



THE INVIOLABILITY OF RIGHT TO PETITION IN CONTEXT OF DIGITALIZATION. COMPARATIVE ANALYSIS OF LITHUANIA, LATVIA, ESTONIA AND POLAND

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DOI: <https://doi.org/10.7220/2029-4239.22.1>

SUMMARY

The fourth industrial revolution is changing the society at an unprecedented pace. All of these advancements lay foundation for new technologies in various industries: autonomous vehicles, autonomous weapons, internet of things, drones, etc. But while the world is focusing on a vast array of different technologies and their legalization, it is not yet clear how democracy and human rights will withhold or adapt to the vast digital globalization and the upcoming digitalization. Consequently, in this article the author focuses on the right to petition and its inviolability in the context of digitization. The analysis is done comparing EU and four of its member states: Lithuania, Latvia, Estonia and Poland.

In the first paragraph the author analysed the concept of an e-petition. It was established that an e-petition is a complaint, request or a demand regarding an issue or an infringement, filed through an electronic device or published online, by a natural or a legal person, in accordance with applicable laws and (or) rules of an appropriate platform, individually or in an association with others.

In the second paragraph the author analysed the right to e-petition. It was established that every single country that was analysed in this article directly or indirectly ensures the right to an e-petition to their citizens. In the third paragraph, the author found out that both petitions and e-petitions have an equal chance to be reviewed, as long as they are submitted in accordance with valid regulations and procedures.

Finally, author concluded that the right to petition remains inviolable in the context of digitalization.

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KEY WORDS

Petition, e-petition, digitalization, European Union.

INTRODUCTION

NOVELTY AND RELEVANCE

Petition – one of the most fundamental rights of any European Union’s (hereinafter – **EU**) citizen and resident. In accordance with the Treaty on the Functioning of the EU (hereinafter – **TFEU**) Article 227 “[a]ny citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address <...> a petition to the European Parliament on a matter which comes within the Union’s fields of activity and which affects him, her or it directly”.² This right is further enshrined in Articles 20 and 24 of TFEU and Article 44 of the Charter of Fundamental Rights of the EU (hereinafter – the **Charter**). But just because the right to petition dates all the way back to the ancient Egypt³ that does not mean it is immune to the ongoing industrial revolution 4.0 (hereinafter – **IR4.0**). The IR4.0 is changing the society at an unprecedented pace. Components typically not regarded as “machines” can be wired up as well, and treated as “machines” within the factory’s digital ecosystem⁴. All of these advancements lay foundation for new technologies in various industries: autonomous vehicles, autonomous weapons, internet of things, drones, etc. Naturally, by changing the conventional tools with newly advanced versions (e. g. changing the conventional vehicle with an autonomous vehicle), law has to adapt. But while the world is focusing on a vast array of different technologies and their legalization, it is not yet clear how democracy and human rights will withhold or adapt to the vast digital globalization and the upcoming digitalization. In this article the author will focus on one of the most fundamental rights of an EU citizen – (e)petition.

In 2019 a total of 1.301 petitions (either through e-mail, letter or web portal) had been filed to the European Parliament (hereinafter – **EP**), out of which 904 were deemed admissible and 397 inadmissible.⁵ Ever since the implementation of the web portal through which citizens of EU can file petitions, the number of petitions received through the web portal significantly increased⁶.

² Consolidated version of the Treaty on the Functioning of the European Union, Official journal of the European Union, (2012 10 26, C 326), < <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>> [accessed 2020-05-01].

2012 10 26, OJ C. 326/47-326/390; < <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT> > [accessed 2020-05-01].

³ H. Cheung, Brexit debate: Do petitions ever work? (2019-03-26); < <https://www.bbc.com/news/world-47693506>> [accessed 2020-06-01].

⁴ T. MELANSON, WHAT INDUSTRY 4.0 MEANS FOR MANUFACTURERS <[HTTPS://AETHON.COM/MOBILE-ROBOTS-AND-INDUSTRY4-0/](https://aethon.com/mobile-robots-and-industry4-0/)? [ACCESSSED 2020-05-01].

⁵ European Parliament, <https://petiport.secure.europarl.europa.eu/petitions/en/show-petitions?keyWords=&_anyEuCountry=on&years=2019&statuses=ADMISSIBLE%2CNOT_ADMISSIBLE&searchRequest=true&resSize=20&pageSize=20#res> [accessed 2020-05-02].

⁶ European Parliament, Achievements of the committee on petitions during the 2014-2019 parliamentary term and challenges for the future (2019 07 03); <

Naturally, one of the reasons for it is the ever increasing digitalization. With the help of digitalization, the EU citizens have an easier time to file a petition or support an already existing petition. This not only promotes *direct democracy* but also allows the citizens to exercise their fundamental rights easier. But while digitalization provides the citizens with necessary tools to take part in the administration of the state and making it a simpler process, it does however come with its own drawbacks. As more and more actions can be conducted with the help of an internet and an electronic device (professional computer, laptop, phone, watch, etc.), governments, companies and individual people prioritize and promote the use of electronic devices in order to exercise constitutional rights (e. g. the right to vote, the right to a petition, etc.) or rights in general. At the same time, the conventional ways of exercising the abovementioned rights are becoming less and less accessible and the citizens in general are discouraged to use them (e. g. nowadays people are encouraged to use electronic systems in order to file their tax returns and discouraged from physically coming to the state tax inspectorate in order to physically conduct the tax returns).

And while at first glance it could appear that the ability to exercise your right to submit or support an already existing petition virtually is not a problem, it is not clear whether a citizen has an obligation to conform to digitalization. The literature is also very scarce on this topic. Most of the relevant literature focuses on various technologies (autonomous vehicles, weapons, drones, etc.) and their impact on the existing law. And only a small number of studies are carried out examining how democracy and human rights will cope with digital globalization and future digitalization. This indicates the **novelty** of this topic.

Finally, to fully realize the relevance of finding out whether a citizen has an obligation to conform to digitalization, it is important to mention technology is already impacting the ways of how people file petitions (e. g. the example given with EP). As technology continues to change our conventional ways of filing petitions it is a very real possibility that filing a petition physically will soon be redundant. Naturally, if it turns out that a citizen cannot object to digitalization and must conform to it, then a citizen potentially could lose one of his most fundamental rights – the right to petition. Therefore it is **relevant** to analyse the inviolability of right to petition in context of digitalization.

Scientific problem: it is not clear whether the right to petition remains inviolable in the context of digitalization.

The objective: to explore the peculiarities of e-petition, its similarities to a conventional petition, its applicability and binding nature in the context of existing laws, directives and fundamental human rights.

Methods and materials: following the recommendations of K. Kardelis, R. Tidikis and E. Babbie⁷, **desk research** method will be used to analyse the peculiarities of e-petition. Desk research will be mainly used in order to examine the concepts of an e-petition and a petition by analysing the dictionary definitions as well as scientific literature regarding the peculiarities of the aforementioned concepts.

In order to compare the different regulations regarding e-petitions of EU and its member states (Lithuania, Latvia, Estonia, and Poland), the author will use **comparative analysis**. After

[https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU\(2019\)621917](https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2019)621917)
[accessed 2020-05-02].

⁷ R. Tidikis, *Socialinių mokslų tyrimų metodologija*. Vilnius: Lietuvos teisės universitetas, 2003; K. Kardelis, *Mokslinių tyrimų metodologija ir metodai*. Šiauliai: Lucijus, 2005; E. Babbie, *The Practice of Social Research* (10th ed.) Belmont: Thomson Wadsworth.

the data regarding the legal regulation of e-petitions is collected, it is necessary to make a table⁸. The table is required so that the author could reveal comparisons based on parameters (criteria)⁹. Thus in this article author singled out criteria, which would reveal whether current e-petition (or conventional petitions) laws guarantee the necessary accessibility to the right to petition in the respective countries. The selected parameters (criteria) were abstract, but concrete enough, so that the main idea behind the regulation of e-petitions in aforementioned countries could be underlined. The following criteria had been singled out in order to compare the different legal regulation of the aforementioned countries: right to petitions and e-petitions, ability to submit petitions and e-petitions, obligation to review petitions and e-petitions, accessibility of submitted petitions and e-petitions.

After conducting the necessary comparison the author will be able to see a clear progression between the aforementioned EU member states (in the context of e-petitions), legal peculiarities, benefits and drawbacks of drafted legislatures and draw a conclusion on the inviolability of the right to petition in the context of digitalization. Being able to compare the abovementioned data, the author will be able to fulfil the objective of this article.

Research limitations: the scope of this research is limited to the following EU member states: the Republics of Lithuania, Latvia, Estonia, and Poland. The author will also analyse related EU laws regarding the right to petition and e-petition.

CONCEPT AND THE RIGHT TO E-PETITION

The definition of a petition

Petition. To understand the concept of an e-petition, it is important to establish the definition of a petition. According to Cambridge dictionary, a petition is a document signed by a large number of people demanding or asking for some action from the government or another authority¹⁰. This leads to a conclusion, that in order for a document to be regarded as a petition it has to contain the following elements: (1) signed by a large number of people; (2) has to be a demand or an inquiry; (3) addressed to the government or another authority. Meanwhile, the free dictionary by Farlex, provides a slightly different definition of a petition: “a written application from a person or persons to some governing body or public official asking that some authority be exercised to grant relief, favours, or privileges.”¹¹ While the second definition of a petition is similar to the first definition provided by the Cambridge dictionary, it states that a petition can be

⁸ Miethé, T. D., & Drass, K. A. (1999). Exploring the social context of instrumental and expressive homicides: An application of qualitative comparative analysis. *Journal of Quantitative Criminology*, 15(1), 1-21. <http://dx.doi.org/10.1023/A:1007550704282>

⁹ Chen., T. T. (2016). Tedan inclusion comparison approach for multiple criteria decision analysis based on interval-valued intuitionistic fuzzy sets. *Technological and economic development of economy*. Volume 22(3): 357–392 doi:10.3846/20294913.2014.989930

¹⁰ Cambridge Dictionary; <<https://dictionary.cambridge.org/dictionary/english/petition>> [accessed 2020-04-01].

¹¹ The free dictionary; <<https://legal-dictionary.thefreedictionary.com/petition>> [accessed 2020-04-01].

filed by a single person and (or) persons. Therefore, when talking about a petition in its broad sense, it can be established that a petition is a document signed by a person and (or) persons, containing an inquiry or a demand to a legal authority.

In order to narrow down the definition of a petition, the author further examines the definition provided by EP. It is important to note, that the founding treaties of EU have never provided a definition of a petition in itself.¹² In accordance with the Report on the work of the Committee on Petitions during the parliamentary year 1993-1994 (hereinafter – **Report**), the EP adopted the following definition of a petition: “all complaints, requests for an opinion, demands for action, reactions to Parliament resolutions or decision by other Community institutions or bodies forwarded to it by individuals or associations”¹³. Furthermore in the same Report it is stated, that the EP “undertakes to provide an appropriate response as rapidly as possible to petitions, that is to say **requests for intervention, for action, for change of policy or for an opinion, submitted to the Parliament by any citizen of the Union and any natural or legal person residing or having its registered office in a Member state, individually, or in an association with others**”. The EP uses a broader definition of a petition, which includes any type of inquiry, request or a demand to the EP, filed by any natural or legal person, individually or in association with another person. Naturally, due to the nature of EP and EU, the petition is localized, i. e. it can only be filed by a citizen or legal entity registered in one of the member states of EU.

Therefore, taking into an account that the author will focus on European Union and the selected member states, the following definition of a petition will be used in the article: a complaint, request or a demand filed to a legal authority by a natural or legal person, in accordance with applicable laws, individually or in an association with others.

The definition of an e-petition

E-petition. Consequently, the difference between a petition and an e-petition, is that in the case of an e-petition, a complaint, request or a demand is filed through the internet, with the help of an electronic device.

E-petitions can be separated into formal and informal. In accordance to Lindner and Riehm, formal e-petitions “refer to institutionalized and at least to some extent legally codified e-petition systems operated by public institutions.”¹⁴ Therefore every single petition filed through a system that is operated by national institutions are considered formal. This means that this type of petitions must conform to rules set by that national body and (or) follow the procedural requirements and (or) laws of an appropriate country. Furthermore, formal e-petitions can be treated as a safer option for a citizen, because once a certain number of signatures are reached, the citizen can be assured (for the most part) that it is going to be addressed by a national body or other government institutions, what cannot be said about informal e-petitions. An example of a formal e-petition system would be EP’s website dedicated to filing e-petitions (<https://petiport.secure.europarl.europa.eu/petitions/en/home>).

¹² Case C-261/13 P Schönberger vs European Parliament [2014], opinion of AG Jääskinen.

¹³ Report on the work of the Committee on Petitions during the parliamentary year 1993-1994 (A3-0158/94).

¹⁴ R. Lindner and U. Riehm., *Electronic Petitions and the Relationship between Institutions, Contexts, Technologies and Political Participation*, (2008), p. 3.

Having that in mind, informal e-petitions “are systems established and managed by non-governmental private organizations”¹⁵. Naturally, due to the nature of informal e-petition, a citizen is never sure whether a petition filed through a system that was established and is managed by a non-governmental organization is going to be addressed by the government institutions. Naturally, any petition gains weight once it receives several thousand or even millions signatures, but the main problem with informal petitions is that, for the most part, it lacks transparency, i. e. not every single informal e-petition system has the ability to ensure that each signature is unique. Another issue with informal e-petition systems is that they do not have an obligation to conform to existing appropriate laws and regulations. Some examples of an informal e-petition system include online sites, like change.org or avaa.org, where citizens can create, distribute, and sign e-petitions¹⁶. Despite the aforementioned stated issues of informal e-petition systems, they remain a strong tool in influencing the government decisions¹⁷.

Ralf Lindner and Ulrich Riehm provide an even more in depth distinction between different types of formal e-petitions. The aforementioned authors separate e-petitions into three categories¹⁸:

- *petitions submitted electronically;*
- *public e-petitions;*
- *public e-petitions with additional participatory elements.*

According to the aforementioned authors, a *petition submitted electronically* is the most basic e-petition type, which is accepted by the addressees if it is submitted electronically, either via e-mail or by using a web-interface¹⁹. Meanwhile a petition is defined as a *public e-petition* if the petition text is published on the internet and it is possible to supplement the petition text with additional background information²⁰. Finally, in the case of a *public e-petition with additional participatory elements* the citizens have an opportunity to support a public e-petition with an electronically submitted signature and (or) have an internet-based discussion, and (or) “wiki-style” authoring of e-petition texts prior to an official submission, etc.²¹

In the case of the first type of e-petition, *petitions submitted electronically* are only limited to the initial submission phase of an e-petition. Moreover, e-petitions submitted this way may be announced publicly (i. e. become a *public e-petition*) or the text of the petitions may be kept confidential. A conclusion can be made that all petitions filed through electronic devices initially fall within this category, but not all e-petitions remain in it as some are made public. The second type of e-petition is not limited to the basic definition of e-petition. If a person files a conventional paper petition, either through regular mail or directly at the office of appropriate institution, that

¹⁵ Ibid.

¹⁶ L. Reid, Are E-petitions a Viable Tool for Increasing Citizen Participation in Our Parliamentary Institutions?, 2014 37-4 Canadian Parliamentary Review 3, (2014) CanLIIDocs 316, <https://doi.org/10.5210/fm.v18i7.4220>

¹⁷ Ibid.

¹⁸ R Lindner &, U. Riehm (2009), Electronic Petitions and Institutional Modernization. International Parliamentary E-Petition Systems in Comparative Perspective. JeDEM - EJournal of EDemocracy and Open Government; 1(1), 1-11. <https://doi.org/10.29379/jedem.v1i1.3>

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

does not mean that the said petition will not become an e-petition. Once the text of a petition is published online, it becomes a *public e-petition*. It is important to keep in mind, that even if the full text of a petition is not published online, as long as at least the summary of e-petition is provided, it will be regarded as a public e-petition (e. g. EP only provide a summary of a petition that has been filed through their website).

The third type of e-petition adds the most distinguished element - the ability to *participate* through electronic means. As mentioned before, these elements can be: ability to sign electronically; ability to discuss the petition's text online; ability to be informed once a petition on a related subject is filed; ability to adjust the text of a petition and the rest.

Having the abovementioned in mind the following definition of e-petition can be concluded: a complaint, request or a demand regarding an issue or an infringement, filed through an electronic device or published online, by a natural or a legal person, in accordance with applicable laws and (or) rules of an appropriate platform, individually or in an association with others (hereinafter – and **e-petition**). Having established the definition of an e-petition the author will analyse the legal regulations of e-petitions of EU and the following member states: Lithuania, Latvia, Estonia, and Poland.

The right to e-petition

The EU. As stated in the introductory section of this article, the right to petition in EU is enshrined in TFEU and the Chart:

Legislation	Article	Content
TFEU	227	Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.
TFEU	Point D of Paragraph 2 of Article 20	Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, inter alia: <...> (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.
TFEU	24	Every citizen of the Union shall have the right to petition the European Parliament in accordance with Article 227
The Chart	44	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

Since the EU does not have a separate regulation for the submission of an e-petition, the regulations that apply to a conventional petition applies also to e-petitions. In accordance with Article 227 TFEU a petition can be filed by any EU citizen and any natural or legal person that is resident or has a registered office in an EU member state, either individually or in association.

The second requirement is that in order for a petition to be admissible, it must concern matters which fall within the EU's fields of activity and which affect the petitioners directly²². The list of EU's policy areas can be found in EP's website²³. A conclusion can be made, that just about any person can file a petition to the EP, as long as he has a formal place of residence in any of the EU member states. At first glance this could be seen as a legal vacuum, where it is allowed for persons, who are residents of an EU member state only for a short period of time, to file petitions (i.e. by the time the petition is analysed, the person may no longer be a resident of an EU member state), but as seen from the second part of Article 227 the petition has to be regarding a policy of an EU, which affects the petitioner directly. This means that the petition itself may be applied not only to the petitioner, but to a broader public as well, since appropriate EU policies may not only apply to the petitioner alone. This does not mean that the possibility of abuse is eliminated, but this does lower the amount of petitions filed to the EP, which does not fall under the remit of EP.

The main platform where all formal e-petitions are filed to the EU, or to be precise, to the EP, is its' website *petiport*²⁴. A petition can be submitted either through the website, by filling in the required form or by sending a "paper" form. Either way the petition's summary (should it get accepted) is posted publicly on *petiport* where everyone has a chance to read it and support it, should they choose to do so.

After overviewing legal regulation of e-petitions in the EU as an institution, i. e., not including all of the EU member states, the author will analyse the following member states: Lithuania, Latvia, Estonia, and Poland.

Lithuania. In Lithuania, the right to petition is enshrined in article 33 of the Constitution. The article states that "citizens shall be guaranteed the right of petition; the procedure for the implementation of this right shall be established by law".²⁵ So while a citizen has the right to submit a petition, he has to do so in accordance with established procedures. Naturally, a question arises – whether the absence of said procedures would infringe a citizen's right to a petition? Due to limitations of this article, the aforementioned question will not be further explored, but it does mean that to an extent the right to petition does depends on the government's actions or inactions.

The procedure of petitions in Lithuania is enshrined in Law on Petitions of the Republic of Lithuania (hereinafter – the **LP**). Paragraph 4 of Article 2 states that a petition is a written or **electronic** application of the petitioner to the Seimas, Government or municipal institutions with requirements or proposals to resolve the issues specified in paragraph 1 of Article 3 of this Law, when it is necessary to adopt a new legal act, amend supplement or repeal an existing legal act and acknowledge the petition.²⁶ A conclusion can be made that Lithuania's definition of a petition also include an e-petition. Therefore, in Lithuania the right to a petition also includes the right to an e-petition.

Paragraph 2 of Article 4 further states that an application (a petition) submitted electronically must be signed with an e-signature²⁷. So not only is the right to e-petition enshrined in the LP, it

²² European Union, Fact sheets of the European Union (Luxembourg: Publications Office of the European Union, 2013); p. 114.

²³ European Commission; <https://ec.europa.eu/info/topics_en>, [accessed 2020-06-01].

²⁴ European Parliament; <<https://petiport.secure.europarl.europa.eu/petitions/en/home>> [accessed 2020-06-01].

²⁵ Constitution of the Republic of Lithuania (1992-11-02, No. 33-1014), Article 33.

²⁶ Law on Petitions (1999-07-07, No. VIII-1313), Article 3, Paragraph 1.

²⁷ Ibid, Article 4, Paragraph 2.

also allows public e-petitions with additional participatory elements (i. e. ability to sign electronically). Of course, this does not mean that every single platform will allow users to sign petitions electronically, but the important part is that it is allowed by the law.

Finally, a petition is only recognized as a petition, when the Commission of the Petitions declare so (in accordance with Article 9 of the LP). There are three Commissions – Seimas’, Government’s and Municipal institutions’. The role of the Commission of the Petitions is simply to make sure that petitions conform to the LP and so that they do not fall under paragraph 3 of Article 9 (e. g. the same type of a petition had already been submitted; the petition is being submitted to an improper institution, the petition is not based, etc.). Should the petition fall under paragraph 3 of Article 9, it will usually be denied.

The formal e-petition system which allows to submit electronic petitions in Lithuania is epilietis.lrv.lt²⁸. Naturally, should a person be submitting a petition in “paper”, he should send it the respective institution (either Seimas, government or municipal institution). Other informal e-petition systems include: www.peticijos.lt.

Latvia. Article 104 of the Constitution of Latvia states that everyone has the right to address submissions to State or local government institutions and to receive a materially responsive reply²⁹. Furthermore, it is stated that everyone has the right to receive a reply in the Latvian language.³⁰ So while the right to e-petition is enshrined in Latvia’s Constitution at the same time, not everyone has the right to receive the reply (e. g. if the person submits a petition in a different language other than Latvian).

Paragraph 1 of Article 131³ of the Law “Rules of Procedure of the Saeima” (hereinafter – the **RoP**), states that at least 10.000 Latvian citizens <...> on the day of filing a submission have a right to file a collective submission with Saeima³¹. Paragraph 2 of Article 131³ stipulates that a collective submission that is filed electronically shall be supplemented with technical information confirming the signing of the collective submission and ensuring the possibility to verify the number of signatories, their names, surnames and ID numbers.³² Finally, in accordance with Paragraph 1 of Article 131³ it shall also be possible to collect signatures electronically as long as the possibility to identify signatories and protection of personal data are ensured.³³ This leads to a conclusion that the right to e-petition is guaranteed by the law. Furthermore, citizens have the right to submit public e-petitions with additional participatory elements (i. e. ability to sign electronically).

The submitted e-petition is evaluated by the Presidium of Saeima (The Parliament of Latvia) which decide whether to forward it to the Mandate, Ethics and Submission Committee for initial evaluation³⁴ (Paragraph 1 of Article 131⁴). After the initial evaluation, the Presidium of Saeima prepares a draft resolution of the Saeima on further processing of the collective submission (Paragraph 4 of Article 131⁴).

²⁸ The Government of the Republic of Lithuania; <<http://epilietis.lrv.lt/lt/pateik-peticija>> [accessed: 2020-06-03].

²⁹ Constitution of the Republic of Latvia (1922-02-15), Article 104.

³⁰ Ibid.

³¹ Rules of procedure of the Saeima, Article 131, Paragraph 1.

³² Rules of procedure of the Saeima, Article 131³, Paragraph 2

³³ Supra note 31.

³⁴ Rules of procedure of the Saeima, Article 131⁴, Paragraph 1

One of the most successful online e-petition platforms in Latvia is www.ManaBalss.lv. Just after 4 years since launch (it was launched in 2011), a total of 14 digital petitions have received more than 10.000³⁵ votes and 8 digital petitions were voted on in Parliament to go up as amendments to a law.³⁶

Estonia. Article 46 of Constitution of Estonia states that everyone has the right to address informational letters and petitions to government agencies, local authorities, and their officials³⁷. The procedure for responding to such letters and petitions is provided by the law.³⁸ When comparing Lithuania's appropriate article with the aforementioned article a clear difference can be seen: in Lithuania, the law sets forth the procedure for the **implementation of the right to the petition**, meanwhile in Estonia, only the procedure for **responding** to such letter and (or) petition must be provided. A conclusion can be made, that the right to petition in Estonia does not depend on the actions or inactions of the government.

Response to Memoranda and Requests for Explanations and Submission of Collective Proposals Act (hereinafter – the **Response act**) is a legislation, which provides the procedure for responding to memoranda and requests for explanations. Likewise, the aforementioned act also applies to petitions.

Paragraph 1 of Article 7¹ of the Response act states that at least 1000 signatures in support have to be collected for submission of a collective proposal.³⁹ Meanwhile in Paragraph 3 of the abovementioned Article it is stated that an electronic list of the persons who gave their signature in support which indicates the person's name and personal identification code shall to be added to a proposal.⁴⁰ This leads to a conclusion that in Estonia public e-petitions with additional participatory elements (i. e. ability to sign electronically) are allowed and are fully regulated by the Response act. The institution that analyses said e-petitions if they fulfil the requirements is the *Riigikogu* (unicameral parliament of Estonia).

The formal e-petition system which allows to submit electronic petitions in Estonia is www.osale.ee. Meanwhile www.rahvaalgatus.ee is a state-funded e-petition system, which allows the citizens to submit collective petition, sign them, discuss relevant topics, etc. It is one of the first platforms, which simplified the submission of collective petitions in Estonia.

Poland. Article 63 of the Constitution of Poland states that everyone shall have the right to submit petitions, proposals and complaints in the public interest, in his own interest or in the interests of another person – with his consent – to organs of public authority, as well as to organizations and social institutions in connection with the performance of their prescribed duties within the field of public administrations.⁴¹ Just like in the case of Lithuania and the EU, in Poland the right to petition is a guaranteed constitutional right. Poland separates this right into three measures: petitions, proposals and complaints. Previously, by analysing the concept of a petition, the author included all of aforementioned three measures into the definition of a petition. This

³⁵ OECD, Digital government toolkit (2016); <www.oecd.org/gov/latvia-social-epetition.pdf>, [accessed: 2020-06-04].

³⁶ OECD (2018), Digital Government Review of Colombia: Towards a Citizen-Driven Public Sector, OECD Digital Government Studies, OECD Publishing, Paris, <https://doi.org/10.1787/9789264291867-en>.

³⁷ Constitution of the Republic of Estonia, (1992-06-28, RT 1992, 26, 349), Article 46.

³⁸ Ibid.

³⁹ RESPONSE TO MEMORANDA AND REQUESTS FOR EXPLANATIONS AND SUBMISSION OF COLLECTIVE PROPOSALS ACT (2004-11-10, RT I 2004, 81, 542), ARTICLE 7¹, PARAGRAPH 1.

⁴⁰ Ibid, Paragraph 3.

⁴¹ Constitution of the Republic of Poland (1997-04-02, No. 78), Article 63.

type of definition and (or) opinion is supported by various Polish authors (J.P. Tarno⁴², W. Sokolewicz⁴³, J. Lipski⁴⁴, W. Orłowski⁴⁵) who claim that Article 63 of the Constitution of Poland establishes the right to petition which comprises three institutions: petitions *sensu stricto* (of collective character) and individual proposal and complaints.⁴⁶ Meanwhile other authors (H. Zięba-Załucka⁴⁷, K. Działocha⁴⁸, P. Winczorek⁴⁹, B. Banaszak⁵⁰) claim that petition differs from complaints and proposals, and the differences between them are connected with the subject of these means, aim or the circle of addressees obliged to receive them.⁵¹

According to Article 3 of the Act on Petitions (hereinafter – **AoP**), a document can be recognized as a petition on the basis of its content⁵². Furthermore, in accordance with Article 4 of AoP, a petition is submitted in writing or in **electronic** means of communication.⁵³ Both Article 3 and 4 of AoP brings to a conclusion that in Poland electronic petitions with additional participatory elements (e. g. e-signature) are allowed. Moreover, Article 3 of AoP expands the possibility of submitting an e-petition, because it focuses on the content of a document and not on the form. Finally, the petition can be considered by either the Senate (upper house of the Polish parliament), Sejm (lower house of the Polish parliament) and (or) local governments (Article 14 of AoP)⁵⁴.

Poland's Code of Administrative procedure sets forth the base rules regarding the submission of a petition, complaint and or a proposal (Paragraph 1 of Article 221).⁵⁵ The online petition platforms in Poland are: www.Naszademokracja.pl, www.Petycje.pl, www.Podpisz.to. It is important to mention, that other international e-petition platforms also are accessible in

⁴² W. Chróścielewski, J. P. Tarno, Administrative proceedings and proceedings before administrative courts; (Wolters Kluwer Polska, 2011), p. 271.

⁴³ W. Sokolewicz, Commentary to art. 63 of the Constitution in Garlicki (n 32), p. 4.

⁴⁴ J. Lipski, The Right to petitions, complaints and proposals in the Polish legal system (4 Zeszyty Prawnicze, 2004) BSE 119.

⁴⁵ W. Orłowski, The right to file petitions, proposals and complaints in Marek Chmaj, Wojciech Orłowski, Wiesław Skrzydło, Zbigniew Witkowski, Andrzej Wróbel, Political freedoms and rights (Zakamycze 2002), p. 159.

⁴⁶ E. Wójcicka., (2016). The Right to Petition in the Republic of Poland – New Challenges and new Solutions. Wrocław Review of Law, Administration & Economics. 6. 139-150, <https://doi.org/10.1515/wrlae-2018-0009>.

⁴⁷ H. Zięba-Załucka, The Right to Petition in the Republic of Poland (2010) 4 Constitutional law review 18.

⁴⁸ K. Działocha, The Right to Petition in the existing legislation and the proposed directions of changes in The right to petition in Polish legislation (Kancelaria Senatu 2008) p. 2 - 4.

⁴⁹ P. Winczorek, Commentary to the Constitution of the Republic of Poland of 2 April 1997; (K.E. Liber 2000), p. 86.

⁵⁰ B. Banaszak, Opinion on the draft Act about the petitions in Legal Opinions on the draft Act about the Petitions; (Kancelaria Senatu 2009), p. 5.

⁵¹ Supra note 46.

⁵² Act on petitions, (2014-07-11), Article 3.

⁵³ J. MARSZAŁEK-KAWA, (2017). UNITED FOR THE COMMON CAUSE: THOUGHTS ON THE ACT ON PETITIONS OF 11 JULY 2014. POLISH POLITICAL SCIENCE YEARBOOK. 46. 199-217. [HTTPS://DOI.ORG/10.15804/PPSY2017113](https://doi.org/10.15804/PPSY2017113).

⁵⁴ Supra note 52, Article 14.

⁵⁵ Code of Administrative Procedure, Journal of Laws 1960 No. 30, item 168 ACT of 14 June 1960, Article 221, Paragraph 1.

Polish language, such as: avazz.org, change.org and other online platforms⁵⁶. Having discussed legal peculiarities of e-petition system in abovementioned countries, author will move onto comparative analysis of said countries.

COMPARATIVE ANALYSIS

Scientific analysis of different regulations regarding the right to e-petition in EU and its member states (Lithuania, Latvia, Estonia, and Poland) revealed that in order to fulfil the goal of this article the following parameters (criteria) have to be compared: *Right to petitions and e-petitions, ability to submit petitions and e-petitions, obligation to review petitions and e-petitions, accessibility of submitted petitions and e-petitions.*

Criterion	EU	Lithuania	Latvia	Estonia	Poland
<i>Right to petitions and e-petitions</i>	Any citizen of the European Union, and any natural or legal person residing or having registered office in a member state has the right to submit a petition to European Union. (Article 24 and 227 of TFEU; Article 44 of the Chart)	Citizens shall be guaranteed the right of petition. A petition is a written or electronic application of the petitioner. (Article 33 of Constitution, Article 2 of the LP)	Everyone has the right to address submissions to State or local government institutions. (Article 104 of the Constitution; Article 131 ³ of the RoP)	Everyone has the right to address informational letters and petitions to government agencies, local authorities, and their officials. (Article 46 of Constitution; Article 7 ¹ of the Response act)	Everyone shall have the right to submit petitions, proposals and complaints in the public interest (Article 63 of the Constitution, Article 4 of AoP)
<i>Ability to submit petitions and e-petitions</i>	Petitions can be submitted either by post or through the Petitions portal, which shall be made available on Parliament's website and which shall guide the petitioner to formulate the	An application shall be submitted in writing or electronically. An application (a petition) submitted electronically must be signed with an e-signature. (Article 2 of LP)	Each signatory of the collective submission shall legibly indicate his/her name, surname and ID number. It shall also be possible to collect signatures electronically as long as the possibility to	A proper proposal shall be submitted to the Board of the <i>Riigikogu</i> on paper or in electronic form. (Paragraph 1, Article 7 ³ of the Response act)	A petition is submitted in writing or in electronic means of communication. (Article 4 of AoP)

⁵⁶ A. Miotk, Dynamics and Users of Online Petitions in Poland, Media Studies, Vol. 20, No 1 (76).

	petition in a manner that complies with paragraphs 1 and 2. (Paragraph 7, Rule 226 of Rules of Procedure of the European Parliament)		identify signatories and protection of personal data are ensured. (Article 131 ³ of the RoP)		
<i>Obligation to review petitions and e-petitions</i>	Any citizen of the European Union <...> shall have the right to address, <...>, a petition to Parliament on a matter which comes within the European Union's fields of activity and which affects him, her or it directly. (Paragraph 1, Rule 226 of Rules of Procedure of the European Parliament)	The petition has to be about: (1) protection or implementation of human rights and freedoms; (2) reform of state and municipal institutions; (3) other issues important to the society, municipalities or the state. (Article 3 and 9 of the LP)	A collective submission shall not contain a request which is clearly unacceptable in a democratic society or is plainly offensive; a collective submission shall not undermine values of human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of minorities. (Paragraph 2, Article 131 ³ of the RoP) At least 10,000 citizens <...> shall have a right to file a collective submission with the Saeima (Paragraph 1, Article 131 ³ of the RoP)	The proposal proposes how to amend the existing regulations or how to improve the community life, and up to three pages of reasons are appended to the proposal stating why the current situation is unsatisfactory and how the made proposal would improve the situation (Article 7 ¹ of the Response act) At least 1000 signatures in support have to be collected for submission of a collective proposal. (Article 7 ¹ of the Response act)	Petitions, complaints or proposals can be made to social institutions and organisations in connection with the duties entrusted to them in the area of public administration and carried out by them. Petitions, complaints or proposals can be made in the public interest, in a personal interest or on behalf of a third party with their consent. (Article 221 of Code of Administrative procedure)

<i>Accessibility of submitted petitions and e-petitions</i>	Limited accessibility, as only summaries of petitions and e-petitions are provided.	Limited accessibility, as only petitions submitted to informal petition systems can be viewed. Petitions submitted to a formal petition system can only be viewed by the initiator.	Limited accessibility, as only petitions submitted to informal petition systems can be viewed.	Limited accessibility, as only petitions submitted to informal petition systems can be viewed. Mainly summaries are provided on an official petition system.	Limited accessibility, as only petitions submitted to informal petition systems can be viewed.
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RESULTS AND DISCUSSION

While analysing whether the right to petition remains inviolable in the context of digitalization and the author analysed and reviewed: (i) the concept of an e-petition; (ii) the right to an e-petition and (iii) compared different legal regulation regarding petitions and e-petitions in EU and its member states: Lithuania, Latvia, Estonia, Poland. It was found that:

1. e-petition (or an online petition) is a complaint, request or a demand regarding an issue or an infringement, filed through an electronic device or published online, by a natural or a legal person, in accordance with applicable laws and (or) rules of an appropriate platform, individually or in an association with others;
2. the right to petition is guaranteed in EU and all of its member states analysed in this article (this right is enshrined in their respectively main legal documents.). While the right to e-petition is not clearly enshrined in any of the mentioned countries, after analysing each of the respective countries' procedural and other specialized petition laws, it can be implied that this right is guaranteed;
3. citizens of EU and its member states that were analysed in this article are provided with a way to submit a petition and an e-petition both on paper and electronically;
4. the obligation to review a petition varies from country to country. Some countries oblige petitioners to receive a certain amount of signatures before a petition can be reviewed (Latvia, Estonia); other countries oblige the petitioners to conform to certain rules (Lithuania, EU, Poland). Finally, in some countries, the petitioner has to both conform to certain rules and receive a necessary amount of signatures (Latvia, Estonia);
5. most of the informal e-petition systems provide the users with the ability to review submitted e-petitions or petitions online, sign them, comment and (or) discuss about relevant issues, etc. Meanwhile official e-petition systems mostly provide the citizens with the ability to review the summaries of submitted e-petition or petitions. While there are exceptions to the rule, formal e-petition systems have much stricter rules regarding the integrity of submitted petitions and e-petitions.

CONCLUSION

The right to petition remains inviolable in the context of digitalization. At least in the context of the countries that have been analysed in this article, the citizens have the ability to object to the digitalization of petition system (i. e. they are not forced to submit only e-petitions). That being said, taking into account the technological advancement, it is not clear how long will the citizens keep their right to object to digitalization of petition system. Moreover, it is already clear, that it is easier to have a lasting impact by submitting an e-petition rather than a conventional petition. Therefore, until the moment when countries will actively promote e-petitions over conventional petitions, it is important to ensure that every single citizen retains their right to realize their basic right to submit a petition (e. g. to set up community places where citizens can access, submit and monitor the status of e-petitions, etc.). The level of difficulty of ensuring that the citizens continue to retain their right to submit a petition will depend on appropriate country's cultural, economic, political and social levels.

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SANTRAUKA

PETICIJOS TEISĖS NELIEČIAMUMAS SKAITMENIZAVIMO KONTEKSTE. LIETUVOS, LATVIJOS, ESTIJOS IR LENKIJOS LYGINAMOJI ANALIZĖ

Visuomenė keičiasi precedento neturintiu greičiu. Ketvirtoji industrinė revoliucija pakeitė ne tik įprastus gamybinius procesus įvairiose srityse, bet taip pat vadybos, valdymo sistemas, o taip pat ir patį visuomenės mąstymą. Jau dabar matomas naujų technologijų suklestėjimas: autonominiai automobiliai, autonominiai ginklai, daiktų internetas, dronai ir t. t. Bet kol pasaulis yra sutelkęs dėmesį į naujų technologijų pažangą bei jų sąveiką su galiojančiais teisės aktais, vis dar nėra aišku, kaip pamatiniai demokratijos ir žmogaus teisių principai atsilaikys ir (ar) prisitaikys prie didžiulės skaitmeninės globalizacijos ir vykstančios skaitmenizacijos. Atitinkamai šiame straipsnyje autorius dėmesį sutelkė į vieną iš pamatinių piliečių teisių – teisę į peticiją. Straipsnyje nagrinėjama, ar peticijos proceso skaitmenizavimas nepažeidžia pamatinės teisės į peticiją. Analizė atlikta palyginus Europos Sąjungą ir pasirinktas valstybes nares: Lietuva, Latvija, Estija ir Lenkija.

Pirmoje šio straipsnio dalyje yra nagrinėjama e-peticijos (e-kreipimosi) sąvokos specifikacija. Buvo nustatyta, kad e-peticija yra vieno ar kelių fizinio ar juridinio asmens skundas, prašymas ar reikalavimas dėl problemos ar pažeidimo, pateiktas per elektroninį prietaisą arba paskelbtas internetiniame puslapyje (ar panašaus tipo erdvėje), vadovaujantis galiojančiais teisės aktais ir (arba) atitinkamos platformos (kur e-peticija yra patalpinama) taisyklėmis.

Antroje šio straipsnio dalyje autorius išanalizavo teisę į e-peticiją (e-kreipimasis). Buvo nustatyta, kad visos šiame straipsnyje lygintos šalys, tiesiogiai ar netiesiogiai, užtikrina piliečių teisę į e-peticiją (e-kreipimasis). Trečioje šio straipsnio dalyje buvo palygintos šiame straipsnyje analizuojamos valstybės pagal atrinktus kriterijus. Atlikus palyginimą, nustatyta, kad tiek peticijos, tiek e-peticijos (e-kreipimasis) turi vienodą tikimybę būti peržiūrėti, jeigu jie buvo pateikti laikantis atitinkamos valstybės galiojančių teisės aktų (t. y. prioritetas nėra teikiamas e-peticijai).

Galiausiai nustatyta, kad peticijos proceso skaitmenizavimas nepažeidžia pamatinės teisės į peticiją. Tačiau atsižvelgus į e-peticijos pranašumą prieš tradicinę peticiją, (lengviau peržiūrėti, surinkti parašus, supažindinti, pateikti) tik laiko klausimas, kada valstybės prioritetą teiks būtent e-peticijai. Iki to laiko būtina užtikrinti, kad kiekvienas pilietis išsaugotų savo teisę į peticiją (pvz. įrengti bendruomenių vietas, kur piliečiai turėtų galimybę susipažinti su e-peticijos pateikimo galimybėmis, jas teikti bei sekti jų priėmimo būseną).

REIKŠMINIAI ŽODŽIAI

Peticija, e-peticija (e-kreipimasis), skaitmeninimas, Europos Sąjunga.