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Ombudsman: Member States have no veto over the release of documents held by the Commission

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The European Ombudsman, P. Nikiforos Diamandouros, has called on the European Commission to release documents originating from Spain concerning the construction of an industrial port in Granadilla, Tenerife. This follows a complaint from the European Environmental Bureau (EEB), a federation of environmental citizens' organisations. The Commission explained its refusal by referring to objections to disclosure from the Spanish authorities. The Ombudsman pointed out, however, that if Member States request the Commission not to release documents it receives from them, they must give convincing arguments based on EU transparency rules. He noted that Spain has yet to provide such convincing arguments.

The Ombudsman had also called on the Commission to release internal documents concerning the construction of the Granadilla port. The Commission accepted this recommendation and released the documents, thus demonstrating its willingness to improve the transparency of its procedures.

Controversial construction of industrial port in Granadilla, Tenerife

In 2006, the European Commission approved the Spanish authorities' plans to construct an industrial port in Granadilla, Tenerife. In July 2006, the EEB asked the Commission for access to a number of documents related to the Commission's decision to approve the project. The Commission refused to disclose some of the requested documents because the Spanish authorities, from whom the documents originated, did not agree to their disclosure. It argued that their release would affect ongoing court proceedings. Access to a number of internal

Commission documents was also refused, on the grounds that their disclosure would seriously undermine the institution's decision-making process.

After having inspected the documents, the Ombudsman concluded that the Commission should release them, unless the Spanish authorities gave valid arguments against disclosure. Furthermore, he did not agree that the disclosure of all but one of the internal documents would undermine the Commission's decision-making process.

Following the Ombudsman's recommendation, the Commission released the internal documents to the EEB. It also apologized for the long delays in this case. However, it maintained its refusal to release the documents originating from Spain, because of the Spanish authorities' objections.

While the Ombudsman strongly praised the Commission for releasing its internal documents, he criticised it for not having verified whether the reasoning of the Spanish authorities was convincing. He called on the Commission to take this critical remark into account in its ongoing dialogue with the Spanish authorities. Furthermore, the Ombudsman announced his plan to launch an investigation concerning the Commission's, the Council's and the European Parliament's handling of requests for public access to documents originating from the Member States.

The Ombudsman's decision is available at:
<http://www.ombudsman.europa.eu/en/cases/decision.faces/en/5515/html.bookmark>