

Decision of the European Ombudsman on complaint 788/97/PD against the European Parliament

Decision

Case 788/97/PD - Opened on 22/09/1997 - Decision on 26/11/1998

Strasbourg, 26 November 1998 Dear Mr W., On 28 August 1997 you made a complaint to the European Ombudsman concerning the European Parliament's refusal to provide your organisation with a long-term pass to its premises. On 22 September 1997, I forwarded the complaint to the President of the European Parliament. The College of Quaestors of the European Parliament sent its opinion on 5 December 1997 and I forwarded it to you on 16 February 1998 with an invitation to make observations, if you so wished. On 31 March 1998, I received your observations on the Parliament's opinion. I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

The complainant, a religious organisation, alleged that the European Parliament had wrongly refused to grant it a long-term lobby pass. The type of pass requested would have allowed the complainant automatic access to the Parliament's premises for a period of up to one year. At present, the complainant relies on the general practice of ad hoc permissions to enter the Parliament. The complainant's first request was made on 3 September 1996 to the body responsible for the issuing of long-term passes, the College of Quaestors. In its reply, the College of Quaestors informed that the Quaestors were unable to approve the request. The complainant then contacted one of the individual Quaestors to make another request for a long-term pass. The Quaestor replied in writing, informing the complainant that the European Parliament reserves the right to grant entry to its premises, and is not obliged to make its reasoning public. Subsequent requests by the complainant were rejected as well. The complainant made specific requests for a statement of reasons for these refusals, but none were given.

THE INQUIRY

The Parliament's opinion The complaint was forwarded to the European Parliament. The College of Quaestors, who handled the complaint, stated that it is a long-standing principle that the European Parliament may take decisions on its own internal organisation. The College of Quaestors also provided the grounds which motivated its decision not to issue a long-term pass to the complainant. The full statement of grounds was as follows: *"In view of the opinion expressed in the Parliament's resolution of 29 February 1996 on cults in Europe (OJ C 78, 18.3.96), the College of Quaestors decided that it was not desirable for the representatives of*



Scientology to be granted long-term passes." The preamble to the Parliament's resolution on cults notes the right to freedom of religion, then adds: *"whereas, however, some cults operating through a cross-frontier network within the European Union are engaging in activities of an illicit or criminal nature and in violations of human rights, such as maltreatment, sexual abuse, unlawful detention, slavery, the encouragement of aggressive behaviour or propagation of racist ideologies, tax fraud, illegal transfers of funds, trafficking in arms or drugs, violation of labour laws, the illegal practice of medicine, and so on."* **The complainant's observations** The complainant replied to the opinion of the College of Quaestors by contesting the Quaestors' reliance on the Parliament's resolution on cults. It stated that the resolution's references to criminal activities carried out by so-called cults were irrelevant in respect of the complainant. It considered that the Parliament would have to prove the existence of criminal activities in the organisation's work if it intended to rely on its resolution on cults to reject the requests for long-term passes.

THE DECISION

1. The present complaint concerns the European Parliament's power to grant long-term passes to lobbyists. The rules governing the issuing of such passes are provided in the Parliament's Rules of Procedure. Article 9 provides that: *"The Quaestors shall be responsible for issuing nominative passes valid for a maximum of one year to persons who wish to enter Parliament's premises frequently with a view to supplying information to Members within the framework of their parliamentary mandate in their own interest or those of third parties."* Annex IX to the Rules of Procedure provides more detailed rules, and includes a so-called "Code of conduct" that sets out the basic rules which the lobbyists must comply with. Neither Article 9 nor Annex IX address the substantive or procedural issues of the present complaint. 2. The College of Quaestors has rightly observed that its power to issue long-term passes falls within the European Parliament's power of internal organisation. The principle that the Parliament, like other Community institutions, has extensive discretionary powers to organise its internal affairs is firmly recognised by the Court of Justice. The Ombudsman cannot question discretionary administrative decisions, provided that the institution concerned has acted within the limits of its legal authority. 3. The Court of Justice has also stated that the power of internal organisation authorises the institutions to take measures to ensure their internal operation in conformity with the *interests of good administration* (1). Principles of good administration require that the administration give adequate reasoning for the decisions it takes towards the citizens. This duty is partly aimed at enabling individuals to ascertain why the institution or body took the decision in question, and partly aimed at enabling the Community's supervisory organs to exercise their powers of review. The duty to give adequate reasons is in addition a fundamental principle of transparency in the European Union in that it allows the general public to ascertain the Community institutions' exercise of their powers. Furthermore, the practice of giving reasons has an important role in reducing litigation in that it improves the communication between citizens and the administration. 4. In the present case, the College of Quaestors failed to give reasons to the complainants for its decision not to issue the long-term pass requested. In its opinion on the present inquiry, the College of Quaestors has provided the grounds for its decision by referring solely to the European Parliament's resolution on cults in Europe. In the present case, the Ombudsman finds that such a broad referral to a resolution does not satisfy the duty to give adequate reasons and thereby, the Parliament failed to comply with principles



of good administration. **Conclusion** 5. On the basis of the European Ombudsman's inquiries into this complaint, it appears necessary to make the following critical remark: Principles of good administration require that individuals who are subject to decisions of an administrative nature receive an adequate reasoning for the decisions taken. In the present case, the European Parliament failed to give the complainants adequate reasoning for its decision not to provide them with a long-term access pass. In its opinion on the Ombudsman's inquiry, the Parliament referred broadly to its resolution on cults which lists an indefinite number of serious criminal activities by unspecified cults. In the present case, the Ombudsman finds that such a broad referral to a resolution does not satisfy the duty to give adequate reasons and thereby, the Parliament failed to comply with principles of good administration. The President of the European Parliament will also be informed of this decision. Yours sincerely Jacob SÖDERMAN

(1) Case C-58/94, *Netherlands v Council*, [1996] ECR I-2169, paragraph 37