



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL HOME AFFAIRS

Director-General

Brussels,     - 4 MAI 2012  
HOME/02/VA/br ARES(2012)615509

Ms Karin Waringo  
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Dear Ms Waringo,

I was informed by the Secretariat General of the Commission that you have launched a complaint against a letter sent to you on 15 February 2012 in which you were informed that the Commission would discontinue corresponding with you on the subject, as all relevant issues at that stage had been considered. In your complaint, Ares(2012)238986 registered on 1<sup>st</sup> March 2012<sup>1</sup>, you state that the questions you have raised in your letter, dated 25 January 2012, have not been addressed and you claim that this is not compatible with your right "*to access to any kind of EU documents*", including "*free access to information concerning EU policies*", as allegedly enshrined in Regulation 1049/2001.

Firstly, I would like to point out that Regulation 1049/2001<sup>2</sup> to which you refer, defines the principles, conditions and limits of the right to access to EU institutions' documents and does not foresee free access to information in general. Although broadly defined, the definition of "document" in Article 3 of the Regulation, refers to certain degree of form and structure of the document which would allow its identification and implies its pre-existence. In addition, the right of access to documents is subject to clearly defined exceptions (Article 4) and rules for requests.

On the basis of that, I have to confirm that in your letter of 25 January there is no request to access to any document of the Commission. Many of the questions raised in your letter seek to obtain statistical data related to the asylum seekers from the Western Balkan countries. In relation to that and in line with the principle of transparency, I recall that all available statistics which can be disclosed publicly have been presented and analysed in the two Commission Staff Working Papers<sup>3</sup> issued in 2011, to which the Commission referred to in its reply of 20 December 2011. The next assessment report is going to be issued in June 2012.

In addition, your questions as regards the readmission agreements with the Western Balkan countries, their reintegration policy, measures introduced for tackling the increase

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<sup>1</sup> An additional information to the complaint registered on 8 March 2012 under the reference Ares(2012)275578.

<sup>2</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

<sup>3</sup> SEC(2011)1570 and SEC(2011) 659.

of asylum seekers from the region and their alleged discriminatory nature have been already addressed in our previous correspondence, as clearly indicated in our reply of 15 February.

Moreover, in your letter of 25 January you raised a number of questions which go beyond the competence of the Commission, in particular questions related to the national legislation of the Western Balkan countries, as well as its compatibility with the international standards. As already explained in our reply of 21 December 2011, the protection of human rights is a great priority for the EU and has a direct impact on the relations with third countries. Consequently, the evaluation of the competent international organisations, like the Council of Europe and the European Court of Human Rights, are of particular importance. However, the Commission does not have competence to assess third countries' national legislation against these standards and is not in a position to provide you with the requested evaluation.

On the basis of the above, I have to confirm that all relevant issues have been considered in our previous correspondence and the Commission will discontinue corresponding with you on this subject.

Finally, I would like to inform you that, according to the Code of Good Administrative Behaviour for the Staff of the European Commission in their relations with the public<sup>4</sup>, you have one month in which to apply to the Secretary-General of the Commission to review the outcome of the complaint.

Yours sincerely,



Stefano Manservigi

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<sup>4</sup> O.J. L 267, 20.10.2000