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Article 44 of the Charter of Fundamental Rights of the European Union on the right of petition

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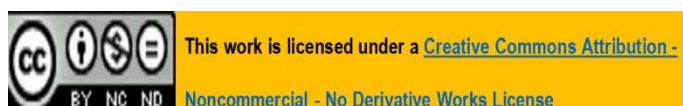
Hello, welcome. I am Valentín Bou, and in this video I am going to talk to you about article 44 of the Charter, concerning the Right of Petition.

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Article 44 of the Charter of Fundamental Rights of the European Union, entitled Right of petition, states the following: 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.

According to the Explanations to Article 44 of the Charter: the right guaranteed in this Article is the right guaranteed by Articles 20 and 227 of the Treaty on the Functioning of the European Union. In accordance with Article 52(2), it shall apply under the conditions laid down in those two Articles.

As regards the ownership and exercise of the



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right of petition, the Court of Justice has held that, under Article 227 of the Treaty on the Functioning of the European Union, the right of petition is enjoyed not only by citizens of the Union but also, more generally, by any natural or legal person residing or having its registered office in a Member State. This right may be exercised individually or collectively. The petition must relate to one of the Union's fields of activity and be of direct concern to the petitioner(s).

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As regards judicial review of the inadmissibility decisions of the Committee on Petitions, the General Court has held that, on this point, it should be recalled that, although the European Parliament's actions in response to a petition declared admissible do not fall within the scope of review by the European Union judicature, since Parliament enjoys full political discretion in that regard, the assessment of the admissibility of a petition must nevertheless be subject to judicial review, since it is only that review which guarantees the effectiveness of the right to submit a petition laid down by Article 227 of the Treaty on the Functioning of the European Union. A decision of the Committee on Petitions declaring a petition inadmissible and dismissing it without further action is liable to affect the very substance of the right of citizens to submit

petitions, as enshrined in the Treaties establishing the European Union, and therefore constitutes a decision which may be challenged by annulment.

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For its part, the Court of Justice has supplemented these ideas, stating that: it follows from the provisions of the Treaty on the Functioning of the European Union and the rules adopted by the European Parliament for the exercise of the right of petition that, in the case of a petition which it has found to satisfy the conditions laid down in Article 227, the Parliament has a wide margin of discretion, of a political nature, as to the answer to be given to that petition. It follows that a decision taken in that regard is not subject to judicial review, irrespective of whether, by that decision, it is Parliament itself which adopts the measures indicated or whether it considers that it cannot do so and forwards the petition to the competent institution or department for that institution or department to adopt those measures.

The Court of Justice added that it is clear from the findings in the judgment under appeal that the Parliament, far from infringing the appellant's right to address him by means of a petition, examined the petition received, ruled on its admissibility, and decided to forward it for further processing to the Parliament's Director General of Personnel, thus

giving him the reply it considered appropriate. It therefore dismissed the appeal.

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As regards the duty to state reasons for the closure of a petition declared inadmissible, the General Court has stated, first, that the citizen who has submitted a petition must be given the opportunity to understand the reasons why the European Parliament considered it inadmissible and closed it without further action. It is for the Parliament to assess the petition submitted to it, but also to give reasons for its decision to reject it, given the impact of that decision on the effective exercise of the right to petition, as enshrined in the founding Treaty. This is a consequence of the very nature of this right, which allows citizens to address Parliament formally and directly and thus helps to legitimise the action of the institutions.

Second, the General Court has added that the requirement to state reasons must be assessed in the light of the circumstances of the particular case, in particular the content of the act, the nature of the grounds relied on and the interest which the addressees may have in receiving explanations. The statement of reasons is not required to specify all the relevant matters of fact and of law, since the question whether the statement of reasons for an act satisfies the requirements of Article 296 of the

Treaty on the Functioning of the European Union must be assessed not only by reference to its wording, but also to its context and to the body of legal rules governing the matter in question.

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For its part, the Court of Justice has held, first, that a decision by which the European Parliament considers that a petition addressed to it does not satisfy the conditions laid down in Article 227 of the Treaty on the Functioning of the European Union must be open to judicial review, since it may affect the right of petition of the person concerned. The same applies to a decision by which the Parliament, in disregard of the very substance of the right of petition, decides not to take cognisance of a petition addressed to it and, consequently, not to verify whether it satisfies the requirements laid down in Article 227 of the Treaty on the Functioning of the European Union.

Second, the Court has added that a negative decision of the European Parliament as regards the question whether the conditions laid down in Article 227 of the Treaty on the Functioning of the European Union are satisfied must be reasoned, so that the petitioner can know which condition is not satisfied in his case. In that regard, contrary to the assessment made by the General Court, a succinct statement of reasons, such as that contained in the

Parliament's decision at issue in the case in which that judgment was delivered, satisfies that requirement.

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That is all I had to say to you. Thank you very much for your attention.