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The revival of the right to petition in the Statutes of Italian Ordinary Regions

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Abstract

The right to petition is an instrument of popular participation whereby citizens are allowed to apply to an authority for the purpose of representing certain needs or to seek the adoption of specific actions. While widely regarded as obsolete in current legal theory and rarely applied in the national legal system, it is once again gaining momentum thanks to the second “wave” of Regional Statutes and the greater autonomy of regional legislators, providing for a wide range of applications. The analysis of regional regulations indicates that the right to petition has also found new applications that have turned it into an effective instrument to ensure communication between civil society and regional institutions

Key-words

right to petition, instruments of direct democracy, participatory democracy,
Regional Statutes



1. The right to petition in Regional Statutes

The right to petition is an instrument of popular participation whereby citizens “are entitled to apply to an authority in order to call attention to specific needs or to seek the adoption of specific actions” (Orrù 1996: 100).

While no Constitutional provision provides for the inclusion of this instrument in Regional legal systems, it has found widespread recognition in Regional Statutes that, also in their previous forms, have explicitly included it among instruments of popular participation.

Pursuant to art. 123 of the Italian Constitution, Regional Statutes are required to take account of both the initiative and the referendum on matters concerning Regional laws and administrative provisions. The absence of any reference in the Constitution to the right to petition concerning Regions has given rise to some doubts as to its legitimacy. It is generally agreed, however, that Regions are free to include the right to petition among the additional contents of their Statutes, in the absence of explicit Constitutional provisions to the contrary (Spagna Musso 1957: 27; Coccia 1992: 54; Orrù 1996: 130).

With reference to Regional Statutes, it is necessary to make a distinction between the periods before and after the Reform of Title V of the Constitution in that, while art. 123 of the Constitution has not been modified, regional statutory legislators have adopted a different approach to the matter.

In the first phase, dating back to 1971, most ordinary Statutes^I entailed the possibility for *every citizen* to petition the *Regional Council* to *request action or call attention to common needs*, in forms that were not unlike the national model contained in art. 50 of the Constitution.

Indeed, the Statutes of some Regions stood out in terms of the subjects entitled to file petition, including, for example, also Municipal and Provincial Councils and/or Labour Organisations, as well as entities, organisations and associations operating in the Regional context^{II}.

Other Statutes differed in that they explicitly referred to Council Regulations for matters concerning the use of this instrument^{III}; lastly, other Regions included directly in their Statute part of the procedure subsequent to filing the petition with the Council, thus providing greater guarantees. The Statute of Piedmont Region, in particular, stated that any decision on the eligibility and formal admissibility of a petition would be taken by the



Office of the Presidency of the Council^{IV}.

In general, however, as regards the legal effect of the petition, the receiving organisation was not under any obligation to take it into consideration, and it was in this aspect that lay the weakness of this procedure compared to traditional popular participation instruments. The Regional regulations confirmed the character of the petition, namely its being a mere request, the discretionary acceptance of which rested entirely with the receiving institution.

Furthermore, the greater statutory autonomy granted to Italian Regions by the constitutional reforms of 1999 and 2001 allowed statutory legislators to better differentiate the contents of their Statutes. As regards popular participation instruments in general, and more specifically the right to petition, the discipline has been innovated compared to constitutional provisions and significant differences can be noted also among Regions.

With the exception of the Statute of Tuscany^V, all new Statutes have continued to recognize the right to petition, in spite of the continuing silence from art. 123 of the Constitution. Moreover, Regional Council Regulations – except for Tuscany and Puglia – have laid down detailed procedures for the submission and the examination of a petition and it is in those Regional Regulations that the greatest discrepancies can be found. Lastly, Region Umbria has not included the right to petition in its Statute and Council Regulations, but it has approved a Law deliberately regulating “instruments to participate in the functioning of Regional institutions”, envisaging additional provisions concerning the right to petition in particular (Umbria Reg. Law No. 14 of 16th February 2010, art. 2 and 61).

This scenario leads to the following considerations. First of all, the recognition of the right to petition in Regional Statutes reflects the conviction that the said right is widely regarded as a statutory right, and any changes thereto would therefore require a procedure at a higher level than would normally be required for ordinary Regional laws.

Secondly, the fact that more recent Regional Council Regulations have further detailed the said instrument serves to recognize its relevance and its interest at regional level. Far from having become obsolete, the right to petition remains relevant at least in the regional legal system. Furthermore, the renewed interest towards this instrument may indicate the possibility of new areas of applications, the theory that will be argued in the present paper.

Additional considerations concern the legal nature of the instrument of petition. As some have noted in recent times, it appears reasonable that the legal nature of the right to



petition “cannot be proved in the abstract and definitively, in that it is strongly influenced by the positive laws to which the right is subject in practice” (Orrù 1996: 123). Therefore, particularly after the reform of Title V, the differentiation of the regulation of this instrument at regional level prevents the formulation of an *a priori* definition of its legal nature and for this reason this aspect will not be examined.

2. Subjects entitled to file a petition and subjects entitled to receive a petition

As regards *subjects entitled to file a petition*, substantial differences emerge in the new Statutes compared to the previous ones.

First of all, with the exception of the Statute of Umbria (art. 20(III), Reg. Law 21/2005) that recognizes only *citizens* as holders of the right to petition, and the Statute of Lombardy (art. 50(IV), Reg. Law 1/2008) that recognizes the said right to *residents, individually or in association*, all other Regions recognize the right as applying also to *Local Public Institutions, Municipalities or Provincial Authorities*, in general, or, more specifically, to *Elected Assemblies in Municipal, Provincial and other local authorities*^{VI}. This provision represents an additional instrument for greater opening and provides a connection between regional institutions and local authorities. Moreover, the fact that the majority of Statutes recognize “local institutions” as the holders of the right to petition leads to the conclusion that not only locally elected bodies but also all the organisations in the said institutions may resort to this instrument to bring certain needs to attention or seek the adoption of specific measures by the Region.

Some Regions^{VII} also recognize *other social entities* as entitled to file petitions, including organizations and associations represented at regional or at least provincial level; organised social subjects, associations, labour unions and trade associations, as well as autonomous functional entities. Therefore it can be assumed that today’s Statutes hold the same view of participation that was typical of the Seventies, when “institutions [were encouraged to] promote new and effective channels of democratic participation” (Barrera 2006: 117). The provisions seem to indicate that effective participation in the Region’s political, economic and social life can mainly be implemented through social entities in



various forms, to which just as extensive reference is made in the new Statutes as in the former ones.

Lastly, in general, the majority of Regions naturally recognize *all citizens* as holding the right to petition, but in this respect some Regions adopt a different stance: Abruzzo, Liguria and Marche identify both *citizens* and *residents* as entitled to file petition. Lombardy extends this right to *residents*, while Calabria, Emilia-Romagna and Lazio go even further and declare *anyone/everybody* eligible to petition.

The fact that this right is allowed not just to citizens but also to residents in the Region or, even more pointedly, to anyone at all, leads to consider a new function of this instrument. New statutory provisions seem to point towards the conclusion that the right to petition is being extended not only to Italian citizens, but also to those who merely reside there. When the right to petition is extended to everyone, even citizenship appears not to be a requisite any longer.

Opinions differ on this point, given the delicate nature of the matter, particularly at this time of marked social evolution in Italy, as large waves of migrants reach Italian shores and in view of the call for greater participation by migrants in political life and public matters being demanded by immigrants and several political forces (De Mattei 1927: 57; Rossi Merighi 1974: 1703; Coccia 1992: 55).

Extending the right to petition to anyone, even to foreign nationals, whether they are resident or temporarily domiciled in the Region – depending on the statutory provisions applicable – reflects on civic and even political rights, depending on the legal nature that is attached to the right to petition. These rights are not only extended but, in practice, they become a proactive and lobbying instrument in the hands of migrants. Considering that immigrants have not so far been entitled to vote, to undertake legislative action or to participate in a referendum, even at Regional level, the right to petition appears to be particularly relevant because it provides an effective and useful way for bringing to the attention of Regional authorities certain concerns, for seeking the adoption of specific actions, or for simply bridging the gap between immigrants and regional institutions.

Another requisite that is not binding and absent from any of the new Regional Statutes is the age limit. The absence of regulations on this point is particularly interesting for two reasons: first, it allows for further extension of the right to petition to minors. While some doubt remains “about the actual and autonomous capacity to exercise” the



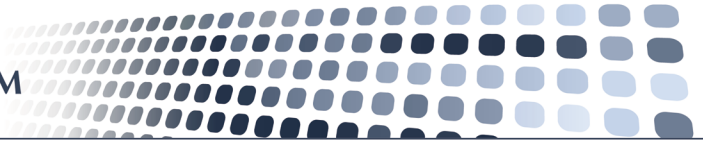
said right “by subjects of a very young age” (Spagna Musso 1957: 115; Rossi Merighi 1974: 1701; Orrù 1996: 118), from a legal perspective, a restriction on a right that is not expressed is hardly justifiable and therefore the majority agree that the exercise of the right to petition is not subject to the same requisites that apply to the right to vote (Meucci 1966: 6; Giocoli Nacci 1979: 68).

The fact that no age limit applies to the right to petition can be regarded positively also from another point of view. In recent years the issue of lowering the voting age to 16 has fuelled debate and until this proposal is put into practice, the right to petition provides an instrument for dialogue and contact with that portion of the regional population that, while being intellectually of an age that allows the expression of their will on some political issues, is not entitled to vote or to exercise other political rights, thus precluding any chance of getting in touch with the relevant institutions.

As regards the *recipients of a petition*, while the majority of new Statutes have not changed the situation that a petition can only be filed with the *Regional Council*, some have introduced an important innovation. The recipients of a petition can either be the *Region* – further specifying that petitions are to be addressed to the *President of the Regional Executive Committee* or the *President of the Regional Council depending on their respective authority*^{VIII} - or, more generally, *Regional organisations*^{IX}.

These provisions require a more detailed analysis. First of all the fact that some Statutes only allow for Regional Councils to be the recipients of a petition does not prevent them from acting as “spokespersons” and addressing the Regional Executive Committee in cases where the petition concerns areas attributable to the Regional Executive Committee. However, in this way the Regional Council undoubtedly operates as a filter – as will be argued below – for the Executive Committee, which leaves no opportunity for the latter to act legitimately on the merit of the petition except through a communication from the Council.

The Statutes that allow for either the Regional Council or the Executive Committee to be eligible recipients of a petition more accurately identify the new role and functions that these bodies have acquired in the Regional legal system. Both organisations have increased their importance, particularly after the constitutional reforms of 1999 and 2001 and, more specifically, following the introduction of a more markedly presidential form of government - which increased the power of the Executive Committee and its President in



the Regional system – as well as the extension of the legislative and regulatory fields in which the Regions are allowed to act. Significantly, petitions can be addressed to either of the two bodies, depending on their respective authority.

Lastly, some statutory provisions are of particular interest in that they identify “any” regional organisation as recipients of a petition, without further conditions. These provisions allow for a broad interpretation wherever possible, enabling petitions to be addressed also to regional organisations other than the Regional Council or Executive Committee. In this way the petition could effectively become an additional and useful instrument – provided that adequate restrictions apply to its areas of application and to its contents – to inform the various regional organisations about the issues and concerns that are of interest to civil society.

3. Object and limits of the petition

Like the earlier Statutes, the more recent ones show little difference in terms of the possible object of a petition. Petitions may be filed to *request* that the recipient *adopts actions and for bringing common concerns to its attention*^X, or to *request* that the recipient *takes action or seeks to adopt provisions of general interest*^{XI}. No substantial difference can be found between the two statements and, on this point, Regional Statutes seem to conform to the national provisions regarding the right to petition. It is therefore generally agreed that petitions should not be of a private nature and that they should be characterised by a general scope (Spagna Musso 1957: 29; Giocoli Nacci 1979: 93).

Clearly, the general nature of the terms used makes it possible to state that “any form of collective good may be pursued through petition” (Giocoli Nacci 1979: 108). This not only refers to the adoption of a legislative or administrative act, but also any other type of action and deed on which the recipient of the petition is able to act, hence the appropriate generality of the term “provisions” that refers to any measure within the jurisdiction of the recipient.

Only one difference in this respect can be found in the new Regional Statutes. Some Regions have introduced an additional limitation to the exercise of the right to petition, so that in some cases the petition must be limited to *matters applicable to Regional*



councils^{XII} while, conversely, in other Statutes petitions *shall not be admissible if they do not refer to functions of the Regions, either direct or delegated*^{XIII}. However, the last remark is already implicit in the instrument of petition, which aims to secure a provision or an action from the receiving body that it has the power to adopt. It would certainly not make any sense to petition the Regional Council or Executive Committee to adopt a measure that they would not be entitled to approve or to intervene in a matter which would be, for instance, within the national government's sphere. The introduction of such limitations appears rather unnecessary since, in any case, they lie outside of the scope of the petition.

Another aspect requires greater attention, namely the fact that Regional Statutes, unlike other instruments of popular participation (such as popular legislative initiatives and abrogative referenda), do not impose any additional restrictions to the right to petition. Therefore petitions may be filed even if its contents refer to matters that are generally excluded from popular legislative initiatives or subject to an abrogative referendum (Manfredini 1953: 55-56; Meucci 1966: 7; Rossi Merighi 1974: 1731; Coccia 1992: 58; Orrù 1996: 116). For example, while legislative initiatives on regional community law are in many cases reserved to the Regional Executive Committee, it is possible to petition the Executive Committee to seek the adoption of the legislative bill.

This aspect of the right to petition is certainly of particular interest in that it correctly identifies characteristics of this instrument that prevent it from being regarded as entirely obsolete. The fact that petitions are not subject to the same limitations that apply to other instruments of popular participation contributes to making it relevant in the new Statutes and to highlight its usefulness as a means to connect people to regional institutions and to seek action from them.

4. The procedure to file a petition

The usefulness of the right to petition is in direct proportion to the procedural guarantees attached to it in the Regional Statutes. The greater the guarantee that the petition reaches the institution it is addressed to and that it will be taken into due consideration, the more this instrument will be perceived as useful and effective.

First of all, statutory provisions do not set any specific limitation on the nature of the

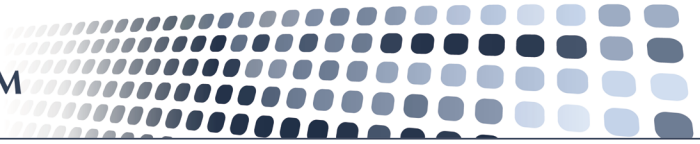


petitioner(s), unlike other instruments such as popular legislative initiatives and referenda. This aspect ensures greater freedom to use this instrument by any members of the regional community, without any significant restrictions.

As regards the form of a petition, no statutory limitation exists on how written petitions are filed. The fact that petitions should be filed in writing, on duty-free paper and without any particular form, is a logical consequence of the fact that the recipient does not, as a rule, gain access to the petition when it is filed and the petitioner is not always granted an audience by the recipient. Moreover, in general, the petitioner filing the petition (whether the first or the only signatory) is required to provide at least some personal information so that the petition's admissibility can be checked if necessary and, more importantly, so that the petitioner can be informed about its outcome.

Some Council Regulations make specific reference to how a petition is to be filed^{XIV} and require the inclusion of information such as the petitioner's place of residence and the name of one of its signatories who will act as the contact person for the Council. In some cases the Regulations also require the signature on the petition to be authenticated, although it can also be certified by the regional officer in charge of receiving the petition. Secondly, it should be noted that most new Statutes and Council Regulations do not contain any provisions on how the petition's admissibility should be verified by the Regional organisms. This is an additional and more significant difference from regional popular legislative initiatives and referenda. The exercise and the completion of these two methods are subject to greater formal constraints and therefore also to more verification of compliance than a petition (for example, a minimum number of signatures or compliance with the limits of object). Since no particular restrictions apply to filing a petition, this appears to be a more flexible instrument of popular participation than the other two.

On this point, the Statute of Piedmont Region (art. 85(I)) and the Council Regulations of Emilia-Romagna (art. 121(I)), Liguria (art. 112(I)) and Lombardy (art. 53(II)) are set apart in that they require a petition's admissibility and eligibility to be verified by the President of the Council or the Office of the President of the Regional Council. Since no additional regulations are available, it can be assumed that such verifications mostly concern the requisites of the subjects entitled to exercise the right to petition, which – as noted above – are considerably simpler than the requisites applied to other popular participation instruments. If, as laid down in some Statutes, the petition can be filed not



only with the Regional Council but also with the Region's Executive Committee or even any regional institution, it is reasonable to conclude that the petition's admissibility may also depend on the correct recipient being indicated based on the petition's content.

Furthermore, the admissibility of a petition also depends on the scope of its object which should pertain to regional bodies and should not, therefore, lie outside what is believed to be an integral part of regional regulations and functions.

Lastly and most significantly, the Regional Council Regulations of Piedmont Region introduce additional provisions concerning a petition's admissibility by setting a 30-day limit by which the Office of the President is required to take a decision; the possibility to set a deadline for the petitioner to amend the petition in order to make it formally admissible; and, if no unanimous agreement is reached within the Office of the President on the petition's admissibility, the matter is decided by the Regional Council in its next session (art. 112). By laying down such provisions, Piedmont Region has pre-empted situations that may occur when filing the petition while, at the same time, setting a deadline that, although not final, does ensure that the petition will not become "stuck" right from the start.

5. The procedure following filing the petition and the legal effects of the petition

Unlike other traditional popular participation instruments, there is a different procedure for petitions after they are filed with the receiving body.

In terms of the legal effects of the petition, this instrument of direct democracy is generally regarded as ineffective. It is widely agreed that, according to the national framework regulating the filing of petitions, there are no legal obligations for the recipients (Spagna Musso 1957: 21) since they are not legally required to take them into consideration or to take any decision about it.

However, as this paper intends to show, the greater statutory autonomy given to Regions has enabled some of them to breathe new life into this instrument, by laying down stricter limitations for regional institutions, thereby ensuring greater and more effective popular participation through the petition than it is granted by the Regional legal system



alone.

First of all, in some Regions have introduced *deadlines* for the phase following the filing of a petition i.e. they have set a time limit for the President of the Regional Council or the Office of the President to forward the petition filed to the Regional Council^{XV}. Other Regions, even more effectively, have introduced a deadline for deciding on the merit of the petition, thus ensuring not only that the receiving organism is informed that it has been filed but also providing for the introduction of what appears to be an obligation to take the matter into consideration. The fact that there is no legal consequence or sanction for not complying with these terms seems to indicate that the terms are, in fact, not final, but they should not be regarded as unimportant either.

As mentioned above, filing a petition does not entail any legal obligation for the recipient, which is not required to act upon the requested measure, for example the adoption of a legislative provision requested by the signatory of the petition. However, several options open up after a petition is filed: in particular, the recipient may have an obligation to receive it or an obligation to rule on its merit and therefore admit the petition; lastly, the filing of the petition may also require the recipient to publish the petition and the resulting decision.

It appears evident that the greater the obligations posed by a petition, the greater is the weight and the power of this right which, from a mere possibility to *file a petition* can become *a claim for the petition to be examined in its merit and to receive a reply on the decision reached*, thus becoming a more “appealing” instrument for social entities. In order for the petition to serve its purpose, and therefore “in order to ensure that the request is brought to the attention of the recipient and that a decision is taken on the matter, it is not enough to accept it merely from a formal point of view but it is necessary to proceed with examining it and taking a decision. It is only by examining the petition that the recipient can become aware of the matter being raised and it is only by taking a decision that the recipient takes a stance on the matter, whether positive or negative” (Spagna Musso 1957: 33; Orrù 1996: 114).

As regards the *obligation to receive*, this can be found in most Regions and particularly in those cases where the Regional Council is required to acknowledge receipt and to examine a petition and even more clearly when the Council is required to rule on the admissibility of a petition. These provisions are even more binding when, in some cases,



they are accompanied by a deadline for taking these actions.

As regards establishing *an obligation to examine the merit of a petition*, very few Regions have decided to break away from the national legal system and to add such limitations. In particular, only Campania included in its Statute the obligation for regional organisations to examine petitions and to provide a written reply to the petitioner (art. 116(III), Reg. Law 6/2009). In this respect, it should be noted that the draft Statute currently being discussed by the Regional Council of Veneto contains an obligation for the competent Council Committee to examine a petition within six months of being received^{XVI}. If this draft project is approved, the recipient would be subject to stricter obligations compared to the provisions contained in the Statute of Campania, in that it would be required to comply with the terms by which the examination must be carried out. It would also mean that the provisions adopted in Campania are not a “one-off” occurrence or the result of an oversight, but a trail-blazing experience on the part of “pilot” Regions breaking away from the Constitutional pattern concerning petitions and using their statutory independence to refresh certain aspects regulating popular participation.

Moreover it should be considered that while it may be difficult today to find any such provisions in Regional Statutes, it is not so in Regional Council Regulations. Some Council Regulations^{XVII} provide a deadline by which the competent Council Committee in charge of examining the petition is required to complete its examination and to rule on the petition received.

In addition to the legal obligation to examine a petition, several options open up for the recipient of a petition. From statutory provisions and regulations, four main possibilities appear to be available. First, the Regional Council, and more specifically the appropriate Council Committee, examines the merit of the petition and may decide to combine it with a similar measure already under consideration by the Committee, ruling therefore for a joint examination. Alternatively, the Council/Committee, after acknowledging the content of the petition, may decide to transfer it to the Executive Committee or to the appropriate Regional organisation that is then requested to rule on it. The recipient of a petition may, as a third option, decide to approve a specific deliberation concerning the merit of the petition or, lastly, since the right to petition does not entail any obligation to deliberate, the relevant organisation may decide to terminate the petition. Clearly, in the second case the Council / Committee functions as a “filter” towards other



regional bodies, particularly the Regional Executive Committee. The Council is entitled to rule on the authority of other organisations to deal with a petition and therefore it is entitled to decide when to adopt a resolution aimed to inform the relevant organisms of the contents of a petition.

Therefore the provisions contained in the new Statutes allowing petitioners to file petitions with institutions other than the Council, such as the Executive Committee or other bodies, should be regarded positively in that they prevent the petition having to be examined by the Council and any internal conflict among regional bodies.

Moreover, if the Council refers a petition to other organisations because it pertains to them, unless there are explicit provisions to the contrary, these organisations are not subject to a legal obligation to examine and to decide on the petition.

Most interestingly, Piedmont Region (art. 113(III), Council Regulations) allows the petitioner to request to attend the examining of the petition. While the Council is in no way obliged to give an audience to the petitioner, this provision is a token of the importance attached to the right to petition. If its purpose is indeed to acknowledge “a general participation in the institutional activity of the Region” and to open up Regional Institutions so that they “listen to civil society” (Caretti – Tarli Barbieri 2009: 205), the fact of giving the petitioner the possibility to explain the motivations for the petition verbally serves to pursue those objectives more effectively.

Lastly, provided that one of the four options is adopted by the recipient, a further question concerns the provision in Regional legislation by which the recipient is *obliged to inform the petitioner of the outcome of deliberation*.

Most Regions – including those that do not have an obligation concerning the merit of the petition – include an obligation to inform the petitioner of the decisions taken by the receiving organism^{XVIII}. Implicitly, it can be concluded that there exists an obligation to examine the petition, without which obviously no decision can be communicated to the petitioner.

This fact also indicates that, unlike the national legal system, Regional legal systems have “renewed” the right to petition in that they have placed the expectations of the petitioner at the centre of attention. If regional organisations are not required to adopt the measure sought (an obligation that would refer to instruments other than the petition), it is essential for the purpose of a petition that it is taken into due consideration and examined



by the recipient, even if the procedure ends with rejecting the petition. The obligation for the Region to inform the petitioner about the outcome of the petition can therefore be regarded as a useful step for bringing civil society closer to public institutions and to ensure more active participation.

6. Conclusions

In conclusion of this analysis of the regional provisions regulating the right to petition, it is necessary to assess the usefulness and particularly the current effectiveness of this instrument of popular participation and consider the actual increase in democratic participation that it may entail, which would mark a difference between Regions and the State, as was anticipated in the 1970s when such public institutions were established (Casetta 1973: 97; Romano 1973: 235).

There is no doubt that, out of all the instruments for popular participation, the petition appears to be one of the weakest because it is not able to *immediately* influence the will and behaviour of regional institutions. The implementation of the content of a petition lies entirely with the institution that has received it, while the petitioner has no power to influence its decision. These legal consequences have also led many to exclude the petition from the instruments that are traditionally regarded as typical of a direct democracy^{XIX}.

However, the fact that, in their new Statutes, the Regions have introduced changes for the petition – which have proved significant in some cases at least, and which break away from the national legal system – leads to the conclusion that it should not be underestimated and that new applications seem to have been identified.

Today more than ever it is the political effectiveness and consistency of this instrument, rather than merely its legal effects, that attest to its usefulness. While unable to influence the decision-making process, the petition does provide a point of contact between national and regional institutions and civil society at large. There is thus reason to not be excessively pessimistic about the “vitality” of this instrument which has proved to not be terminally obsolete, as shown in recent times also by the innovative approach adopted by regional legislators.

There are two main strengths in the right to petition.



First, “the elementary nature of its legal structure” (Orrù 1996: 100) and therefore the fact that no particular restrictions and constraints apply to file a petition with the relevant organisation, and that it is not subject to the limitations that apply to popular legislative initiatives and referenda. These two elements make it much more flexible than the other two popular participation instruments and therefore more “appealing” for trying to bridge the gap that keeps general society and institutions apart.

Secondly, as previously noted, the petition may become a useful instrument for those not having the right to vote to participate in the life of Regional institutions. Considering the requisites that are necessary to be entitled to the right to petition, it can become a useful instrument to provide a “delayed reply to the growing demand for political participation” (Orrù 1996: 102) coming, for instance, from immigrants and also from other regional population groups. Clearly, collective rather than individual petitions acquire particular relevance, because they can work as effective instruments not only to seek action, but also to react to measures adopted by regional institutions as well as to give voice to new interests issued from the social transformations - at times even disruptive ones - that can be observed in our society today.

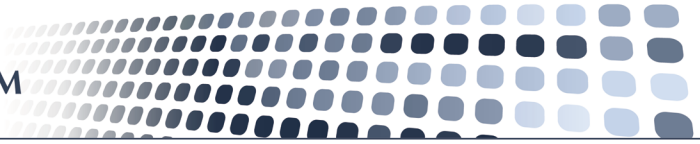
The element that is generally identified as a weakness of petitioning – the continuing lack of obligations for the recipient to act on its merit – cannot lead to an entirely negative assessment of this instrument. Some regional legislators have introduced considerable innovations in their new Statutes by including an obligation to examine the petition.

Therefore this instrument appears able to contribute to “accentuating the democratic character of public institutions” (Mignone 2005: 649) thus allowing the community to become fully active, and it seems to have become, like the other instruments of popular participation, an effective bridge between the community and regional institutions.

¹ Exceptions concern the Statutes of Liguria, Puglia and Veneto Regions, even though the internal Regulations of the Regional Council of Puglia allow petitions as “an instrument not exclusive to the national legal system but possessing a general character.”

As regards the Statutes of Regions with special Statutes, while they were approved at the same time as the Constitution came into force, they make no reference to the right to petition, although this was regulated by Council Regulations in the Regions of Sardinia, Friuli-Venezia Giulia and Valle d’Aosta (article 100, 85 and 29 respectively).

¹¹ Art. 61 L. 339/1971 (Statute of Lombardy); art. 33(I), L. 345/1971 (Statute of Marche); art. 41(I), L. 347/1971 (Statute of Molise).



^{III} Art. 64(III), L. 350/1971 (Statute of Basilicata); art. 36(III), L. 346/1971 (Statute of Lazio); art. 33(II), L. 345/197 (Statute of Marche); art. 41(II), L. 347/1971 (Statute of Molise), art. 63(II), L. 338/1971 (Statute of Piedmont).

^{IV} Art. 63(I), L. 338/1971 (Statute of Piedmont).

^V While the previous Statute of Tuscany (L. 343/1971) recognized the right of all regional citizens to petition (art. 74), that reference is not contained in the new Statute (art. 72 statute Law No. 12/2005) and only mentions, under Title VIII on “Participation”, “the promotion of the participation of citizens, residents and organised social entities, in different forms” on the part of the law (art. 72). However, the current Reg. Law 69/2007, by which the statutory principle was implemented, does not sanction the right to petition in any way.

^{VI} Art. 65(I), statute Law of Lazio No. 1/2004; art. 85(II), statute Law of Piedmont No. 1/2005.

^{VII} The reference here is particularly to the Statutes of Campania, Emilia-Romagna, Liguria, Marche, Piedmont and Puglia Regions.

^{VIII} Art. 12(V), statute Law 2006 of Abruzzo; art. 12(I), statute Law of Liguria No. 1/2005.

^{IX} Art. 10(I), statute Law of Calabria No. 25/2004; art. 16(I), statute Law of Campania No. 6/2009. Similar provisions can also be found in the draft Statutes of Molise and Veneto Regions, under articles 11 and 13 respectively.

^X Art. 65(I), statute Law of Lazio No. 1/2004; art. 50(IV), statute Law of Lombardy No. 1/2008; art. 41(I), statute Law of Marche No. 1/2005; art. 20(III), statute Law of Umbria No. 1/2005.

^{XI} Art. 10 (I), statute Law of Calabria No. 25/2004; art. 85 (I) statute Law of Piedmont No. 1/2005; art. 16 statute Law of Puglia no. 7/2004.

^{XII} Art. 16 (I), statute Law of Campania No. 6/2009; art. 16 (I), statute Law of Emilia-Romagna No. 13/2005.

^{XIII} Art. 12 (V), statute Law 2006 of Abruzzo; art. 12 (IV), statute Law of Liguria No. 1/2007.

^{XIV} Cfr. Council Regulations of Liguria (art. 112(I)), Lombardy (art. 53(I)), Molise (art. 82(II)), Piedmont (art. 111(II)) Regions and Autonomous Province of Trento (art. 165(I)).

^{XV} For example, art. 118(I), of the Council Regulations of Calabria; art. 35(II), of the Council Regulations of Campania; art. 68(I), lett. f), of the Council Regulations of Emilia-Romagna; art. 53(II), of the Council Regulations of Lombardy; art. 127(II), of the Council Regulations of Marche; art. 103(I), of the Council Regulations of Umbria.

^{XVI} Art. 13(II), of the text approved by the Commission for the Statute and the Regulations on 6-7 August 2004.

^{XVII} Cfr. art. 121(II), of the Council Regulations of Emilia-Romagna; art. 139 of the Council Regulations of Friuli-Venezia Giulia; artt. 113 and 114 of the Council Regulations of Piedmont; art. 165(III), of the Council Regulations of the Autonomous Province of Trento.

^{XVIII} Art. 67(III), of the Council Regulations of Campania; art. 36(VI), of the Council Regulations of Valle d’Aosta.

^{XIX} Cfr. Enrico Spagna Musso, 1957, ‘Note sul diritto di petizione’, in Excerpt from the journal *Rass. Dir. Pubbl.*, Jovene Ed., Napoli, 48; Giocoli Nacci, 1990, ‘1; Stancati, 1983, 602 ff.

Contra Mortati, 1976, t. II, 858, who identifies the right to petition as part of the “instruments of direct democracy, if devoid of deliberative power”; Rossi Merighi, 1984, ‘1731.

More recently, Orrù, 1996123, who defines petition as “an instrument of participatory democracy” rather than direct democracy.

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