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on the impact of extensive urbanisation in Spain on individual rights of European citizens, on the environment and on the application of EU law, based upon petitions received
(2008/2248(INI))

Committee on Petitions

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**on the impact of extensive urbanisation in Spain on individual rights of European citizens, on the environment and on the application of EU law, based upon petitions received
(2008/2248(INI))**

The European Parliament,

- having regard to the petitions contained in the annex hereto, notably Petition 0609/03,
 - having regard to the right of petition enshrined in Article 194 of the EC Treaty,
 - having regard to Rule 192(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions and the opinion of the Committee on Legal Affairs (A6-0082/2009),
- A. whereas the petitions process provides European citizens and residents with a means of obtaining non-judicial redress for their grievances when these concern issues arising from the fields of activity of the European Union,
- B. whereas Article 6(1) of the Treaty on European Union states that “the Union is founded on the principles of liberty, democracy, respect for human rights and the rule of law, principles which are common to the Member States”,
- C. whereas in Article 6(2) of the EU Treaty the Union commits itself to respect fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR),
- D. whereas any citizen or resident of a state signatory to the ECHR who considers that his/her human rights have been violated should approach the European Court of Human Rights in Strasbourg, bearing in mind that before bringing any proceedings before that Court he/she must exhaust all domestic remedies, as is laid down in Article 35 of the ECHR,
- E. whereas Article 7 of the EU Treaty provides for procedures whereby the Union can respond to breaches of the principles mentioned in Article 6(1) and seek solutions,
- F. whereas Article 7 also gives Parliament the right to make a reasoned proposal to the Council for determination of the question whether there is a clear risk of a serious breach by a Member State of the values on which the Union is founded,
- G. whereas Article 7 of the Charter of Fundamental Rights of the European Union guarantees the protection of privacy and family life, including the private home of citizens, and whereas Article 8 of the ECHR confers the same rights and clarifies that “there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for

the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”; whereas Parliament, the Council and the Commission have committed themselves to respecting the Charter in all their activities,

- H. whereas the right to private property is recognised as a fundamental right of European citizens in Article 17 of the Charter of Fundamental Rights, which provides that “everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions”, that “no one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss”, and that “the use of property may be regulated by law in so far as is necessary for the general interest”,
- I. whereas Article 18 of the EC Treaty provides that “every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and the measures adopted to give it effect”,
- J. whereas according to Article 295, the EC Treaty “shall in no way prejudice the rules in Member States governing the system of property ownership”; whereas, according to the case-law of the Court of Justice, that provision merely recognises the power of Member States to define the rules governing the system of property ownership; and whereas the case-law of the Court of Justice has confirmed that the competence of Member States in this respect must always be applied in conjunction with the fundamental principles of Community law, such as the free movement of goods, persons, services and capital (see the judgment of 22 June 1976 in Case C-119/75 *Terrapin v Terranova* [1976] ECR 1039),
- K. whereas, however, the Court of Justice has consistently held that, whilst the right to property forms part of the general principles of Community law, it is not an absolute right and must be viewed in relation to its social function and whereas, consequently, its exercise may be restricted, provided that those restrictions in fact correspond to objectives of general interest pursued by the Community and do not constitute a disproportionate and intolerable interference, impairing the very substance of the rights guaranteed (see the judgment of 10 December 2002 in Case C-491/01 *British American Tobacco (Investments) and Imperial Tobacco* [2002] ECR I-11453),
- L. whereas, notwithstanding that case-law, the Court of Justice has consistently held that, where national provisions fall outside the scope of Community law, there is no Community jurisdiction to assess the compatibility of those provisions with the fundamental rights whose observance the Court ensures (see, for instance, the order of 6 October 2005 in Case C-328/04 *Vajnai* [2005] ECR I-8577, paragraphs 12 and 13),
- M. whereas the first paragraph of Article 1 of the first Additional Protocol to the ECHR declares that “[e]very natural or legal person is entitled to the peaceful enjoyment of his possessions” and that “[n]o one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”; whereas the second paragraph of that article states that “[t]he preceding provisions shall not, however, in any way impair the right of a State to enforce

such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties”; and whereas, at the time of ratification of the said Protocol, Spain expressed a reservation in respect of Article 1 in the light of Article 33 of the Spanish Constitution, which provides as follows: “The right to private property and inheritance is recognised. 2. The social function of these rights shall determine the limits of their content in accordance with the law. 3. No one may be deprived of his or her property and rights, except on justified grounds of public utility or social interest and with a proper compensation in accordance with the law.”,

- N. whereas Parliament considers that the obligation to cede legitimately acquired private property without due process and proper compensation and the obligation to pay arbitrary costs for unrequested and often unnecessary infrastructure development constitute a violation of an individual's fundamental rights under the ECHR and in the light of the case-law of the European Court of Human Rights (see, for instance, *Aka v. Turkey*¹),
- O. whereas in 2008 the Spanish authorities issued instructions regarding the application of the 1988 Coastal Law, which had been neglected for many years during which time extensive environmental damage was done to coastal areas in Spain; whereas even the current instructions do not provide for clear implementing measures to be followed by the local and regional authorities involved, and whereas many new petitions received bear witness to the retroactive contents of the instructions and the arbitrary destruction and demolition of individuals' legitimately acquired property, their rights to such property and their ability to transfer their rights by means of inheritance,
- P. whereas, in view of the actual course of the demarcation line, those affected have formed the strong impression that it has been defined arbitrarily at the expense of foreign owners, for example on the island of Formentera,
- Q. whereas the Coastal Law impacts disproportionately on individual property owners who should have their rights fully respected, and at the same time insufficiently on the real perpetrators of coastal destruction, who have in many instances been responsible for excessive urban developments along the coasts, including holiday resorts, and who had good grounds for knowing that they were invariably acting contrary to the provisions of the law in question,
- R. whereas in the course of the current parliamentary term the Committee on Petitions, acting in response to the very large number of petitions received, has conducted detailed investigations, has reported three times on the extent of the abuse of the legitimate rights of EU citizens to their legally acquired property in Spain, and has also detailed its concerns in relation to the undermining of sustainable development, environmental protection, water quality and provision, procedures concerning public procurement with regard to urbanisation contracts and insufficient control of urbanisation procedures by

¹ Judgment of 23 September 1998; see also Parliament's resolution of 21 June 2007 on the results of the fact-finding mission to the regions of Andalucía, Valencia and Madrid conducted on behalf of the Committee on Petitions (OJ C 146 E, 12.6.2008, p. 340).

- many local and regional authorities in Spain¹, which matters are currently the subject of legal proceedings both in Spain and before the Court of Justice,
- S. whereas there are many examples of cases where every level of authority, from central to autonomous and local, has been responsible for setting in motion a model for unsustainable development that has had extremely serious environmental consequences, as well as economic and social repercussions,
- T. whereas Parliament has received many petitions from private individuals and from various organisations representing EU citizens, complaining about different aspects of urbanisation, and whereas it has noted that many of the issues raised in the petitions submitted in relation to urban expansion do not constitute infringements of Community law, as is evidenced by the communications to the Member States, and should be settled by exhausting the legal remedies available in the Member States concerned,
- U. whereas there is growing evidence that the judicial authorities in Spain have begun to respond to the challenge resulting from excessive urbanisation in many coastal areas, in particular by investigating and bringing charges to bear against certain corrupt local officials who, by their actions, have facilitated unprecedented and unregulated urban developments to the detriment of the rights of EU citizens, thereby damaging irretrievably the biodiversity and environmental integrity of many regions of Spain; whereas Parliament has observed, however, in response to such charges, that procedures remain outrageously slow and that the sentences handed down in many of these cases are incapable of being enforced in a way which provides any satisfaction to the victims of such abuse, and whereas this has strengthened the impression shared by many non-Spanish EU citizens affected regarding the inactivity and/or partiality of Spanish justice; whereas it is noteworthy, however, that there is also an avenue of appeal to the European Court of Human Rights, once domestic remedies have been exhausted,
- V. whereas such widespread activity, supported by irresponsible local and regional authorities through inadequate and sometimes unjustified legislation which in many cases runs counter to the objectives of several European legislative acts, has been most damaging to the image of Spain and to its broader economic and political interests in Europe, as have the lax application of the urban planning and environmental laws in force in the Spanish autonomous communities to certain urban development operations, as well as the emergence of major cases of corruption stemming from such abuse,
- W. whereas regional ombudsmen have frequently acted, in very difficult circumstances, to defend the interests of EU citizens in cases related to urbanisation abuses, although in some autonomous communities regional governments have on occasion been able to pay no heed to their efforts,
- X. whereas Article 33 of the Spanish Constitution makes reference to the rights of individuals to their property, and whereas there have been different interpretations of that article, notably as regards the provision of property for social use as opposed to the rights

¹ See the above-mentioned resolution of 21 June 2007 and the resolution of 13 December 2005 on the alleged abuse of the Valencian Land Law or Ley Reguladora de la Actividad Urbanística (LRAU – law on development activities) and its effect on European citizens (Petitions 609/2003, 732/2003, 985/2002, 111272002, 107/2004 and others) (OJ C 286 E, 23.11.2006, p.225).

- of individuals to their legally acquired homes and dwellings; whereas no ruling on the application of the land laws in the Valencian region has been given,
- Y. whereas Article 47 of the Spanish Constitution provides that all Spaniards have the right to enjoy decent and adequate housing, and tasks the public authorities with promoting the requisite conditions and establishing the relevant rules to make that right effective, and with regulating land use in the general interest in order to prevent speculation,
- Z. whereas the national government in Spain has a duty to apply the EC Treaty and to defend and ensure the full application of European law on its territory, irrespective of the internal organisation of the political authorities as established by the Constitution of the Kingdom of Spain,
- Aa. whereas the Commission, acting pursuant to the powers conferred on it by Article 226 of the EC Treaty, has brought proceedings against Spain before the Court of Justice in a case involving the excessive urbanisation abuses which have occurred in Spain which directly concerns the implementation by the Valencian authorities of the Directive on Public Procurement¹,
- Ab. whereas the Commission, at the request of the Committee on Petitions, has launched an investigation into more than 250 urbanisation projects which have received a negative opinion from the competent water authorities and river basin authorities and which may therefore place the projects in contravention of the Water Framework Directive², notably in Andalucía, Castilla-la-Mancha, Murcia and Valencia,
- Ac. whereas many of those urbanisation projects are detached from consolidated urban areas which require substantial expenditure in respect of basic services such as electricity and water supplies and road infrastructure; whereas investment in those projects often includes an element of EU funding,
- Ad. whereas in many documented cases of urbanisation problems in Spain the Commission has failed to act sufficiently forcefully, not only as regards enforcement of the precautionary principle of environmental law but also because of its lax interpretation of acts by competent local or regional authorities which have binding legal effect, such as the “provisional approval” of an integrated urban development plan by a local authority,
- Ae. whereas the objective of the Strategic Environmental Impact Assessment Directive³, Article 3 of which explicitly covers tourism and urbanisation, is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development; and whereas the Water Framework Directive requires Member States to prevent the deterioration of their waters and to promote the sustainable use of their fresh water resources,

¹ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

² Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

³ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

- Af. whereas successive fact-finding visits by the Committee on Petitions have shown that these objectives seem to be frequently misunderstood by some local and regional authorities (not just in the coastal regions) when proposing or agreeing to extensive urbanisation programmes; whereas most urbanisation plans contested by petitions involve the reclassification of rural land into land zoned for urbanisation – to the considerable economic benefit of the urbanisation agent and the developer; and whereas there are also many instances of protected land, or land which should be protected because of its sensitive biodiversity, being de-listed and reclassified, or not being listed at all, precisely to allow for urbanisation of the area concerned,
- Ag. whereas such considerations compound the abuse which is felt by thousands of EU citizens who, as a result of the plans of the urbanisation agents, have not only lost their legitimately acquired property but have been forced to pay the arbitrary cost of unwanted, often unnecessary and unwarranted infrastructure projects directly affecting their property rights, the end result of which has been financial and emotional catastrophe for many families,
- Ah. whereas many thousands of European citizens have, in different circumstances, bought property in Spain in good faith acting with local lawyers, town planners and architects, only to find later that they have become victims of urbanisation abuse by unscrupulous local authorities and that, as a result, their property faces demolition because their homes have been found to be illegally built and therefore worthless and unsaleable,
- Ai. whereas real estate agents in Member States such as the UK, and other providers of services related to the real estate market in Spain, continue to market property in new urbanisations even when they are necessarily aware that there is a clear possibility that the project in question will not be completed or built,
- Aj. whereas the natural Mediterranean island and coastal areas of Spain have suffered extensive destruction in the last decade as cement and concrete have saturated these regions in a way which has affected not only the fragile coastal environment – much of which is nominally protected under the Habitats¹/Natura 2000 and Birds² Directives, such as urbanisations in Cabo de Gata (Almería) and in Murcia – but also the social and cultural activity of many areas, which constitutes a tragic and irretrievable loss to their cultural identity and heritage as well as to their environmental integrity, and all this primarily because of the absence of supra-municipal planning or regional planning guidelines placing reasonable limits on urban growth and development, set on the basis of explicit criteria of environmental sustainability, and because of the greed and speculative behaviour of certain local and regional authorities and members of the construction industry who have succeeded in deriving massive benefits from their activities in this regard, most of which have been exported³,
- Ak. whereas this model of growth also has negative consequences for the tourism sector, since it has a devastating impact on quality tourism given that it destroys local values and encourages excessive urban expansion,

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

² Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1).

³ Note the recent reports issued by the Bank of Spain, Greenpeace and Transparency International.

- Al. whereas this is a model that pillages cultural goods and ruins the values and distinct features of identity that are fundamental to Spain's cultural diversity, destroying archaeological sites, buildings and places of cultural interest, as well as the natural environment and landscape surrounding them,
- Am. whereas the building industry, having made considerable profits during the years of rapid economic expansion, has become a primary casualty of the current collapse of the financial markets, itself partly provoked by speculative ventures in the housing sector, and whereas this affects not only the companies themselves, who are now confronted with bankruptcy, but also the tens of thousands of workers in the building industry who now face unemployment because of the unsustainable urbanisation policies which were pursued and of which they now have also become victims,
1. Calls on the Government of Spain and of the regions concerned to carry out a thorough review and to revise all legislation affecting the rights of individual property owners as a result of massive urbanisation, in order to bring an end to the abuse of rights and obligations enshrined in the EC Treaty, in the Charter of Fundamental Rights, in the ECHR and in the relevant EU Directives, as well as in other conventions to which the EU is a party;
 2. Calls on the Spanish authorities to abolish all legal forms that encourage speculation, such as urbanisation agents;
 3. Considers that the competent regional authorities should suspend and review all new urbanisation plans which do not respect the strict criteria of environmental sustainability and social responsibility and which do not guarantee respect for the rightful ownership of legitimately acquired property, and to halt and cancel all existing developments where criteria laid down in EU law, notably as regards the award of urbanisation contracts and compliance with provisions relating to water and the environment, have not been respected or applied;
 4. Requests the Spanish authorities to ensure that no administrative act that would oblige a citizen to cede legitimately acquired private property finds its legal base in a law which has been adopted after the date of construction of the property in question, since this would infringe the principle of non-retroactivity of administrative acts which is a general principle of Community law (see the judgment of the Court of Justice of 29 January 1985 in Case 234/83 *Gesamthochschule Duisburg* [1985] ECR 327) and would undermine guarantees affording citizens legal certainty, confidence and legitimate expectations of protection under EU law;
 5. Calls on the Spanish authorities to develop a culture of transparency geared to informing citizens about soil management and fostering effective mechanisms for public information and participation;
 6. Urges the Spanish Government to hold a public debate, with the participation of all administrative bodies, that would involve a rigorous study through the setting-up of a working committee on urban development in Spain and that would make it possible to take legislative measures against speculation and unsustainable development;

7. Urges the competent national and regional authorities to establish functioning judicial and administrative mechanisms, involving the regional ombudsmen, which are given the authority to provide ways of speeding up redress and compensation for victims of urbanisation abuse who have suffered as a result of the application of the provisions of existing legislation;
8. Requests the competent financial and commercial bodies concerned with the construction and urbanisation industry to work together with the political authorities in seeking solutions to the problems resulting from large-scale urbanisation, which has affected numerous EU citizens who have chosen to take advantage of the provisions of the EU Treaty and who have exercised their rights of establishment under Article 44 in a Member State which is not their country of origin;
9. Urges the competent national, regional and local authorities to guarantee a fair settlement for the many ongoing cases of EU citizens affected by non-completion of their houses as a result of the poor planning and coordination between institutions and construction companies;
10. Points out that, if aggrieved parties fail to obtain satisfaction in the Spanish courts, they will have to appeal to the European Court of Human Rights, given that the alleged violations of the fundamental right to property do not come within the jurisdiction of the Court of Justice;
11. Calls on the EU institutions to provide advice and support, if requested so to do by the Spanish authorities, in order to provide them with the means to surmount effectively the disastrous impact of massive urbanisation on citizens' lives within a duly short yet reasonable time-frame;
12. Calls on the Commission, at the same time, to ensure strict respect for the application of Community law and of the objectives laid down in the Directives covered by this resolution, so that compliance therewith can be assured;
13. Expresses its deep concern and dismay that the legal and judicial authorities in Spain have encountered difficulties in dealing with the impact of massive urbanisation on peoples' lives, as evidenced by the thousands of representations received by Parliament and its responsible committee on this issue;
14. Considers it alarming that there appears to be a widespread lack of confidence among the petitioners in the Spanish judicial system as an effective means of obtaining redress and justice;.
15. Expresses concern over the lack of correct transposition of the Directives on money laundering¹, which is currently the subject of Treaty infringement proceedings and which

¹ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15); Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (OJ L 214, 4.8.2006, p. 29).

has limited the transparency and legal pursuit of the illicit circulation of financial capital including investments in certain large-scale urbanisation projects;

16. Takes the view that persons who have bought property in Spain in good faith, only to find that the transaction has been declared illegal, should have the right to appropriate compensation through the Spanish courts;
17. Considers that if private individuals who have bought property in Spain in the knowledge of the likely illegality of the transaction concerned can be obliged to bear the costs of their risk-taking, this must apply by analogy *a fortiori* to professionals in the field; considers therefore that developers who have entered into contracts the unlawfulness of which they should have known about ought not to be entitled to compensation for plans that are abandoned due to non-compliance with national and European law, and should not have any automatic right of to recover payments already made to municipalities when these have been made in the knowledge of the likely illegality of the contract entered into;
18. Believes, nevertheless, that the absence of clarity, precision and certainty with regard to individual property rights contained in existing legislation, and the lack of any proper and consistent application of environmental law, are the root cause of many problems related to urbanisation and that this, combined with a certain laxity in the judicial process, has not only compounded the problem but has also generated an endemic form of corruption of which, once again, the EU citizen is the primary victim, but which has also caused the Spanish State to suffer significant loss;
19. Supports the conclusions reached by the Valencian Community's Ombudswoman (Síndica de Greuges) – an institution justly famed for its defence of citizens' fundamental rights – which state that owners' rights may have been affected, whether as a result of being undervalued by the developer, or by such owners having to shoulder sometimes excessive development charges unilaterally imposed by the developer;
20. Considers that access to information and citizens' involvement in the development process need to be guaranteed from the outset of the process, and that environmental information should be made available to citizens in a clear, simple and comprehensible form;
21. Believes that no properly delimited definition of "general interest" has been given either in existing development legislation or by the appropriate authorities, and that this term is used to approve projects which are environmentally unsustainable, and in certain cases to circumvent negative environmental impact assessments and reports by the respective Hydrographic Confederations;
22. Recognises and supports the efforts of the Spanish authorities to protect the coastal environment and, where possible, to restore it in a way which allows bio-diversity and the regeneration of indigenous species of flora and fauna; in this specific context appeals to them to review the Coastal Law as a matter of urgency and if necessary to revise it in order to protect the rights of legitimate home-owners and those who own small plots of land in coastal areas which do not impact negatively on the coastal environment; emphasises that such protection should not be afforded to those developments which are planned as speculative ventures and do not respect the applicable EU environmental Directives; undertakes to review such petitions as have been received on this subject in the

light of responses received from the competent Spanish authorities;

23. Expresses concern over the urban planning situation of the municipality of Marbella in Andalucía, where tens of thousands of homes built illegally, probably in contravention of EU legislation on environmental protection and public participation, water policy and public procurement, are about to be legalised by a new general plan for the town, resulting in an absence of legal certainty and safeguards for home buyers, property owners and citizens in general;
24. Pays tribute to, and fully supports the activities of, the regional ombudsmen (“síndics de greuges”) and their staff, as well as the more assiduous public prosecutors (“fiscales”) who have done a considerable amount to restore the application by the institutions affected of the correct procedures concerning these issues;
25. Also praises the activity of the petitioners, their associations and the local community associations, involving tens of thousands of Spanish and non-Spanish citizens, who have brought these issues to Parliament's attention and who have been instrumental in safeguarding the fundamental rights of their neighbours and of all those affected by this complex problem;
26. Recalls that the Environmental Impact Assessment Directive¹ and the Strategic Environmental Impact Assessment Directive² impose an obligation to consult the public concerned at a stage when plans are being established and drawn up, not – as so often has happened in cases brought to the attention of the Committee on Petitions – after the plans have been *de facto* agreed by the local authority; recalls, in the same context, that any substantial modification to existing plans must also respect this procedure and that plans must also be current and not statistically inaccurate or out of date;
27. Recalls also that the Commission is empowered by Article 91 of Regulation (EC) No 1083/2006³ to interrupt the payment of structural funding, and by Article 92 to suspend such funding to a Member State or region concerned, and to establish corrections in relation to projects in receipt of funding which are subsequently deemed not to have fully complied with the rules governing the application of relevant EU legislative acts;
28. Recalls also that Parliament, as the budgetary authority, may also decide to place funding set aside for cohesion policies in the reserve if it considers this necessary in order to persuade a Member State to end serious breaches of the rules and principles which it is obliged to respect either under the Treaty or as a result of the application of EU law, until such time as the problem is resolved;
29. Reiterates the conclusions contained in its previous resolutions by calling in question the methods of designation of urbanisation agents and the frequently excessive powers often

¹ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.7.1985, p. 40).

² Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

³ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund (OJ L 210, 31.7.2006, p. 25).

given to town planners and property developers by certain local authorities at the expense of communities and the citizens who have their homes in the area;

30. Calls once again on local authorities to consult their citizens and involve them in urban development projects in order to encourage fair, transparent and sustainable urban development where this is necessary, in the interest of local communities and not in the sole interest of property developers, estate agents and other vested interests;
31. Calls on the authorities responsible for urban development to extend development consultation processes to property-owners, with acknowledgement of receipt, whenever there are changes to the classification of their properties, and to propose to local authorities that they issue direct, personal invitations during the zoning plan or reclassification appeal proceedings;
32. Strongly condemns the illicit practice whereby certain property developers undermine by subterfuge the legitimate ownership of property by EU citizens by interfering with land registration and cadastral notifications, and calls on local authorities to establish proper legal safeguards to counter this practice;
33. Reaffirms that, where compensation is payable for loss of property, it should be awarded at a suitable rate and in conformity with the law and the case-law of the Court of Justice and of the European Court of Human Rights;
34. Recalls that the Unfair Commercial Practices Directive¹ obliges all Member States to provide appropriate means of obtaining legal redress and remedies for consumers who have been victims of such practices and to ensure that adequate sanctions are in place to counter such practices;
35. Once again calls on the Commission to initiate an information campaign directed at EU citizens buying real estate in a Member State other than their own;
36. Instructs its President to forward this resolution to the Commission and the Council, to the Government and Parliament of the Kingdom of Spain and the Autonomous Regional Governments and Assemblies, to the national and regional ombudsmen of Spain and to the petitioners.

¹ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market (OJ L 149, 11.6.2005, p. 22).

EXPLANATORY STATEMENT

The draft resolution which is now presented for the consideration of the European Parliament is necessary in order to ensure that the Treaty rights of many thousands of European citizens are respected.

The Petitions Committee did not embark lightly on its course of action which has seen it conduct three fact-finding visits to Spain in the course of this legislature. Parliament itself has adopted two resolutions on this subject endorsing the Committee's findings, the first in 2005 and again in June 2007.¹ Parliament's position as then voted is contained in recital N in this draft resolution. Had anything tangible been done by the responsible authorities at national or local level to respond to concerns previously expressed by this House then it is doubtful whether this resolution would have been necessary. They have not and therefore it is.

Yet, today, thousands of European citizens continue to be victims of a system of massive urbanisation that has, in the view of the Petitions Committee, in many instances ridden roughshod over their legitimate rights as property owners and which has at the same time destroyed the fragile eco-systems and Mediterranean coastal environment in many parts of the Spanish coast-line and hinterland. Petitioners have presented their case for scrutiny on several occasions during well-attended meetings of the Petitions Committee, and the authorities - notably from the Autonomous regions of Valencia and to a lesser extent Andalucía, have used the possibility offered to defend their actions. In the meantime the European Commission has opened an infringement case against Spain, directly related to urbanisation in Valencia and the application of the Public Procurement Directives, and is investigating other allegations of failure to apply EU law in matters related to the Environment and water. A key element is whether the cumulative effect of so many large scale urbanisation schemes lacking a positive water report from the responsible authority would render the application of the Water Framework Directive impossible by denying water for human consumption and for agriculture.

Many European citizens have chosen to live in Spain because of all the advantages the country and its people have to offer, and in so doing have made use of the rights which are granted to all European citizens under the Treaties. But, the problems covered by this report are also experienced by Spanish people themselves who are at least as numerous in terms of the petitions received on this subject.

It is therefore unacceptable for certain political authorities, and party leaders, to claim that the problems are only raised by foreigners who of course can not understand Spanish laws; or, to state that victims have only to address themselves to the nearest court for their situation to be clarified and resolved. Many petitioners have indeed attempted this course of action but without any result; others have not the money to do so. Most are bewildered by the conflicting advice they are given by local authorities and lawyers who they have turned to for counsel but

¹ Report of the First fact-finding visit to Spain, July 2004 PE 346.773.
Report of Mme Janelly Fourtou to the European Parliament, including details of the second fact-finding visit, June 2005. A6-0382/2005
Report of the Third fact-finding visit to Spain, April 2007, PE 386.549.
Resolution adopted by the European Parliament, June 21, 2008. B6-0251/2007

who have helped them little. (Not to mention the many cases where the municipal authorities and the lawyers themselves have been an intrinsic part of the problem.) Most petitioners and many legal practitioners are confounded by the lack of legal certainty and confusion resulting from imprecise or excessively complicated legislation related to urban development and its implications alongside even more confusing implementing provisions. The recently resurrected Coastal Law of 1988 is an additional case in point.

The Petitions Committee recognises that urban planning is a competence of the Autonomous Regions and the municipalities in Spain; it acknowledges that the national authorities also have competence over such matters as the general framework for land law and for such environmental questions as the provision of water, and the protection of listed species. The Committee has no misconception on the scope and applicability of national law and it misleads none of the petitioners on these points. Indeed we have consulted the regional ombudsman, the *Sindic de Greuges*, on a number of occasions.

However, the laws that are applied in these areas must be in conformity with the general provisions of the EU Treaties and with EU legislative acts and it is up to the national government to see that this is so. It is on this legal foundation that the Petitions Committee has acted, based upon petitions received under Article 194 of the EC Treaty.¹

It acts because European citizens have rights under the Treaties; it respects the principle of subsidiarity.

It acts because European citizens have turned to the Petitions Committee for help in resolving their individual and collective personal dramas, and the directly elected members of the European Parliament have responded to defend the rights of their electorate.

It has acted because it believes that all Member States have a political, legal and moral obligation to function according to the essential principles contained in the Treaties, including the Charter of Fundamental Rights signed by the Presidents of the three main EU Institutions. European citizens expect their politicians to respect what they have signed up for and not to try to escape their responsibility.

Clearly the global financial crisis and its implications have impacted harshly on the Spanish construction industry and this is a tragedy for the workforce, but even before the events of autumn 2008, the construction industry was heading for a shock. The years of massive urbanisation and coastal destruction which lead to considerable financial profit for the industry and massive overbuilding - there are now one and a half million new homes waiting for a buyer, and how many new golf courses - based on the irrational and greedy assumptions of property developers and urbanisers, have now lead Spain into a disastrous recession.

The Spanish authorities, in the regions in particular, remain in denial; while the victims are counted in thousands. At best, in many instances, their behaviour has been complacent with regard to individual property rights; at worst they have been downright dismissive.

¹ See in particular: *La Gestión Urbanística en el Derecho de la Unión Europea, del Estado Español y de la Comunidad Valenciana*, by Pr. José Antonio Tardio Pato. Thomson - Editorial Aranzadi, 2007.

The damage to the landscape has been done - as many authoritative reports attest¹ - while the outstanding urbanisation plans remain like so many concrete swords of Damocles over many rural and coastal communities. That is why the resolution calls for local authorities to suspend and review all existing plans and only to proceed when sustainability has been proven, involving the local communities in their choice, and environmental safeguards ensured. Legitimate rights to property must be upheld.

The report of the first fact-finding visit to Spain in 2004 already described in great detail what was going on and its implications. During the second visit certain politicians and developers, sitting side by side in the same meeting room as if to emphasise their umbilical support, even went so far as to say that the situation was the fault of the Petitions Committee which was responsible for loss of investment in the Valencian region, and they said as much directly to the members of the Committee delegation. During the third visit to Valencia in 2007, arrogance was at its height, and members of the delegation were told that the petitions received were fabrications of the Committee's collective imagination. In January I was able to discuss the issue frankly with the Valencian minister responsible though at national level this proved not to be possible.

It is perhaps no coincidence that in parallel to the Committee's ongoing investigations the Spanish judicial and enforcement authorities have also been conducting their inquiries. The result has been, as we all know, an almost endless list of local politicians and officials on mainland Spain and on the islands who have been arrested on corruption charges related to the massive urbanisation deals which have been concluded in the recent period. The fact that more cement and concrete have been used to build homes in Spain during the last decade than in France, Germany and the UK combined has become a well known fact.

This tragedy has of course hidden a valid point made by many people who are critical of the Committee's investigations. That is that, of course, not all local authorities are corrupt, not all have fallen into the honey-trap of easy financial gain. Many have acted responsibly, most local mayors only have the interests of their communities at heart; but the sad fact is that they have also become the victims of massive urbanisation.

Many members of the building industry, with whom your Rapporteur has held meetings, are also victims of the rush to wealth and political power of the biggest players. It will no doubt be the rather smaller building companies who act in a sustainable manner, in association with local requirements and more modest yet environmentally sound objectives who will ultimately emerge to regenerate the industry when once order and regulatory mechanisms are established and respected.

The Petitions Committee has hundreds of individual case studies contained in the documents submitted by petitioners. They cover a rather wide variety of specific situations as can be seen in the table which is annexed to this report. Most petitions have been submitted by individuals on behalf of the residents of a particular community; others have a wider basis of support, some are from very vulnerable elderly persons who feel afraid that their life savings, invested

¹ Greenpeace - Spain : Destrucción a Toda Costa.

Ministerio de Medio Ambiente & Observatorio de la Sostenibilidad en España: Cambios de ocupación del suelo en España; Implicaciones para la sostenibilidad. 2006.

in their retirement home, is to be swallowed up by unscrupulous and irresponsible local dealers.

The Petitions Committee has tried to categorise these petitions in order to make the problems faced by European citizens more easily identifiable to those with the power to deliver solutions, whether the remedy be legal or political. It has, in the resolution suggested certain avenues which could be explored in order to ensure that European citizens are properly compensated for their losses as a result of the land-grab which has been practised. It has called for preventive measures to be established. The precautionary principle must govern the environmental impact assessment of all programmes.

Above all it is calling for more legal certainty and greater respect for legitimate property owners and their rights. Confidence in the Spanish judicial system needs to be restored particularly in the light of statements made by prominent members of the Valencian Bar who said clearly that there was no legal remedy for victims of massive urbanisation. This is in the interests of citizens and municipalities alike.

It is calling for more precise information to be made available and for all developments to be made more transparent with the implications for property owners made clear. Where charges are to be incurred these must be justifiable and reasonable; not arbitrary, which is too often the case at the moment. No person should be deprived of their land or their homes without due process and adequate and proper compensation, in conformity with the jurisprudence of the European Court of Human Rights which all Member States are bound to respect under Article 6(2) of the Treaty on the European Union.

The Committee asks the responsible authorities in Spain to look again and eventually revise legislation where necessary to guarantee the rights contained in the Treaty for property owners, and to cancel all developments where EU law is not respected or applied.¹ New urbanisation plans which do not respect environmental sustainability and social responsibility and the rights of legitimate property owners should be suspended and reviewed. The role of the urbanising agent and the conditions under which tenders have been granted to them by local authorities has been the subject of many petitions and is currently the subject of infringement proceedings before the European Court of Justice. For that reason your rapporteur will not comment any further except to say that the Committee has supported the European Commission fully with this action as have many petitioners.

The Committee understands and supports the Spanish authorities in their attempts to preserve and where possible restore the coastal environment. What it fails to understand is why the 1988 Coastal Law has been resurrected at this stage, in this time, when it has been in practical abeyance for thirty years when so much devastation took place. Why is its application such a shambles and so arbitrary when traditional coastal housing is being demolished and newly developed modern apartments being tolerated? Why were people allowed to buy such property during the last thirty years, respecting all the legal requirements with which they were faced, only to be confronted today with a law with retro-active effect which denies them the rights associated with legitimate ownership? That speculators and property developers

¹ Article 33 of the Spanish Constitution is cited in the resolution; yet its provisions have not been clearly defined in their application by the Constitutional Court as they apply to massive urbanisation projects.

who had the legal resources to know better should be penalised is reasonable; what is not is that people who have bought their property in good faith respecting all the demands made upon them should lose their rights, and that of their families and descendents to their homes.

The European Commission may use the infringement procedure to ensure the compliance of a Member State with its responsibilities under the Treaties or under the terms of EU Directives. The European Parliament, which does not have this weapon at its disposal, may, in duly justifiable cases, use its budgetary authority to achieve similar ends if it decides to do so. Suffice it to say at this stage that there are many instances where massive urbanisation has incorporated elements of EU funding for new infrastructure into the overall programme to allow the Parliament, and its Budgetary Control Committee, to look into such cases more closely if progress is not made to resolve the issues raised by the petitioners with the European Parliament. As rapporteur I naturally very much hope that this will not be necessary.

PetitionNumber	Title	Petitioner	Organisation
0001-97	*Fait des reclamations contre les agissements discriminatoires de la Municipalite de l'urbanisation de "Rosa Flor Park" en Alicante - Espagne	GAILDRAUD ARLETTE null	
0964-01	Negative impact of urban development on the environment in Spain.	SALA JORRO ANA null	Associacio Cultural Ecologista de Calp
1112-02	Urbanisation laws and their abuse in Javea, Alicante, Spain.	RANGER ROGER null	Grupo Accion de Pinomar
0609-03	LRAU Abusive urbanisation projects in Valencia and impact on fundamental rights, environment, public procurement law, water.	SVOBODA CHARLES null	Asociacion Valenciana en Defensa de los Derechos Humanos, Medioambientales y en contra de los Abusos Urbanisticos
1129-03	*sur les pratiques abusives des lois d'urbanisme (LRAU) de la communaute de Valence en Espagne	PERRET LUNDBERG ULLA BRITT null	Agrupacion de Interes Urbanistico "Los Almendros"
0107-04	*sur la loi regissant la construction et l'urbanisme dans la province autonome de Valence (Espagne)	SCHUCKALL KLAUS null	Grupo Aleman
0310-04	Property confiscation in Andalucia - Marbella, Spain.	CORSGREEN PATRICIA ANN null	
0566-04	*sur le pretendu lotissement illegal d'une zone du quartier de Boria, a San Vicente de la Barquera, en Espagne	PENIL GONZALES EMETERIO null	
0822-04	*projets de construction d'appartements sur des parcelles destinees a des villas de style local dans la region	OESS ATTILA null	Los residentes de La Lagunas
0926-04	*fonds europeens en Espagne dans le cadre de la loi sur le developpement urbain promulguee par le gouver. Valence LRAU	STODDART VALERIE null	
0250-05	*Petition concernant le parc naturel de "Las Lagunas de la Mata y Torrevieja"	SANMARTIN GARCIA JOSE null	
0470-05	*Abus urbanistique a Benicassim (Castellon - Comunidad Valenciana)	JUAN JOSE SALVADOR TENA null	Asociacion Ciudadanos de Benicàssim
0535-05	*Investigation of a large property development project in a village in Alicante	Oltra Ann	Informal Association of Affected Local People
0875-05	*Contre le projet d'urbanisation "EL MANISERO" à Betera (Valencia)	Sánchez Quilis Nieves	

0877-05	*Respect de la législation en vigueur concernant un projet d'urbanisation présenté dans la région de Valence	Garcia i Sevilla Bernat	Plataforma Salvem Porxinos
0169-06	*Projet d'urbanisation illégale à l'intérieur du Parque Natural de Cabo de Gara-Nijar, Almeria, Espagne	CALLEJON DE LA SAL Maria Eugenia	
0254-06	*Un projet d'urbanisation dans la vallée d'Aguas Vivas	Gonzalez Perez Angel	
0256-06	*Plainte contre la transaction et utilisation future de terrains municipaux	Marín Segovia Antonio	"Cercle obert" de Benicalap iniciatives sociales y culturales de futuro
0258-06	*Plainte contre le plan general d'aménagement urbain de Galapagar	- -	Plataforma de Vecinos contra el Nuevo PGOU de Galapagar
0259-06	*La procedure d'infraction de la Commission europeenne au sujet de legislation sur l'urbanisation de la "Generalitat Valenciana"	Campos Guinot Victor	Generalitat Valenciana
0260-06	*Non respect des directives européennes en ce qui concerne l'industrie de la construction - Parcent	Cotterill Jacqueline Claire	
0262-06	*Abus dans le secteur de l'urbanisme a Torreblanca	O'Carroll Brian	
0300-06	*Construction d'un bloc de residences sur la plage de "Playa del Esparto"	Martinez Gonzalez Maria Jose	
0368-06	*L'expropriation d'un terrain en Espagne	Cutillas Gimeno Salvador	
0443-06	*Albanature Project, Albatara, Alicanate, Spain - Land Grab under LRAU Law	Marsh Michael	
0611-06	*Dénonciation de projets urbanistiques dans la ville de Monserrat (Espagne)	Badia Molina Antonio	
0651-06	*Expropriation de terrains privés et construction d'un centre commercial et d'un stade de football dans un quartier périphérique de Valencia	MARIN SEGOVIA Antonio	Associacion de Veins i Cultural "Cercle Obert" de Benicalap
0656-06	*Demande d'investigation du "Plan territorial parcial de ordenacion caboblanco Buzanada" à Tenerife	REVERON GONZALEZ José Antonio	Grupo Socialista (PSOE) - Ayuntamiento de Arona - Tenerife
0728-06	*Violation of Environmental Assessment European Law	Moya Garcia Nicolás Antonio	
0732-06	*Their problems in Spain concerning granting of illegal building licences by the Zurgena Council	Tinmurth Steve	
0734-06	*The appropriation of land by the regional government of Andalusia	Wheatley Antony	

0773-06	*Manquement aux directives 79/409/CE et 85/337/CE concernant un projet urbanistique des municipalités de Torrelodones, Rascafria, Moralzarzal, Las Rozas de Madrid y Galapagar situées au nord et nord est de la Commune de Madrid	SIMANCAS SIMANCAS Rafael	Grupo Parlamentario Socialista
0906-06	*Protection de l'environnement dans la Commune de Valencia	Schmit Leonardo	
0907-06	*Irrégularités concernant le projet d'urbanisation de la zone du "Coto de Catalá"	Edo Vázquez José Vicente	Agrupación de Interés Urbanístico "Paraje Tos Pelat"
0926-06	*La conversion d'un terrain en terrain a Batir	Arribas Ugarte Carlos	Ecologistas en Acción del País Valenciano
0964-06	*Contre "El Proyecto de Actuación Integrada (PAI) Nou Mil lenni " à Catarroja (Espagne)	Royo Alfonso Juan Carlos	Plataforma "Salvem Catarroja"
0993-06	*Abus urbanistiques et environnementaux de la part de certaines institutions locales sur le littoral de Benidorm	GONZALEZ GONZALEZ Enrique	
0995-06	*Demande d'arrêt du projet de construction Pai Abadia dans la localité de Canet de Berenguer (Valencia) et possibilité de mettre sur pied un referendum sur ce projet considéré comme une abérration urbanistique	SALVA SOLER Francisco	Vecinos de Canet
0997-06	*Dénonciation d'un projet d'urbanisation touristique à l'intérieur d'un espace naturel protégé situé à El Gordo y Berrocalejo (Caceres, Estremadura)	VALIENTE Jesus	ADENEX
1017-06	*Projet urbanistique dans la région autonome d'Aragon et ses impactes néfastes sur l'environnement	BARRENA SALCES ADOLFO	Izquierda Unida de Aragon
0001-07	by W.S. (Spanish), on behalf of the Asociación Vecinos de Monchells, on infringement of the EC environmental legislation by a construction project launched in Las Atalayas (Peníscola, Castellón, Spain)	SPIESS Wolfgang	
0002-07	by Ingrid Schramm-Knoch (German), on her problems associated with purchase of property in Spain	SCHRAMM KNOCH Ingrid	
0013-07	by Mr D. Wheeler (British), on problems related to buying a property in Catral (Alicante, Spain)	WHEELER D.	
0016-07	by Ms Sophia Vilchez Lopez (Spanish), on behalf of Asociacion de Vecinos Copropietarios, on unreasonable urban development planning in Tibi (Alicante)	VILCHEZ LOPEZ Sofia	Asociacion de vecinos copropietarios

0017-07	by Mr Manuel Gómez Costa (Spanish), on behalf of Asociacion de vecinos 'San Miguel Arcangel', on the detrimental impact of the implementation of the urban development plan for San Miguel de Salinas	Gomez Costa Manuel	Asociación de Vecinos "San Miguel Arcángel"
0018-07	by Ms Isabel Fernandez Sanchez (Spanish), on behalf of Amigos de la Canadas, on the negative impact of a project concerning the regeneration of the northern beach in Peníscola (Castelón, Valencia) on Marjal o Prat, a Natura 2000 protected area	FERNANDEZ SANCHEZ Isabel	Amigos de las Canadas (Proyecto 2000)
0056-07	by Jesús Pons Vidal (Spanish), on behalf of Associació per a la protecció mediambiental de l'Atzúbia GELIBRE, on unreasonable urbanization in Adsubia (Alicante) and potential detrimental impact on the protected area Marjal Pego -Oliva	Pons Vidal Jesús	Associació per a la protecció mediambiental de l'Atzúbia - GELIBRE
0059-07	by Olegario Álvarez Suarez (Spanish), on behalf of the 'San Felix' Residents' Association, on alleged infringement of directives on the assessment of the effects of certain public and private projects on the environment resulting from the modification of an urban development master plan	Álvarez Suárez Olegario	Asociación de Vecinos "San Felix"
0070-07	by Asociacion de Vecinos de Hondón de las Nieves (Spanish), on excessive urbanisation and potential detrimental impact on the environment in Hondón de las Nieves (Alicante)	03688- -	Asociacion de vecinos de Hondon de la Nieves
0113-07	, by Mr Stephen Kimsey (British), on excessive charges asked for new infrastructure developments by the owner of Estepona Golf course (Malaga, Spain)	Kimsey Stephen	Benamara Golf Urbanisation
0120-07	, by D. M. (British), on violation of property rights and abusive development in Ronda (Andalucía)	Milnes David	
0124-07	, by Stewart Muir and Joyce Robson (British), on excessive urbanisation in Monóvar (Alicante) and alleged infringements of EC legislation on public access to information and public procurement	Muir Stewart	
0163-07	by Gertrud Vera Wöbse (German), on the new urban development law in Valencia (LUV)	WÖBSE Gertrud Vera	

0164-07	by Enrique Clement (Spanish) and Hubert Vockensperger (German), on behalf of "Abusos Urbanísticos No", on violation of EU legislation in connection with urban development programmes in Spain	CLIMENT Enrique	Valencianischer Verein für die Wahrung der Menschenrechte, Umweltschutz und gegen städtebaulichen Missbrauch - "Abusos Urbanis
0174-07	by Ms Sonia Ortiga (Spanish), on behalf of Los Verde Europa, on excessive urbanization causing damage to the bed of Rio Adra (Almeria) - a community protected area	ORTIGA Sonia	Los Verdes Europa
0212-07	by Unai Fuente Gómez (Spanish), on excessive urbanization and alleged breaches of the EIA Directive in connection with the approval of the urban development plan for Navalcarnero (Madrid)	FUENTE GOMEZ Unai	
0216-07	by Mr. Federico Arrizabalaga Moreno (Spanish), on behalf of Residentes Montañeta S.Jose - Oropesa, on alleged abuses by local authorities in connection with the urban development plans in Montañeta S.Jose - Oropesa	ARRIZABALAGA MORENO Federico	As. Residentes Mont. S. Jose-Oropesa
0217-07	by Mr. Javier Sanchis Marco (Spanish), on lack of measures for the protection of the environment in Masalaves (Valencia) in connection with the activity of a local brick factory	SANCHIS MARCO Javier	
0237-07	by Marcos Bollesteros Galera (Spanish), on alleged breaches of EC Birds Directive (79/409/EEC) and Habitats Directive (92/43/EEC) by local authorities in Andalusia	Ballesteros Galera Marcos	
0254-07	by Ms Jean Dudley and Mr Tony Dudley (British), on problems related to the acquisition of property in Catral (Spain)	Dudley Tony	
0255-07	by Mr Keith Partridge (British) on problems related to the acquisition of property in Catral (Spain)	Partridge Keith	
0259-07	by Mr Keith Baker (British), on unreasonable charges due for house-owners in Estepena-Malaga Province (Spain) for new unwanted infrastructure-related costs	Baker Keith	
0285-07	by Mr. José Morales Roselló (Spanish), on his personal experience with one of the well-known developers in Valencia (Spain)	Morales Roselló José	

0293-07	by Mr. Diego de Ramón Hernández (Spanish), on behalf of Unión Democrática Región de Murcia, on the need to control excessive urbanization plans in Murcia	De Ramon Hernández Diego	Unión Democrática Región de Murcia
0308-07	by Mr Enrique Lluç Broseta (Spanish), on Valencian authorities' disregard of the recommendations of the Fourtou Report	LLUCH BROSETA Enrique	
0309-07	by Mr José Enrique Sanz Salvador (Spanish), on behalf of Arca Ibérica, on concerns in respect to the provisions of the draft Land Law prepared by the Spanish government	SANZ SALVADOR José Enrique	Arca Iberica
0310-07	by Mr Miguel Costa Gomez (Spanish), on behalf of Asocoacion de Vecinos de San Miguel de Arcangel, on the allegedly illegal construction of a golf camp in the protected area of Sierra de Escalona y Dehesa de Campoamor (San Miguel de Salinas - Alicante, Spain)	Gomez Costa Manuel	Asociación de Vecinos "San Miguel Arcángel"
0388-07	by Mr Brent Gardner (British), on problems with his property in Catral (Alicante, Spain)	Gardner Brent	
0389-07	by Mr P.J. Hall (British) on problems with his property in Catral (Alicante, Spain)	Hall GJW	
0391-07	by Ms Elaine Comet (British) on a dispute with the Valencian Planning Authorities in connection with a possible seizure of a part of her property	Comet Elaine	
0392-07	by Ms Brenda Marshall (Spanish) on excessive charges to cover infrastructure costs related to growing urbanisation in Cadiz (Spain)	Marshall Brenda	Urbanisation Invespania, San Roque
0397-07	by Ms Cristina Gil Collada (Spanish), on alleged abuses against the interests of the residents of Puig-i-lis (Lliria, Valencia) in connection with the urbanisation plans of the local authorities	Gil Collado Cristina	
0451-07	by Mr. Allan Gulliver (British), on behalf of Valle Romano, on unjust charges for new infrastructure in Estepona (Spain)	Gulliver Alan	Valle Romano
0460-07	by Mr Pedro Torres Tortosa (Spanish), on alleged abuses of the legislation on expropriation on grounds of public interest	Torres Tortosa Pedro	
0475-07	by Ronald Brichall (British), on excessive infrastructure charges	Birchall Ronald	
0476-07	by Michael Izatt (British), on excessive charges for new infrastructure	Izatt Michael	

0478-07	by David Clarke (British), on excessive costs for new infrastructure	Clarke David	
0513-07	Petition 0513/2007 by Mr. José-Domingo López Manchón (Spanish), on behalf of Grup Ecologista Maigmo (GREMA), on the incorporation of a public property road in the urbanization project "Valle de Sabinar" (Alicante, Spain)	LOPES MANCHON José Domingo	Grup Ecologista Maigmo (GREMA) - Ecologistes en Accio
0515-07	Petition 0515/2007 by Ms. Odorinda Tena Llorens (Spanish), bearing 4 signatures, on problems related to the approval of the Marina d'Or-Golf project (Castellon, Spain)	TENA LLORENS Odorinda	
0516-07	Petition 0516/2007 by Ms. Liliane Rocher (Spanish), on behalf of Asociación de Vecinos Partida Pitchell, on detrimental environmental effects of the Revised Urban Development Plan of Peniscola (Castellón) on the Serra d'Irta protected area	ROCHER Liliane	Asociación de Vecinos Partida Pitchell (Sector 14)
0538-07	*Protest against infrastructure costs to provide new housing development	Wilson Gillian	
0541-07	*Projet d'urbanisme à Parcent, Espagne	Ripoll Vidal Fernando	Arenal Parcent S.L.
0542-07	*Construction d'un stade de football	Sanmartin y Gonzalez Agustin	
0543-07	*Projets d'urbanisme dans le region de Valence	Amoros Samper Francisco	Asociación Nueva Cultura del Territorio
0544-07	*Projets d'urbanisme a Oropesa del Mar et Cabanes	Votron Brigitte	Asociación de Vecinos Defensores del Poblado El Borseral
0545-07	*Projet d'urbanisme a Villalonga	Pavia Ferrando Josefa	
0546-07	*Projet de construction de logements dans la zone "Mestrets Borriolenc"	Bentran Serulla Vicent	Asociación de Vecinos y Afectados Mestrets-Borriolenc"
0547-07	*Le developpement des quartiers de la ville Madrid	Cuellar Martin Eloy Gregorio	Foro por Orcasitas
0557-07	*Streit mit den Behörden über ein Grundstück in Valencia	Eichenberger Ulrich	
0558-07	*Urban development in Tormos	Bob Johnson	
0559-07	*Construction de logement dans une zone de protection ecologique a Javea	Ruiz Cruanes Salvador	
0573-07	*Dysfonctionnements dans les travaux d'aménagement de la Communauté valencienne	FERNANDEZ LLAMAS Honorio	AECU-Asociacion Europa de Consumidores y Usuarios en general y especialmente de

			Urbanismo
0575-07	*Plusieurs projets d'urbanisme dans la région d'Almeria et Murcia	DEL VAL Jaime	Asociacion Salvemos Mojacar y el Levante Almeriense
0580-07	*Malversations immobilières en Espagne dont est victime une famille française	BARDY Jean-Paul	
0600-07	*Unregelmässigkeiten von Seiten des Baupromoters beim Kauf eines Hauses mit Grundstück in San Miguel de Salinas	VON DER BRUGGEN Annelie	
0608-07	*Tender launched by the Orba (Spain) townhall causing the owners to pay a total infrastructure contribution of about 70.000 Euros	SANDERSON Eric	
0609-07	*Latest urbanization project in Fleix (Vall de Laguart, Alicante) causing the owner of a property to loose 284 m2 of land and a compensation charge of 48.000 Euro	SPARKS David & Rosita	
0610-07	*Building projects in Benissa's neighbourhood Pedramala 2 ignoring fundamental environmental laws and concerns of those living nearby	ROPOHL Eckhard	Pedramala 2, S.L.
0611-07	*Property owners affected by fraudulent dealings, involving the Lliber council (Spain), a promoter and a property developer	ARTHURS D.R.	La Cuta Owners' Association
0612-07	*Total ignorance of building regulations in the area Colonia Escandinavia situated in Alfaz	LOMM Bengt	
0615-07	*Permis de construction irréguliers octroyés par les autorités municipales de la ville de El Campello (Espagne)	De Jeronimo Gonzalez Jaime	
0616-07	*Protection du parc naturel "de la Albufera de Valencia"	BLANCO PEREZ Manuel	Defensores del parque natural de la Albufera de Valencia
0617-07	*Irrégularités constatées dans le plan de construction du projet "Dels Tarongers Golf Resort"	SANFELIU BUENO José Miguel	Asociacion afectados del PAI "Dels Tarongers Golf Resort" Albalat dels Tarongers
0619-07	*Projet d'urbanisme à Castellon de la Plana, Valencia (Espagne)	ROGER DOLS José	Asociacion de vecinos Sant Joan del Riu Sec

0620-07	*Projet de construction "Benicassim Golf" à Benicassim, Espagne	JUAN JOSE SALVADOR TENA null	Asociacion Ciudadanos de Benicàssim
0621-07	*Application dans la région valencienne de la loi espagnole "Plan general de ordenacion urbana"	LLORET VALENZUELA Gaspar	Grupo Municipal Socialista en el Ayuntamiento de Villa joyosa
0622-07	*Modalités d'application par les autorités municipales de Tormos (Espagne) de la législation espagnole "Plan general de ordenacion urbana"	FERRANDIZ GONZALEZ Antonio	
0625-07	*Les nouveaux projets d'urbanisme à Cullera, Espagne	MORALES Manuel	Agrupaciones Afectados por los PAIs de Cullera (Marenyet y Brosquill)
0627-07	*Projet d'urbanisme dans la municipalité de Alboraya (Valencia)	SANZ GARCIA Julio	
0628-07	*Demande d'investigation sur les irrégularités urbanistiques commises dans la Communauté valencienne	BALLESTER José Carlos	Asociacion de vecinos C/ Eugenia Vines
0629-07	*Plainte des habitants de la zone d'urbanisme Los Lagos (Valencia)	MORENO GORRIZ José Enrique	
0684-07	Petition 0684/2007 by David Wilkins (British), on problems with his property in Alicante (Spain)	Wilkins David	
0695-07	by J.M (British), on excessive urbanisation and deforestation in Costa del Sol (Malaga)	McCann Juliet	
0750-07	by Francisco Pellicer Alcayna (Spanish), on behalf of La Coordinadora Ciudadana para la defensa de los Bosques Metropolitanos de la Ribera del río Turia, and Vincente Perez Gil (Spanish), on behalf of Asociacion de Veins Amics d'Entrepins, on the detrimental environmental impact of an urban development project to be implemented in Eliana (Valencia)	PELLICER ALCAYNA Francisco	Coordinadora Ciudadana para la defensa de los Bosques Metropolitanos de la Ribera del Rio Turia
0752-07	by Amparo Palazón Martínez (Spanish), on behalf of Plataforma Cívica Monovera 'Por Monóvar No a este PGOU', on alleged infringements of EC legislation in connection with the approval of the General Urbanisation Plan (PGOU) for Monóvar (Alicante)	PALAZÓN MARTÍNEZ Amparo	Plataforma Cívica Monovera "Por Monóvar no a Este Pgon"
0799-07	by José Antonio Moreno de Frutos (Spanish) on assessment of the potential increase of urbanization pressure in connection with a project to build a water desalination plant in Cabanes (Castellón)	Moreno de Frutos José Antonio	

0805-07	by Robert Alan Barlow and Margaretha Elizabeth Martinette Easton (British), on behalf of Lamayuru S.L., on alleged violations of EC legislation on protected areas in connection with the provisional approval of an urban development plan in Bédar (Almeria)	Barlow Robert Alan	Lamayuru SL
0821-07	by Honorio Fernandez Llamas (Spanish), on behalf of Asociación Europea de Consumidores, Usuarios y Urbanismo (AECU), on illegal urbanisation projects in San Miguel de Salinas (Alicante) and improper implementation of the legislation in force	FERNANDEZ LLAMAS Honorio	AECU-Asociacion Europa de Consumidores y Usuarios en general y especialmente de Urbanismo
0824-07	by Ms Margarita Gonzáles Gómez (Spanish), on alleged breaches of EC legislation in connection with the urban projects in Moralarzal, Torrelodones, Rascafria, Las Rozas and Galapagar (Madrid)	GONZALEZ GOMEZ Margarita	
0878-07	by Mr. Pedro Garcia Moreno (Spanish), on behalf of Asociación de Naturalistas del Sureste (ANSE), on alleged breaches of EC environmental legislation by regional and local authorities in the Autonomous Community of Murcia (Spain)	GARCIA MORENO Pedro	ANSE
0898-07	by Mr. Jose Rodriguez Hernandez and Ms. María Belmonte Núñez (Spanish) on expropriation and illegal demolition of their house as result of the approval of an urban development plan in Calpe (Alicante)	Rodriguez Hernández José	
1051-07	by Mr. David Chervin (French), on urban abuses resulting in the expropriation of his land in Polop de la Marina (Alicante, Spain)	CHERVIN David	
1058-07	by Ms. Francisca Talens Sapina (Spanish), on breaches of her property rights and of EC public procurement legislation in connection with the implementation of the urban development plan of Cullera (Valencia) adopted on the basis of the LRAU (Ley Reguladora de Actividades Urbanísticas)	TALENS SAPINA Francisca	
1183-07	by Ms Mary Wall (Irish), on breach of her property rights in Spain	Wall Mary	
1230-07	by C.G.C. (French), on possible breaches of her property rights in connection with the application of article 193 of the Valencian Urban Law (Ley Urbanística Valenciana)	Gil Collado Cristina	

1386-07	by Mr Román Alonso Santos (Spanish), on behalf of Izquierda Unida de Vigo, on the environmental impact of the Vigo General Urban Development Plan (PGOU)	Santos Roman Alfonso	Esquerda Unida - Izquierda Unida
0008-08	by Ms. Jennifer Harvey (British), on problems with her property in Spain	Harvey Jennifer	
0085-08	by Mrs. Esther Morales Valero (French), on alleged urban abuse resulting from the implementation of the General Urban Development Plan (PGOU) 2005 of Santa Pola	Morales Valero Esther	
0113-08	by José Mouriz Cruz (Spanish), on behalf of the Asociación de Vecinos 'San Vincenzo', bearing one other signature, on a protest against the adoption of the general development plan for the municipality of Rábade in Galicia	Mouriz Cruz José	Asociación de vecinos "San Vincenzo"
0174-08	by Mr. Jose Ortega (Spanish), on the alleged abusive application of the Spanish law of the coasts in relation to property rights	Ortega Ortega José	
0179-08	by Mr. Alberto Mayor Barajona (Spanish), on behalf of Ecologistas en Acción (Guadalajara), on alleged breaches of EC environmental legislation in connection with the approval of an urban development project concerning Vega del Henares area (Castilla-La Mancha)	Mayor Barahona Alberto	Ecologistas en acción
0242-08	by Geert Jongsma (Dutch), on infringement of his property rights in Spain	Jongsma Geert	
0278-08	by N.N.S. (Spanish), concerning alleged irregularities regarding development plans for La Marina (Elche - Alicante)	Navarro Soler Noelia	
0482-08	by Maria-Pilar Malon Azpilicueta (Spanish), on behalf of the Asociacion Abusos Urbanisticos in Navarra, concerning the harmful impact of an urban development project on Estella-Lizarrá (Navarra)	Malón Azpilicueta María-Pilar	Asociación "Abusos Urbanísticos en Navarra: No"
0496-08	by Maria Teresa Salvador Alarcón (Spanish), on opposition to the urban renewal project for El Cabanal district (Valencia)	Salvador Alarcón María Teresa	
0521-08	by Peter Jozef Mathilda Van Kerckhoven and Marie Françoise Georgette Schorreels (Belgian), on alleged irregularities in connection with the adoption of the integrated action program for the urbanisation of 'La Serreta' sector in Nucía (Valencia)	Van Kerckhoven Peter Jozef Mathilda	

0631-08	by Konrad Ringler (German), on mass expropriations in Catalonia, Spain	Ringler Konrad	
0645-08	by Ms. E. W.(British), on problems with the house she purchased in Murcia (Spain)	Wheatley Elizabeth	
0716-08	by Luis Cerillo Escudero (Spanish) on behalf of Ecologistas en Accion de Valencia, on alleged breaches of EC Directive 85/337 on environmental impact assessment in connection with a Formula One-track project in Valencia.	Cerrillo Escudero Luis	Ecologistas en acción de Valencia
0774-08	by María Jesus Peréx Agorreta (Spanish), on behalf of the 'Departamento de Historia Antigua-UNED' (Department of Ancient History at the UNED), on protection of the natural and cultural environment in Soria and Numancia in Castilla y León in northern Spain	Peréx Agorreta Maria Jesús	Departamento de Historia Antigua - UNED - Madrid
0867-08	by Ms. Karin Koberling (German), on alleged abusive application of the law of the coast by the Spanish authorities	Koberling Karin	Asociación de Vecinos de Puerto de la Cruz
0983-08	by Clara Gonzalez Jiménez (Spanish), on the alleged detrimental environmental impact of an urban development project in Candeleda (Castilla y Leon)	González Jiménez Clara	
1038-08	*Illegal activities in the Santa Maria Green Hills Development in Elivira, Marbella, Spain	Pabla Jasbir	
1057-08	*Illegal builds in Spain	Burns Michael	
1146-08	*La contribution financiere au projet urbanistique d'une construction des centaines de bungalows demandee aux habitants d'un immeuble, situe a une proximite directe, par l'administration locale	Fernandez Arias Leal Carmen	
1265-08	*Illegal permission/licence of house building	Dorrell David	
1485-08	*The Spanish Rules of Coast concerning a property in the Marina of Empuriabrava	Hazelhurst Alan	
1552-08	*Urbanization in Spain and illegal building	Perez Garreta Maria Dolores	EUC Zona Ranchos-Pueblo Azahar

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS ON THE LEGAL BASE

Mr Marcin LIBICKI
Chair
Committee on Petitions
ASP 04F158
BRUSSELS

Subject: Opinion in the form of a letter on the draft report on the impact of extensive urbanization in Spain on individual rights of European citizens, on the environment and on the application of EU law, based upon petitions received (Petitions 00/00 and 00/00) (2008/2248(INI))

Dear Mr Libicki,

The Committee on Legal Affairs has the following observations to make on certain strictly legal aspects of the draft report cited above.

The draft report drawn up by the rapporteur of the Petitions Committee contains certain misconceptions as to the scope and applicability of national law which are liable to mislead its readers into overestimating what the European Union can do in cases where a Member State or national authorities have allegedly acted in breach of fundamental rights as set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union .

In order for the Community institutions (the Commission, the Court of Justice) to be able to act against a Member State in such circumstances, the violation of a fundamental right must be referable to the exercise of Community competence. The mere fact that some of the persons who purportedly suffered injury as a result of an alleged infringement of a fundamental right enshrined in the ECHR and the Charter had exercised their Community rights of free movement or freedom of establishment does not suffice to bring the matter within the jurisdiction of the Community.

As regards the alleged breach of the right to property (Article 1 of the first Additional Protocol to the ECHR), the draft report fails to show any connection whatsoever with Community law.

Furthermore, the statement in recital I of the draft report that a case on the Community's competence with regard to intellectual property rights having regard to Article 295 of the

Treaty¹ (Case 119/75 Terrapin v. Terranova [1976] ECR 1039) shows that the competence of the Member States in respect of the system of property ownership "must always be applied in conjunction with the fundamental principles of Community law, such as the free of movement of goods, persons, services and capital" betrays a fundamental misunderstanding of the case-law on Article 295. That case-law is concerned with instances where the Community, in the exercise of Community competence (over free movement of goods, etc), purported in some way to influence or limit or control the exercise of property rights, as is permitted by Article 1 of the first Additional Protocol to the ECHR. Indeed, as the Court has consistently held, "while the right of property forms part of the general principles of Community law, it is not an absolute right and must be viewed in relation to its social function and whereas, consequently, its exercise may be restricted, provided that those restrictions in fact correspond to objectives of general interest pursued by the Community and do not constitute a disproportionate and intolerable interference, impairing the very substance of the rights guaranteed" (Case C-491/01 British American Tobacco (Investments) and Imperial Tobacco [2002] ECR I-11453).

The Court has made the position abundantly clear, for instance in the order of 6 October 2005 in Case C-328/04 Vajnai [2005] I-8577 and in the earlier judgment concerning the expropriation of real property in Case C-309/96 Annibaldi v. Sindaco del Comune di Guidonia and Presidente Regione Lazio [1997] ECR I-7493, at paras 22-25: where national provisions fall outside the scope of Community law, there is no Community jurisdiction to assess the compatibility of those provisions with the fundamental rights whose observance the Court ensures.

In any event, the purchase of a real property in Spain is carried out in accordance with national laws and any alleged transgression of that law has to be resolved before the competent Spanish judicial authorities (see Case C-182/83 Fearon v. Irish Land Commission [1984] ECR 3677). It is only in the last resort when all national remedies have been exhausted that it is possible to take a case to the European Court of Human Rights.

The long and short of it is that, in carrying out the compulsory purchase of real property, the Spanish authorities act in pursuance of the Spanish Constitution and laws enacted pursuant to the relevant provision of the Constitution. The fact that some of the people affected by the measures in question were Union citizens who had exercised one of the freedoms granted by the Treaty has no bearing on the matter. The proper means of seeking redress is through the Spanish courts and, ultimately, once all domestic remedies have been exhausted, the Court of Human Rights at Strasbourg.

Lastly, the draft report refers to proceedings brought by the Commission against Spain for alleged infringements of the public procurement directive. However, it is doubted whether there is a sufficient causal relationship between the alleged improper implementation of that Directive and the damage allegedly sustained by the petitioners.

In conclusion, after examining the issue at its meeting of 12 February 2009, the Committee on Legal Affairs, by 13 votes in favour² and no abstentions, recommends that your committee, as

¹ *This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership.*

² The following Members were present: Alin Lucian Antochi (acting Chair), Lidia Joanna Geringer de Oedenberg (Vice-Chair), Francesco Enrico Speroni (Vice-Chair), Monica Frassoni (rapporteur), Sharon Bowles, Brian Crowley, Jean-Paul Gauzès, Klaus-Heiner Lehne, Alain Lipietz, Manuel Medina Ortega, Georgios Papastamkos, Aloyzas Sakalas, Jaroslav Zvěřina.

the committee responsible, proceed to examine the above proposal in keeping with its suggestions.

Yours sincerely,

Giuseppe GARGANI

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	11.2.2009
Result of final vote	+: 24 -: 11 0: 1
Members present for the final vote	Sir Robert Atkins, Margrete Auken, Alessandro Battilocchio, Victor Boştinaru, Simon Busuttil, Michael Cashman, Alexandra Dobolyi, Glyn Ford, Lidia Joanna Geringer de Oedenberg, Cristina Gutiérrez-Cortines, David Hammerstein, Carlos José Iturgaiz Angulo, Marcin Libicki, David Martín, Miguel Angel Martínez Martínez, Manolis Mavrommatis, Mairead McGuinness, Willy Meyer Pleite, Gay Mitchell, José Javier Pomés Ruiz, Nicolae Vlad Popa, Andreas Schwab, Richard Seeber, Kathy Sinnott, Rainer Wieland
Substitute(s) present for the final vote	Alexander Alvaro, Thijs Berman, Roger Helmer, Mieczysław Edmund Janowski, Henrik Lax, Juan Andrés Naranjo Escobar, María Sornosa Martínez
Substitute(s) under Rule 178(2) present for the final vote	Vicente Miguel Garcés Ramón, Jules Maaten, Teresa Riera Madurell, Frédérique Ries