



EUROPEAN COMMISSION  
OFFICE OF ANTÓNIO VITORINO  
MEMBER OF THE COMMISSION  
Head Of Cabinet

Brussels, 23.03.2004 0267

Mr Walter Keim  
Torshaugv. 2 C  
N - 7020 Trondheim

Dear Mr Keim,

I would like to thank you for your e-mail of 27 February 2004 addressed to Commissioner Vitorino in which you describe an alleged violation of the right to access to public documents in Germany.

In this respect, may I remind you of the letters on the same subject, dated 8 and 24 May 2002 that you received from Secretariat General of the European Commission (SG.B.2/MM D(2002) 330166, SG.B.2/MAB/ig/D(2002) 330194), in reply to your e-mails to President Prodi. I must reiterate what was said in those letters.

As you rightly mentioned in your e-mail, Article 255 of the Treaty establishing European Community, implemented through Regulation 1049/2001 of 30 May 2001, grants a right of access to European Parliament, Council and Commission documents to any Union citizen and to any natural or legal person residing, or having its registered office, in a Member State. The same scope of application is mentioned in Article 42 of the Charter of Fundamental Rights of the European Union. The above-mentioned EU provisions apply only to access to EU documents. Therefore, it is beyond the Commission's remit to take any form of action against the Member States that fail to pass laws on freedom of information and there is no way in which the EU Institutions could compel Germany to adopt rules granting access to official information.

As far as your question regarding "an independent European Ombudsman to whom Europeans could complain about human rights violations in the Member States", is concerned, it should be mentioned that the scope of competence of the Ombudsman of the Union is limited to cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role (see: Article 195 of the Treaty EC and Article 43 of the Charter). In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted directly to him or via a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings.

I also note that you are aware that individuals who consider that their fundamental rights have been violated are entitled to apply to the European Court of Human Rights after exhaustion of all domestic remedies and within six months of the date on which the final decision was taken.

I hope the above-mentioned information will be of help for you.

A handwritten signature in black ink, consisting of a series of fluid, connected strokes. The signature is positioned above the printed name.

António Cavaco