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DRAFT REPORT

on the alleged abuse of the Valencian Land Law known as the LRAU and its effect on European citizens (Petitions 609/2003, 732/2003, 985/2002, 1112/2002, 107/2004 and others)
(2004/2208(INI))

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Rapporteur: Janelly Fourtou

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**on the alleged abuse of the Valencian Land Law known as the LRAU and its effect on European citizens (Petitions 609/2003, 732/2003, 985/2002, 1112/2002, 107/2004 and others)
(2004/2208(INI))**

The European Parliament,

- having regard to Article 6 of the EU Treaty which transposes the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR),
 - having regard to the right of petition as contained in Articles 21 and 194 of the EC Treaty,
 - having regard to Petitions 609/2003, 732/2003, 985/2002, 1112/2002, 107/2004 and others,
 - having regard to Rule 192(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A6-0000/2005),
- A. whereas it has received a large number of petitions (around 15 000) from individuals and associations representing several thousand European citizens settled in the Valencia autonomous region protesting about the denial of their legitimately acquired property rights as a result of the improper application of the Valencian Land Law (Ley reguladora de la actividad urbanística - LRAU),
- B. whereas a report was drawn up by the Committee on Petitions on this subject in May 2004 setting out, in particular, specific cases illustrating the problems entailed by this poor application of the law,
- C. whereas a new delegation appointed by the Committee on Petitions has continued the investigations carried out in particular in Madrid and in the region of Valencia in June 2005 during a follow-up mission to that of May 2004 in order to ascertain the facts and conduct interviews with the interested parties and key players,
- D. whereas the members of the delegation thus had an opportunity to hear the parties concerned:
- the European citizens who consider themselves victims of the LRAU,
 - the president of the Valencian regional government and the responsible ministers, the president of the Valencian parliament (Cortes Valencianas) and the political group leaders, the Valencian ombudsman (Sindic de Greuges) and the national ombudsman (Defensor del Pueblo), senior government officials from Madrid and Valencia, the federation of mayors of the Valencian region, representatives of the construction

industry and property developers, the ambassadors of the Member States and many other interested parties,

- and, lastly, representatives of the Constitutional Court and the president of the Court of Valencia who without exception cooperated with openness and goodwill, for which the delegation from the Committee on Petitions thanks them,
- E. whereas the competence and responsibility of the autonomous regional authorities and of the Spanish national authorities are clear and recognised in this matter and that they are enshrined in the provisions of the Spanish Constitution of 1978 and, more particularly, for the matter under consideration, in Articles 10, 18, 33, 45, 47, 54, 93 and 105 thereof,
- F. whereas the European institutions have the duty to enforce the provisions of the treaties and of the legislation adopted thereunder, having particular regard to the rights and obligations of European citizenship, and accordingly have a responsibility, in cooperation with the Member States, for resolving the problems affecting Europe's citizens,
- G. having regard to the specific nature of the LRAU which requires property owners, in the event of the approval of a land development project (*Plan de actuación integrada* - PAI) by a local authority, to cede a minimum of 10% of their property to the developer ("urbanizador") and to share the cost of the new infrastructure over which they have no influence or control; whereas, where payment is not possible, the required alternative is that land be ceded,
- H. whereas it is plain that property owners have in fact been harmed by this process of land development, which is apparent both from the petitions and on the ground, and whereas these facts are recognised by all the local authorities and the Valencian government is consequently preparing a new law in order to avoid the excesses in the application of the previous one,
- I. whereas the main grievances concern the one-sided methods of expropriation employing extremely low valuations with subsequent resale at a high market price and information arrangements that do not allow interested parties to respond, all adding up to material loss and mental suffering in very many cases,
- J. whereas suspicions surround the methods for awarding contracts which are alleged not to be in conformity with European law and whereas suspicions of corruption have even been voiced,
- K. whereas many land development plans seem to have a disastrous impact on the environment and the ecology of many coastal zones and, more particularly, on the future conditions for the supply of water, which is a subject of concern to the European Union,
- L. whereas all these issues and all these events have become a subject of political debate at all levels and it is sometimes difficult to determine the legitimacy or otherwise of certain positions,
- 1. Welcomes, in the light of the foregoing, the decision of the government of the Valencia autonomous region to frame and pass a new law designed to replace the LRAU in order to

avoid the acknowledged excesses in the application of the latter;

2. Considers that it is in no way competent or responsible for amending the draft version of this new law but urges that the future rules on expropriation - if necessary - respect both in terms of substance and of form the rights of property owners and that development projects incorporate the concerns for sustainable development and ecology that constitute major policies of the Union;
3. Wishes to see, under the responsibility of the regional government, an ad hoc committee to deal with compensation for citizens who have obviously suffered from the improper application of the previous law and wishes to be informed of the progress of this process of examination and compensation through reports forwarded to its Committee on Petitions;
4. Is concerned about the risks associated with the development of projects that have already been decided although not yet started and about their possible consequences (it does appear that there is some haste to enter into new projects before promulgation of the new law which will necessarily seem more restrictive);
5. Wishes to be informed of the precautions that can be taken to avoid a recurrence of previous excesses;
6. Undertakes - in keeping with Europe's responsibilities - to continue its investigations into compliance with tendering procedures and the risks of misappropriation of public funds;
7. Wishes to see information about the content of its investigations and its recommendations broadly disseminated in view of the large number of European citizens concerned (British, German, French, Belgian, Dutch) as are Spanish citizens themselves;
8. Instructs its President to forward this resolution to the Council and Commission.

EXPLANATORY STATEMENT

For over two years Parliament has been receiving a large number of petitions concerning what seems to be an extremely critical situation relating to the application of a land development law in the region of Valencia (LRAU). The number of those protesting directly through associations is thought to be in the order of 15 000.

The subject of the complaints concerns the improper encroachment on their existing property by urban amenity and land development projects. The criticisms relate both to the substance - legal, economic and environmental legitimacy of such projects - and to the form - poor information, lack of transparency, excessively short deadlines for lodging challenges and proposals, too low a level of compensation.

In addition, serious accusations have been made concerning compliance with tendering procedures, observance of environmental standards and, still worse, cases of corruption. It should be noted that both the legal and the political responsibility for this situation and for future projects rests with the following three bodies:

1. the Spanish Government as regards land law;
2. the autonomous community of Valencia as regards local legislation concerning planning rules;
3. the municipalities which, on the basis of both Spanish and regional legislation, implement the programmes which they deem legitimate.

What is at issue in this matter is the LRAU law introduced in 1994 which has been challenged both in terms of its substance and, above all, in terms of its implementation.

The Community of Valencia recognises improper practices triggered by this law and is preparing to revise it with a new law. In this connection, the Community of Valencia proposed to our committee during its visit that it would submit the new draft to the committee in order to incorporate into it any suggestions or amendments which we might make.

The issue has also become highly politicised, which makes it even harder and trickier to decide what one can contribute.

What role can there be for Europe in dealing with this problem given that both Parliament and the Commission are being contacted by a growing number of citizens, not only Spaniards but also from most of the other member countries of the European Union?

Intervention by Europe can be based only on Community law and, in this particular case, on a possible infringement of the directive on public procurement (the Commission has started an investigation to this end).

On the environmental issue, the subject is much more complex and difficult to act on since land development does not fall within the existing terms of reference of the Union* and the environment is not included among the areas of exclusive competence of the Union (see Articles 1-13 and 1-14).

* See Commission communication of 11 April 2004 COM(2004)6

Lastly, on the issue of respect for human rights as such, since the Charter of Fundamental Rights has no binding force, we can only advise referral to the Court in Strasbourg.

However, this debate must not make us overlook either the urgency of the situation or the response to be given to an extremely large number of existing property owners fearful of suffering unacceptable loss without mentioning those who already believe that they have been despoiled.

It is plain that, since a case-by-case review is outside the capacity and responsibility of European bodies, we can only confine ourselves to making a strong recommendation calling on the Community of Valencia not only to improve its law - which is already under way - but also to initiate a procedure for assessing situations on a case-by-case basis and putting in place appropriate rectifying measures and compensation.

The Committee on Petitions, after considering the complaints, travelled to the area in question and was impressed by the number and nature of the protests lodged by a large number of citizens both Spanish and from the majority of European countries.

Without being in a position to form an opinion on the substance of the matter which would involve obtaining legal and economic expert opinions outside the scope of the Committee on Petitions, it is nevertheless plain to everyone - including the Community of Valencia - that excesses and probably abuses did occur. This warrants implementation of arrangements for rectifying the situation. The European Parliament has a duty to respond while staying within its powers so as not to create a level of expectation among the citizens which might only be disappointed.

In conclusion, there seems to be an urgent need:

1. to start a procedure identifying what is factual and within Community competence (tendering) and which rules out any kind of judgment as to the lawfulness of the adopted project;
2. to make an appeal to the Community of Valencia and to the municipalities concerned recording the complaints received and the strength of feeling of the members of the Committee on Petitions at what appears both in terms of substance and of form to be a lack of consideration and respect for the European citizens concerned;
3. to formulate Parliament's wish that a process of rectification and compensation be implemented for injustices that have been proven;
4. to make an appeal that the rights of the environment so cherished by the whole of the European Union be taken into account in the projects that are in progress.