



**LOWER SAXONY  
STATE PARLIAMENT**

## **The handling of petitions**





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## Who can submit a petition?

***Article 17 of the Basic Law:  
Every person shall have the right  
individually or jointly with others to  
address written requests or complaints  
to competent authorities and  
to the legislature.***

The Basic Law of the Federal Republic of Germany guarantees “every person” the right to submit requests and complaints to the competent authorities or - above all - to the elected bodies representing the people, i.e. the parliaments.

The drafters of the Basic Law deliberately allowed this fundamental right to anyone who feels that he or she has been unfairly treated by an administrative decision, or who wishes to make requests or proposals for legislation. It is thus available to minors, foreigners, people placed in care and convicted prisoners, and also, for example, to citizens' action groups, associations, clubs and businesses. Furthermore, although the right of petition is a personal right, it can also be exercised (with their consent) on behalf of other peo-

ple, and also in matters that are not of an individual nature, but concern the public good.

There is, on the other hand, no right of petition for public authorities, which also includes schools, since organisationally these form part of the State machinery and do not themselves enjoy fundamental rights.

Petitions from the population create a direct, living link between people and Parliament. They allow Members of Parliament not only to learn about the cares and concerns of members of the public, but also to find out which of the laws they have made may turn out to be inadequate to deal with certain particular cases. As even the most conscientious public authority is not infallible, even the best laws can prove to have shortcomings, and even the most comprehensive government regulations may fail to take account of some particular special case, the right of petition is an extremely important element among the constitutional “checks and balances”.



## Limits to the right of petition

*Although the wording of Article 17 of the Basic Law initially gives the impression that Parliament is able or even obliged to concern itself with every request and complaint, our Constitution taken as a whole also indicates the limits to the right of petition:*

The State Parliament of Lower Saxony, for example, is not responsible for reviewing the administrative actions of Federal authorities or of public bodies, institutions or foundations that are under Federal supervision. In these cases, responsibility lies with the Petitions Committee of the German Bundestag: Petitionsausschuss des Deutschen Bundestages, Platz der Republik 1, 11011 Berlin. The same applies to actions taken by the authorities of any other German state. Here it is the respective state parliaments and their petitions committees or ombudsman offices that are responsible.

In view of the independence of the judiciary, which is constitutionally guaranteed by Article 97 (1) of the Basic Law, the State Parliament is prohibited even from scrutinising, to say nothing of amending, the content of any decision made by a court of law. Judges are independent in their decisions, and subject only to the law. Consequently, judicial decisions can only be quashed or modified by other competent courts, and only in accordance with the due processes (objections, appeals etc.) laid down by law. The State Parliament could only examine whether the judges involved had failed to perform their duties properly, if there were anything in the situation to indicate that this might be the case.



Finally, disputes of a private nature, e.g. with business or contractual partners, neighbours or relatives, cannot be examined either.

Decisions by municipal and district authorities and other public bodies which fall within the scope of their right of self-government are subject to only limited legal review by the State Parliament. Article 28 (2) of the Basic Law, and also Article 57 (1) of the Lower Saxony Constitution, guarantee them the right to conduct their own affairs on their own responsibility within the limits prescribed by law. Although, in exercising these powers, local authorities are subject to the supervision of the State, which has a duty to ensure that they exercise their powers in accordance with law, the supervisory authority may nevertheless only intervene in the general public interest, and not with the aim of helping an individual to exercise his rights - particularly if the individual concerned can exercise those rights himself

or herself, e.g. by filing a complaint or taking legal action.

Mere comments on political decisions or expressions of opinion from which it is not possible to deduce what purpose a formal review would be intended to serve are not petitions within the meaning of Article 17 of the Basic Law; nor are submissions consisting merely of insults and abuse. Anonymous submissions are not accepted.



## The form of a petition and who it is to be addressed to

Petitions or submissions (the two terms mean the same) to the Lower Saxony State Parliament are to be addressed to

The President of the Lower Saxony  
State Parliament  
(Präsident des  
Niedersächsischen Landtages)  
Hinrich-Wilhelm-Kopf-Platz 1  
30159 Hannover.



In order to enable people to exercise their right of petition as effectively as possible, there are no formal requirements, except that the petition must be submitted in writing. As the right of petition is a “personal right”, how-

ever, a petition must be signed in the petitioner’s own hand.

Submissions made only by e-mail - even with a facsimile signature - do not fulfil this requirement.

Petitions do not have to be submitted within any particular period of time. Nor must they generally be accompanied by supporting documents.

It is entirely sufficient for the matter of concern to be described in brief words and - if it relates to the actions of any authority - for the authority concerned to be named and the decision in question indicated as concretely as possible. Finally, it should be clear from the petition what the petitioner expects the State Parliament to do.

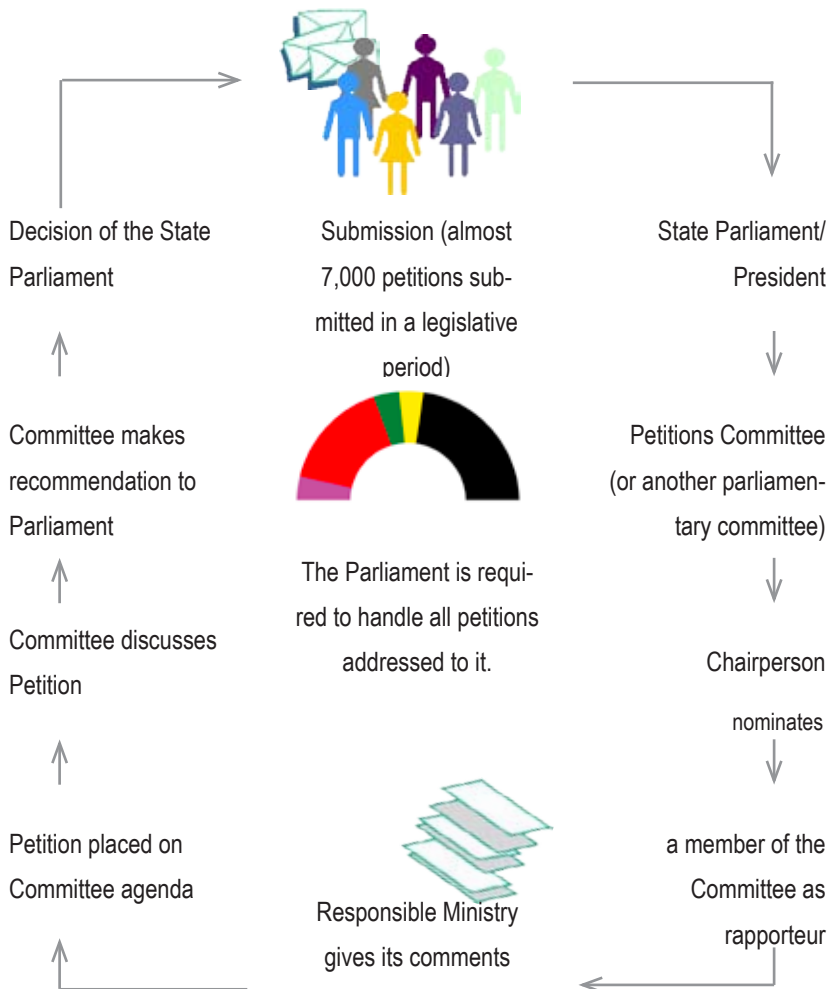
Since november 2011 it is also possible to give in petitions online. More information about this you will find on the internet: [www.landtag-niedersachsen.de/online\\_petition/](http://www.landtag-niedersachsen.de/online_petition/)



# The procedure for dealing with petitions

## *The Constitution of Lower Saxony - Article 26*

*The State Parliament shall be responsible for handling requests and complaints addressed to the State Parliament; for the necessary preparations it shall avail itself of the committee responsible under its Standing Orders.*



## Petitions Committee or another parliamentary committee?

The Lower Saxony State Parliament is required under Article 26 of the Constitution of Lower Saxony to handle all petitions addressed to it (and which fall within its area of competence).

To make the necessary preparations, it avails itself of the responsible committees.

Submissions received are therefore first subjected to “preliminary scrutiny” by the parliamentary administration to see whether they fall within the competence of the State Parliament and whether they are petitions within the meaning of Article 17 of the Basic Law. The President of the State Parliament then refers the petition to the Petitions

Committee, or to the parliamentary standing committee responsible for the matter the petition is concerned with.

The Committee’s recommendation on how to respond to the petition is debated and decided upon by the State Parliament in public plenary session. The petitioner is then notified of the decision by a letter from the President (or a vice president) of the State Parliament.

Currently, about 50% of all submissions made to the State Parliament are handled by the Petitions Committee, the other half by the various other parliamentary committees.



## The significance of resolutions on petitions

If a request or complaint relates to the State's administrative acts, i.e. the actions of state authorities or of public bodies, institutions and foundations that are subject to state supervision (first and foremost the municipal and district councils), the State Parliament is not able to provide for any remedy itself. This is because under Article 28 (1) of the Lower Saxony Constitution, "executive power" lies not with the Parliament but with the State Government, and under Article 56 (1) of the Constitution is exercised by that government and its subordinate authorities. To this extent, parliamentary resolutions on

petitions have the character of recommendations.

The situation is different with regard to requests and complaints about state legislation. In these cases, thanks to its legislative competence, the State Parliament itself can initiate any legislative steps that it considers to be necessary.



## Types of resolution on petitions

*The types of resolution that the State Parliament can adopt on petitions are laid down in Section 52 (1) and (2) of the State Parliament's Standing Orders:*

### Sub-section 1:

In respect of every petition, the Committees shall as a rule recommend the State Parliament to adopt one of the following resolutions:

1. That the petition be referred to the State Government for remedial action,
2. That the petition be referred to the State Government for consideration,
3. That the petition be referred to the State Government as supporting material,
4. That the petitioner be informed as to the situation in law or in fact,

5. That the matter of the petition be declared to have been attended to,
6. That the State Parliament has/ sees no possibility/no cause to support the petitioner's concern/to grant the petition.

### Sub-section 2:

If the matter of a petition is declared to have been attended to, the resolution should indicate in what way the matter has been attended to. The circumstances in which these various recommendations are made are as follows:





***1. That the petition be referred to the State Government for remedial action:***

This resolution requests the State Government to grant the petitioner's wish or to remedy his or her complaint, as far as is possible under existing law. It represents the most complete acceptance of a petition that Parliament is able to resolve. It indicates that the State Parliament sees the petitioner's concern or complaint as being fully justified and at the same time recognises that it is necessary and possible to remedy it.

***2. That the petition be referred to the State Government for consideration:***

This is a recommendation to the State Government to re-examine the matter, and where applicable to include facts or aspects that have not yet been taken into account in its considerations.

***3. That the petition be referred to the State Government as supporting material:***

It is suggested to the State Government that it might examine the petitioner's proposals and possibly make use of them in the drafting of a bill on the subject, in the formulation of administrative rules or in other administrative measures



***4. That the petitioner be informed as to the situation in law or in fact:***

This type of resolution is appropriate if it is not possible for legal or practical (e.g. financial) reasons to fulfil the petitioner's wish or remedy his or her complaint, and if in addition the petitioner is not yet adequately informed about the factors that stand in the way, or if Parliament thinks he or she should be given additional details or explanations (other than is the case with no. 6).

***5. That the matter of the petition be declared to have been attended to:***

This resolution is regularly adopted if in the meantime the petitioner's wish has been granted or his or her complaint remedied. Petitions that request legislation are said to have been attended to when a new law has been passed on the matter.

***6a. That the State Parliament has/ sees no possibility to support the petitioner's concern/to grant the petition:***

This resolution may be adopted if for legal or practical reasons it is not possible to fulfil the petitioner's request and it is not necessary for the petitioner to be given any further information as to these reasons.

This applies in particular to cases in which the petitioner requests the State Parliament to influence or modify the decisions of a court of law, which is not permissible.

***6b. That the State Parliament has/ sees no cause to support the petitioner's concern/to grant the petition:***

This resolution may be adopted if the petition is obviously unfounded or incomprehensible, or contains insulting or abusive remarks.



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