

# Chapter 7

## Informal Agenda Setting



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**Abstract** In this chapter, Van Keulen and Korthagen describe two tools which are used by citizens to put issues they think are important on the political agenda: the Dutch website *petities.nl* and the Finnish *Avoim Ministeriö* (Open Ministry) which ceased to exist but was aimed to help citizens' initiatives such as submitting a bill. Both are organised bottom-up. In their description and analysis of both cases, the authors put a strong focus on the participatory process and practical experiences of users. For a better understanding of these tools and how they are used in practice, interviews were conducted with the founders and researchers familiar with both tools. Strengths and weaknesses are identified and possibilities for improvements explored. While both tools show positive results in different ways, their impact in terms of policy tools leaves much to be desired. Interestingly, the low impact does not seem to create too much disillusionment among the participants. Quite the opposite, the amount of visitors of *petities.nl* have been steadily increasing. And participants of the Open Ministry are willing to accept not achieving the desired outcome, as long as they perceive the process to be fair. It turns out that e-participation tools are more often a successful civic instrument, but not a convincing policy instrument.

### 7.1 The Dutch e-Petition Case: *Petities.nl*

#### 7.1.1 Introduction

The main goal of *petities.nl* is to facilitate citizens to sign or start a petition. The initiator of a petition is responsible for filing the petition and for gaining support, and *petities.nl* just offers the platform. Since the start of the website in May 2005, nearly

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9222 petitions were signed with one or more signatures (December 2018). The petitions cover a broad range of issues, from populist to technocratic ones. The petition which was signed the most so far—by nearly 400,000 citizens—was a proposal to advance the age of breast cancer screening. The amount of signatories in total is about 11 million. The website attracts about 2.5 million visits monthly.

Petitions can be defined as requests to a public authority, usually a governmental institution or parliament. In general, they have the purpose to change public policy, call for an official statement or evoke a certain act by a public institution (Lindner and Riehm 2011). Because of ITs such as the Internet and social media, it is now much easier to start a petition, gain support for a petition, monitor the petition and of course announce the results of the petition to the outside world. In all Member States of the European Union, citizens have the right to petition government, parliament or other public bodies which is mostly legally codified in the constitution and in addition often in specific laws and regulations too. In the Netherlands this right is codified in the constitution, that is article 5: “*Everyone shall have the right to submit petitions in writing to the competent authorities.*” The legal provisions include the protection of the petitioner from adverse consequences of petitioning.

Petities.nl is a private initiative by Reinder Rustema, Arjan Widlak and Michiel Leenaars. Reinder Rustema is still the driving force behind petities.nl and edits new petitions lightly. He never removes a petition for content-related reasons. Only petitions on a company, an individual or a product are not allowed. The site runs on professional volunteers, private donations, support in kind (like hosting, office space) and irregular state subsidies, for instance, from the Ministry of Internal Affairs to build a new site (30,000 € in 2014).

The functionalities of petities.nl have increased over the years. Since 2016 the website can be used for crowdfunding among the signatories to pay for—for example—the help of a professional Public Affairs specialist for creating (political) impact with the e-petition. As a signatory you can also declare if and how you can or want to help to get the petition politically supported. Another interesting function of the petities.nl website is that petitioners can declare that they are available for their municipality to participate in citizen councils. One out of ten petitioners does so. The website also facilitates to send the e-petition directly to 22 local and regional governments. There is no such digital petition desk at petities.nl for the Dutch House of Representatives. The parliamentary administration assigns the petition to the most appropriate parliamentary committee. Citizens have to get in touch themselves with the House of Representatives to ask whether the concerned parliamentary committee is willing to accept the petition in public. There is no statutory obligation for parliamentary committees to hold a public meeting with the petitioners (like in Germany when 50,000 or more signatures are collected for one petition). If needed, petities.nl helps the petitioner to file the petition to the right public body. Since 2008 the recipients of petitions like local governments can open a virtual desk on the website to receive and answer petitions.

According to the interviewed initiator, agenda-setting is not the only goal of petities.nl. “*It is more about participating in a democratic process. To me, a petition is also a success when the answer of a recipient is: ‘sorry, that is not going to*

*happen, for this and this reason.’ After which the signatories might even agree. [...] And sometimes the petitioners are plain wrong, because they know too little, they have heard something about it, but they do not know the rights of it. Well, that’s fine. It happens, especially with today’s overflow of information” (our translation).*

### 7.1.2 Participants

Petities.nl is a Dutch platform, with only the navigation translated in English. Any citizen can file or sign a petition: It is a question of self-selection. If someone wants to sign a petition, he or she has to fill in one’s name, email address and place of residence. The signatory can choose whether he or she wants to reveal his/her identity below the petition or not.

On average a petition at petities.nl receives 1308 signatures (national level), 750 (state level) and 532 (local level); this is including the petitions which never started and/or received no signatures (courtesy of the initiator, assessed December 2018). The balance between local versus national issues is about fifty-fifty with slightly more locally oriented petitions. Millions of signatories are an indication of the low threshold of this form of political participation. Citizen involvement by way of an e-petition is of course much less time consuming than, for example, organizing a protest march. “Pyjama activism”, “slacktivism” or “clicktivism” are terms for individual engagement in “activist” actions with minimal effort and no strong real-world consequences (Van Hulst et al. 2016). The act itself only serves to satisfy the individual’s sense of having accomplished something and decreases the likelihood of engaging in further, perhaps more effective, political engagements.

#### 7.1.2.1 Representativeness

A petition is not a representative opinion poll but only collects support statements. This raises the question of who is using petities.nl. The interviewed initiator believes that lower as well as higher educated Dutch citizens use the website to start a petition: *“How they describe and express themselves, the subject [of the petition], the e-mail address they are using. That gives me an impression of the kind of people I am working with”* (interview with initiator). In general petities.nl is used more than average by educated men above 50 years of age (Van Hulst et al. 2016).

The question whether the design of petities.nl attracts participants beyond the political participation elite is hard to answer. But when it comes to the diversity of the causes supported by the online petitions, it seems petities.nl is quite inclusive. The website is not dominated by one sort of (populist or technocratic) issue. The interviewed researcher notices: *“It [petities.nl] does not look like a regular American petition website where most of the visitors are serial signatories and where there is a lot of echo-chambering. Petities.nl is founded by someone who does not present himself in an ideological way and so the website has no specific political or*

*ideological background*” (our translation). Petities.nl attracts mostly single signatories, because participants visit on average 1.3 webpage (interview with initiator). It does not seem to be an instrument for political organisations: “*Most of the professional organisations out there choose to register their own internet domain and install petition software on it. That way they themselves have access to the data.[...] But the problem they have then, is that the petition does not reach other groups than their own supporters or followers*” (interview with initiator).

### 7.1.2.2 Communication and Mobilisation Strategy

The low threshold implicates that a large-scale engagement strategy to give more name and fame to the platform was not needed. As the interviewed initiator says: “*We haven’t spent one penny on advertisement.*” The Ministry of Internal Affairs has helped petitions.nl once to get in touch with some of the local governments, but mostly it works like a snowball via social media and e-mail. “*It’s the signatories inviting others [to visit the website] through mail who create the most traffic*” (interview with initiator).

When it comes to a communication strategy on the e-petition itself, the website offers a handbook to help citizens to plug their petition. This handbook contains tricks and tips, for example on viral marketing and free publicity, based on the experiences the initiators had since 2005. The handbook addresses how to: increase traffic to the petition (e.g. by sending invitations to one’s personal network, approaching journalists, placing messages on important sites, releasing the petition on a special day related to the cause of the petition), start a campaign website or blog with more information, write and spread a press release, how to get in touch with local or national TV or radio broadcasting centres and how to place a widget (so people can sign the petition from another social network or campaign site).

### 7.1.3 Participatory Process

The initiator of a petition captures the main message in a clear title of the petition and states in fixed text blocks: We..., Observe... and Request.... It depends on the petition how much information on the issue at stake is given but the design of the platform is such that there is not much space in order to keep the message as concise as possible. A link to a website can be added, like a Facebook page or an actual campaign website where more information can be found. Only language mistakes are edited before the petition is displayed.

The only input signatories can give is their name, email address, place of residence and their “signature” (pressing a blue button). Concerning privacy, the initiator mentions in the interview: “*Personal data is only shared in compliance with data protection laws*” (interview, initiator, our translation). The design of the site is such that participants cannot make any remark on the petition or discuss the petition

among themselves: no views are exchanged. According to the interviewed initiator there is not much need for online deliberation in general: *“The moral of the internet is that you can endlessly ‘fork’ as we call it. If you know better, you move on to another website, another Whatsapp group, etc. There is no scarcity of space”* (interview with initiator). It is always possible to find like-minded people, somewhere else on the Internet.

The interviewed researcher concludes that the contribution of a participant is limited, but this is not always necessarily a bad thing. *“You can only sign or not sign. You cannot co-edit a text for example. At the same time, your voice is not lost as happens often in deliberative settings where a participant can take part in a discussion but where in the end it is difficult to ascertain where and how one’s input has been used. With petitions, your voice just counts”* (interview with researcher).

### 7.1.4 Results

The collective result of a petition is never binding. It is a non-mandatory sign of discontent or a new idea which can be picked up or ignored by government or politics. A petition can in that sense be compared with an advisory, not binding referendum. Petitions can put an issue on the agenda of the recipients (i.e. agenda setting), but in the Dutch system they do not need to respond to a petition. The formal recipient of most of the petitions on *petities.nl* is a representative at the national, regional or local level. Although the right to petition compels the addressee to pay attention to a petition, it is very easy for the representatives to just accept a petition and tell the petitioners they will use it in their decision-making process (Edwards and De Kool 2016). They can decide for themselves how to proceed with the request. And if they decide to proceed, the petitioner is usually not involved in the ensuing debate and decision-making process anymore. Representatives provide virtually no feedback on how they have dealt with petitions. The initiator of *petities.nl* argues this is undesirable and may grow distrust: *“Petitions need to be answered. And that could be an honest ‘no’ as well.”* But the “no” needs to be explained. The officials need to be transparent about their considerations.

“Pyjama activism” also characterises the initiators of the petitions, as most petitions are not presented in time for the relevant political debate when there is a “policy window”. Actually, many individual petitioners do not see the use of presenting their petition to officials. *“It does not happen that often that ordinary citizens offer their petition to Members of Parliament. Citizens reason like this: ‘Well, it’s on the internet now. All of us are here with our names on a long list. 10,000s of us. Sometimes 100,000s of us. It should be clear enough now. We really do not need to come and hand over the petition as well”* (interview with initiator). This differs radically from the perception of members of parliament: *“A petition does not exist when it is not handed over. Apparently, the issue has been solved or it is not so urgent anymore”* (interview with initiator).

The website is transparent in the sense that it gives an overview of all the petitions either open for signing, closed or filed. At the same time there is not much information on the political impact of the petitions on the site. The initiator wants to improve this. *“I have received funding of the Foundation for Democracy and Media to work on a structural solution for this. For a period of twelve weeks, I am going to give information on the impact of 25 e-petitions filed at the largest local governments. It is like investigative journalism. In the end, all the signatories get the information [linking to official sources] and it makes people very happy. [. . .] This is quite unique; nobody works like this at the moment. The Germans [openpetition.de] want it, but they don’t get time”* (interview with initiator).

Regardless of the formal limitations, some petitions become politically influential because they collect many signatures and capture broad media attention. For example, in February 2016 an e-petition got signed 17,500 times in 3 days (and in the end it had nearly 30,000 signatures) against a new law on administrative requirements between freelancers and their clients. There was a lot of media upheaval about it and the state secretary did undertake action in the end by sending all Dutch freelancers a letter in which he explained the particulars about the new law. Petities.nl does generally get good press in the Netherlands. The press takes notice of the public signals from the website quite regularly. The interviewed initiator agrees: *“Not a week goes by without a petition from petities.nl mentioned in some local newspaper somewhere in the country. [. . .] Also the petitions on national issues are regularly in the news”* (interview with initiator).

The potential power of e-petitions is not so much to have an impact on decision-making but mostly as a form of “testimony politics” on moments of urgency. *“Petitioners are not really that much concerned with the impact, they just want to make a statement or leave a testimony”* (interview with researcher). The rise of e-petitions in that sense fits in the broader trend of what is called the “mood democracy” by Hendriks (2012). Citizens can make themselves heard at an international stage and mostly at their own terms (since petitions are initiated bottom-up and access barriers are comparatively low in terms of formal requirements). The conclusion that e-democracy tools are often successful as a civic instrument but not a convincing policy instrument (Kies and Nanz 2013: 24) seems to apply here as well.

## 7.2 The Finnish Citizens’ Initiative and the Open Ministry

### 7.2.1 Introduction

Since 2012, Finnish legislation enables three types of citizens’ initiatives: (1) initiatives asking the Eduskunta (the Finnish House of Representatives) to roll out new policy, (2) initiatives in which citizens themselves submit a bill to the Eduskunta and (3) initiatives for annulment of existing legislation. If such an initiative collects at least 50,000 signatures—less than 2% of the voting population—within 6 months, the Finnish Parliament is obliged to discuss the proposal and vote on it.

In October 2012 the online platform “Avoin Ministeriö” (Open Ministry) was founded by a citizen group to advocate well-functioning citizens’ initiative processes and to support individual citizens’ initiative campaigns. *“The Open Ministry (Avoin Ministeriö) is about crowdsourcing legislation, deliberative and participatory democracy and citizens’ initiatives. It is a non-profit organisation based in Helsinki, Finland. We help citizens and NGOs with national citizens’ initiatives, EU citizens’ initiatives and develop the online services for collaborating, sharing and signing the initiatives.”*

The online tool of Open Ministry was used to collect ideas for discussion and for co-creation purposes. In the first years legal experts tested and edited the initiatives pro bono at the online platform. Open Ministry also helped in getting publicity for particular initiatives, and volunteers of the platform sometimes acted as official representatives of an initiative, particularly to the government and the European Parliament. The digital process around the citizens’ initiatives as organised by Open Ministry is often referred to as *crowdsourced lawmaking* (Edwards and De Kool 2016).

The procedure of Open Ministry consisted of five steps. First, registered users presented their own ideas online, inviting other users to comment, support or refuse the idea. Usually ideas needed further development: by clarifying the objectives, listing arguments for and against, an assessment of the possible consequences and so on. In the second phase, ideas were fine-tuned into an official legislative proposal that could be put at the official website for citizens’ initiatives of the Ministry of Justice’s website with—in the first years of Open Ministry—the help of legal experts and other experts on the topic. Next, the proposal would be uploaded at the official website. In a 6-month period, the initiative should collect at least 50,000 electronic and/or paper-based expressions of support. After the Population Register Centre had checked names and confirmed that at least 50,000 approved signatures had been collected, a spokesperson for the initiative could submit it to Parliament for consideration. Finally, the citizens’ initiatives were debated in Parliament in the same way as other legislative proposals. The law obliged Parliament to deal with the initiative and to hear its initiator, but it is up to the Parliament to make the final judgement to accept or reject the proposal (Christensen et al. 2015). These legislative procedures were groundbreaking, as Heikka (2015: 288) argues: *“If one were to point to a key to the success of the CI-Act as a civic engagement experiment, I argue that the radical legislative framework itself—a result of a decade’s work by three governments—was the defining element.”*

Open Ministry received a financial contribution of 30,000 € from SITRA, a Finnish innovation fund for setting up the first version of the website and 15,000 € from the Ministry of Justice (interview with initiator). But due to a lack of further financial support, the Open Ministry was not able to continue its work: *“We were more active in the first two years of the citizens’ initiative law. [. . .] We haven’t been able to continue that and to develop it further. So now the operations are quite minimal. [. . .] In fact, this year, we switched to quite a simple, just a wordpress-based webpage basically”* (interview with initiator).

## 7.2.2 *Participants*

The purpose of the constitutional amendment that enables citizens' initiatives is "*to promote and support free civic activity and thus strengthen civil society, in which different parts of the population participate and have a say in developing society*". This makes clear that the Finnish citizens' initiative is aimed at a broad range of people.

The target group of the online crowdsourcing at Open Ministry is in principle everyone with legislative ideas, comments or opinions. While the term crowdsourcing in theory includes anybody who has access to the Internet and is aware of the task, "the crowd" in practice refers to the individuals who self-select from that larger group of people (Aitamurto and Landemore 2016). The academics Nurminen et al. (2013) conducted a survey among users of the Open Ministry website at the end of 2012. Their respondents show an overrepresentation of the 21–40 age group, males, university graduates and urban residents in comparison to the general population. While these findings suggest the citizens' initiative mainly activates people who are well off, in later research on the citizens' initiative, Christensen et al. (2015) emphasise that also people who are unemployed or in bad health make regular use of the new possibilities. Moreover, "*actually the strongest finding that we have is that it appeals to young people. [. . .] So in that sense it's actually reaching a group that is often considered to be problematic from a democracy perspective, young people often don't want to participate*" (interview with researcher).

Co-founder of Open Ministry Joonas Pekkanen states in 2014 on YouTube in relation to the participants: "*Politicians and civil servants preparing the law need to understand that it is not a representative sample of the population obviously. Because people choose to participate and people with their own interests of course are vocal about their needs and requirements for the law. [. . .] The challenge is to get regular people who are not motivated by their personal interests to get involved. That's the big issue, that's the big question to answer in the future, I think.*"

At the same time, as Edwards and De Kool (2016) are stating, the main aim of crowdsourced lawmaking is to encourage diversity, not representativeness per se. Aitamurto and Landemore (2016: 175) argue more or less the same in relation to crowdsourced lawmaking: "*lack of statistical representativeness [. . .] does not necessarily mean a poverty of views, information, and arguments and low quality deliberation*". At the same time, the threshold of 50,000 signatures can be seen as a minimum check of the popular support for the proposal. And in the end, in the following parliamentary debate and parliamentary vote, political representativeness is ensured.

The communication strategy of Open Ministry included press releases and the Facebook page (interview with initiator). By being online 6 months earlier than the ministerial website for the citizens' initiatives, Open Ministry was able to focus media attention to their website and boost their user base (Heikka 2015). The people behind Open Ministry have therefore been "*important in the beginning in creating*



*awareness of the possibilities the citizens' initiative gives. And they campaigned for many of the successful initiatives in the beginning. [. . .] But I think it was more about the people than the platform"* (interview with researcher). The academic researcher rates the effectivity of the communication strategy around the platform quite low, as he thinks Open Ministry is not well-known in general: *"It is a specific group of people that was reached. It's urban, well-educated men. And they're living in the Helsinki area."*

Avoim Ministerio has helped several citizens' initiatives to collect the required number of signatures. But in practice campaigning appeared to be a very decentralised process, where different groups organised and mobilised themselves separately online and offline around the issues, especially when they had conflicting interests or views. In order to reach a new audience offline, participation was tested by distributing paper versions of the initiative. *"That we put into a few hundred libraries. And the idea was . . . and pre-paid envelopes for the libraries to send those back to us. And easier to collect paper signatures also from those who can't take part in the digital platforms. [. . .] But that we also ended because nobody wanted to pay for the expenses for doing that."* This option was used: *"Not a huge volume but it's more for the people who are in the kind of minority or in the fringes of society in a way"* (interview with initiator).

### **7.2.3 Participatory Process**

In order to participate, citizens need to register via the APIs offered by banks, mobile operators or a chip ID. Initiators and representatives of specific legislative proposals also need to provide their contact details, which are published online. The process of crowdsourcing varied for different proposal trajectories. The (co-)founder stated in the interview that the ban on fur farming initiative, the same-sex marriage initiative and the copywriting initiative were *"the biggest ones. So those initiatives that brought people in and I think we had something like 6,000 registered users, people who opened an account on our site to be able to comment and write. [. . .] The most crowdsourced one was the copywriting initiative; there was more than a hundred people commenting on it. And more than a thousand people voting for the draft before it was finalised. [. . .] The same-sex marriages initiative was prepared a bit differently. We had a set of semi-open or set of semi-closed group of law students and professors helping them to write the proposal and then we just published drafts a few times. So, it wasn't kind of co-edited all the time. [. . .] We were testing out different processes and ways of working on different proposals"* (interview with initiator). In another trajectory about the donation legislation, they formed a proposal via a Wiki platform, but it was never launched on the websites to collect support from citizens, because it was put forward as an MP initiative in the end (a faster route to new legislation), as the co-founder further explained during the interview.

The 15 initiatives that have passed the threshold of 50,000 signatures within 6 months up till the end of 2016 concern the following issues:

## 2013(–2014)

- Fur farming (before governmental site was launched) (69,381)
- Copyright reform (51,801)
- Swedish language (61,306)
- Same-sex marriages (166,851 in 2013)
- Energy certificates (62,211)
- Drunk driving (62,835)

## 2014(–2015)

- Birthing hospitals (66,797)
- Child molestation (58,013)
- Right to refuse conscientious cessation of life (67,547)
- Expelling foreigners guilty of offense (54,324)

## 2015(–2016)

- Zero-hour contracts (62,516)
- Same-sex marriage and (adopted) children (106,195)
- Pension index (84,820)
- Referendum membership of the euro area (53,425)
- Maternity Act (55,707)

Many citizens' initiatives do not get enough support. Christensen et al. (2015) calculate that 44.9% did not even manage to collect more than 100 signatures. Another 48.1% stagnates before 10,000 signatures. Thus collecting 50,000 signatures is not an easy task and proves to be a threshold that prevents much extra workload for parliament (Heikka 2015).

## 7.2.4 Results

Until December 2016 only one of the citizens' initiatives has led to changes in the law: the gender-neutral marriage legislation. This win on the equal marriage law "*has big implications for the citizens' activism in Finland*", because "*people have seen that their digital participation can make a difference*", Bria et al. (2014) argue. Other initiatives have had indirect impact on legislation, increased the awareness of the issues and influenced opinions regarding the specific issues, like the one on energy certificates (Christensen et al. 2015). The successful law proposals that reached the 50,000 threshold are brought under closer public scrutiny, research concludes. The initiatives that collected the required number of signatures received so much media attention that Parliament felt the urge to proceed with them relatively swift and thoroughly (Christensen et al. 2015: 6).

Yet the quality of the legislative proposal was not always considered satisfactory. Even the initiative to legalise same-sex marriage was criticised by Eduskunta's Legal

Affairs Committee for having “technical deficiencies” (Edwards and de Kool 2016: 59). Nevertheless, the bill was passed by Parliament in November 2014 by a vote of 105 to 92, supported by Alexander Stubb, the liberal conservative Prime Minister, who had spoken out in favour of the proposal in an open letter before the parliamentary vote.

One of the interviewees mentioned positive changes instigated by the citizen initiative procedure, the debate around that and the contributions of Open Ministry: *“If we talk about the Citizens Initiatives, at least the process...those that made it through to parliament, the process has been relatively open. And also the meetings in the different committees have been fairly open and there’s been a lot of media attention. So I think in that case, it has been an improvement to help how things are normally done in Finland”* (interview with researcher). The citizens’ initiative can help increase throughput legitimacy by creating a more trustworthy decision-making process. *“The participants may well be willing to accept not achieving the desired outcome, as long as they perceive the process to be fair”* (Christensen et al. 2015). In general, the citizens’ initiative is positively evaluated: 83% of citizens regard the contribution of the citizens’ initiative to Finnish democracy as positive in the Finnish national election survey (Christensen et al. 2015).

Open Ministry promoted transparency and accountability by providing detailed information about parliamentarians’ comments and voting records on its website (Edwards and De Kool 2016: 59). In addition to the support for citizens’ initiatives, the people behind Open Ministry took part in various projects and discussions to improve citizen participation, transparency and accountability. Stefaan Verhulst, an academic in law and communications, wrote in a blog: *“Finland’s program forces representatives to officially take a stand for or against proposals demonstrated to be important to a large portion of the population. As such, Open Ministry could lead to not only more immediate direct democracy, but greater accountability for government representatives.”*

But in the end, the story of Open Ministry is less of a success. *“The failure of the Open Ministry to maintain its service after its initial success is a cause for concern, however, and resourcing of a civic technology ecosystem should be examined. The more radical experiments for crowdsourcing draft texts for legislation have suffered, since these technical features and practices were part of the work of the Open Ministry NGO. Lack of money was the likely cause of the downfall of the Open Ministry as a crowdsourcing service but allowing NGOs deeper integration with existing government technical resources could alleviate this problem”*, Heikka (2015: 288) argues. The online activities of Open Ministry around the legislative proposals were directed more at supporting initiatives with signatures and less at deliberating proposals. In the interview the researcher argued: *“There is a need for some sort of legal advice to ensure that the proposals actually achieve what they are supposed to. And that’s a problem because of course most citizens don’t have the knowledge that they would need to ensure this.”* About the former legal support within the Open Ministry platform, he says: *“I don’t think they succeeded in offering this legal advice. Not enough of it anyway”* (interview with researcher).

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