman.
- 3 By the contested decision, the Committee on Petitions informed the appellant that his petition had been declared admissible in accordance with the Rules of Procedure of the Parliament, that it would be referred to the Director-General for Personnel and that the petition procedure was therefore closed.

### The action before the General Court and the judgment under appeal

- 4 By application lodged at the Registry of the General Court on 26 March 2011, Mr Schönberger sought annulment of the contested decision. In support of his action, he submitted that the content of his petition had not been examined even though the Committee on Petitions had declared it admissible. The Parliament raised a plea of inadmissibility. In the alternative, the Parliament claimed that the action should be dismissed as being unfounded.
- 5 By the judgment under appeal, the General Court dismissed the action as being inadmissible on the ground that the contested decision did not constitute an act against which an action for annulment could be brought.
- 6 It took the view, in paragraphs 16 and 19 of the judgment under appeal, that, although the decision to file a petition as inadmissible affects the right of the persons concerned to submit a petition, the same cannot be said of a decision, taken after a petition has been declared admissible, on how that petition should be dealt with, which constitutes a political assessment which is not amenable to review by the Courts of the European Union.
- 7 The General Court inferred from this, in paragraph 23 of the judgment under appeal, that, in the present case, as the petition had been declared admissible, the contested decision could neither bring about a distinct change in the appellant’s legal position nor adversely affect his interests. The General Court accordingly held, without examining the other pleas in law, that the action was inadmissible and ordered the appellant to bear his own costs and to pay those incurred by the Parliament.

### Forms of order sought

- 8 Mr Schönberger claims that the Court should:
- set aside the judgment under appeal;
  - uphold his action at first instance seeking annulment of the contested decision; and

— order the Parliament to pay the costs.

9 The Parliament claims that the Court should:

— dismiss the appeal; and

— order the appellant to pay the costs.

### **The appeal**

- 10 The appellant relies on four grounds of appeal. By the first ground of appeal, alleging distortion of the facts, he claims that the General Court, in its summary of the content of the contested decision, failed to note that the content of the petition had not been examined by the Parliament. By his second ground of appeal, the appellant claims that the General Court erred in law in holding that only the rejection of a petition as inadmissible would have been liable to restrict his right of petition and, accordingly, capable of affecting his legal position. By his third ground of appeal, he alleges a failure to state reasons for the judgment under appeal, in that the General Court failed to rule on the inadequate reasoning in the contested decision. Lastly, by his fourth ground of appeal, the appellant complains that the General Court did not address his plea alleging that it was impossible for him to present his case before the Committee on Petitions.
- 11 The Parliament contends that the appellant's grounds of appeal should be rejected as being inadmissible or manifestly unfounded.
- 12 By his second ground of appeal, which it is appropriate to examine first, the appellant submits that the General Court erred in dismissing his action for annulment as inadmissible. He submits that a decision whereby the Committee on Petitions, having agreed to consider a petition, deals with that petition by, as in the present case, referring it to the Parliament's Director-General for Personnel is a decision which adversely affects the person concerned and may therefore be the subject of an action for annulment.
- 13 In that respect, it must be noted that, pursuant to the first paragraph of Article 263 TFEU, the Court is required to review the legality of acts of the Parliament which are intended to produce legal effects vis-à-vis third parties. Acts the legal effects of which are binding on, and capable of affecting the interests of, an applicant by bringing about a distinct change in his legal position are acts which may be the subject of an action for annulment (see, inter alia, judgment in *IBM v Commission*, 60/81, EU:C:1981:264).
- 14 The right of petition is set out in Article 20(2)(d) TFEU, the second paragraph of Article 24 TFEU, Article 227 TFEU and Article 44 of the Charter of Fundamental Rights of the European Union. It follows from all of those provisions that the right of petition is a fundamental right which is to be exercised under the conditions laid down in Article 227 TFEU.
- 15 Pursuant to Article 227 TFEU, the right of petition is open not only to any citizen of the European Union but, more generally, to any natural or legal person residing or having its registered office in a Member State. The right may be exercised individually or collectively. The petition must relate to one of the European Union's 'fields of activity' and must 'directly' affect the person or persons submitting it.
- 16 As to whether any decision taken, as a result of a petition, by the Committee on Petitions or by the Parliament itself may be the subject of an action for annulment, it must be pointed out, first of all, that none of the provisions of the TFEU referred to in paragraph 14 above provides for a decision-making power of the Parliament in relation to petitions.

- 17 The right of petition is an instrument of citizen participation in the democratic life of the European Union. It is one of the means of ensuring direct dialogue between citizens of the European Union and their representatives.
- 18 The nature of the relationship between the Parliament and those who address it by means of a petition is confirmed by the rules laid down by the Parliament for the examination of petitions in Rules 215 to 217 of the Rules of Procedure of the European Parliament, in the version currently in force (Rules of Procedure of the European Parliament, 8<sup>th</sup> Parliamentary term — July 2014, not yet published in the OJ). Notwithstanding the addition of certain details, these rules are substantially identical to the relevant rules that were in force at the time of the events giving rise to the present dispute (Rules of Procedure of the European Parliament — 16<sup>th</sup> Edition — July 2004, OJ 2005 L 44, p. 1).
- 19 Thus, in Rule 215 of the Parliament's Rules of Procedure, the Parliament laid down various additional rules relating to the formal conditions which petitions must satisfy and to the language in which a petition is to be written, as well as to the requirement that a representative be appointed in the case of a collective petition. Petitions which meet the formal conditions are to be entered in a 'register', while those that do not are to be filed, and the petitioner informed of that filing and of the reasons for it. Petitions entered in the register are to be forwarded by the President of the Parliament to the Committee on Petitions, which is to establish 'the admissibility or otherwise of the petition in accordance with Article 227 [TFEU]', a petition being declared 'admissible' at the request of at least one quarter of the members of that committee. In cases where petitions are considered inadmissible, the petitioner is to be informed of that decision and of the reasons for it, and 'alternative means of redress' may be recommended to him.
- 20 Lastly, it must be noted that, in Rule 215(13), the Parliament acknowledges that it may consider petitions addressed to it by persons who are neither citizens of the European Union nor reside nor have their registered office there, which the Committee on Petitions 'wishes to consider'.
- 21 Rule 216 of the Parliament's Rules of Procedure, in the version currently in force, sets out the actions to be taken in relation to the petitions which are examined by the Committee on Petitions 'in the course of its normal activity', where appropriate in the presence of the petitioner, to whom the right to speak is to be granted at the discretion of the chairperson of that committee. The Committee on Petitions may decide to draw up an own-initiative report or, with the agreement of the Conference of Presidents, a short motion for a resolution. It is, in certain cases, required to cooperate with other committees, may request assistance from the European Commission, and may decide to organise fact-finding visits to the Member State or region concerned by the petition in question. The Committee on Petitions may ask the President of the Parliament to forward its opinion or recommendation to the Commission, the Council of the European Union or the Member State concerned for action or response. The Committee on Petitions is required to inform the Parliament every six months of the outcome of its deliberations and, in particular, of the measures taken by the Council or the Commission on petitions referred to them. The petitioner is to be informed of the decision taken by the Committee on Petitions and the reasons for that decision. When consideration of an admissible petition has been concluded, it is to be declared closed and the petitioner informed accordingly.
- 22 In those circumstances, a decision by which the Parliament considers that a petition addressed to it does not meet the conditions laid down in Article 227 TFEU must be amenable to judicial review, since it is liable to affect the right of petition of the person concerned. The same applies to a decision by which the Parliament, disregarding the very essence of the right of petition, refuses to consider, or refrains from considering, a petition addressed to it and, consequently, fails to verify whether it meets the conditions laid down in Article 227 TFEU.

- 23 A negative decision by which the Parliament takes the view that the conditions laid down in Article 227 TFEU have not been met must provide a sufficient statement of reasons to allow the petitioner to know which of those conditions was not met in his case. In that respect, contrary to the assessment made by the General Court in paragraph 28 of its judgment in *Tegebauer v Parliament* (T-308/07, EU:T:2011:466), that requirement is satisfied by a summary statement of reasons, such as the one provided in the Parliament's decision at issue in the case which gave rise to that judgment.
- 24 By contrast, it is clear from the provisions of the TFEU and from the rules adopted by the Parliament for the organisation of the right of petition that, where the Parliament takes the view that a petition meets the conditions laid down in Article 227 TFEU, it has a broad discretion, of a political nature, as regards how that petition should be dealt with. It follows that a decision taken in that regard is not amenable to judicial review, regardless of whether, by that decision, the Parliament itself takes the appropriate measures or considers that it is unable to do so and refers the petition to the competent institution or department so that that institution or department may take those measures.
- 25 In the present case, it is evident from the judgment under appeal itself that the Parliament, far from disregarding the appellant's right to petition it, examined the petition addressed to it, took a decision as to its admissibility and decided to refer it to the Parliament's Director-General for Personnel for further action, thereby dealing with the petition in the manner which it deemed appropriate.
- 26 In view of the foregoing considerations, and since the other grounds of appeal are, in those circumstances, ineffective, the appeal must be dismissed.

### **Costs**

- 27 In accordance with Article 184(2) of the Rules of Procedure of the Court of Justice, where the appeal is unfounded, the Court is to make a decision as to costs. Under Article 138(1) of those Rules, applicable to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Parliament has applied for costs against the appellant, and the latter has been unsuccessful, the appellant must be ordered to pay the costs.

On those grounds, the Court (Grand Chamber) hereby:

- 1. Dismisses the appeal;**
- 2. Orders Mr Peter Schönberger to pay the costs.**

[Signatures]