

Day 3 – Wednesday, 28 November 2007
Parallel Sessions – Session 1A 11.00am-12.30pm

Speaker: Anja-Maria Gardain

Position: Expert on Freedom of Information

Organisation: Office of the Berlin Commissioner for Data Protection and Freedom of Information, Germany

Presentation Title: How do we design an effective oversight body?

The Berlin Commissioner for Data Protection (DP) and Freedom of Information, (FOI) looks back to only eight years of 'expertise' in FOI matters. The office was established as 'Supreme State Authority', but the role as FOI-Commissioner is merely a mediating one. Although both functions (DP and FOI) have been 'put under one roof' - a construction which we claim as being the most effective for the citizen -, the legislator has granted fewer powers for handling FOI matters compared to DP ones. One reason may be the fact that FOI has not been recognized as fundamental right in contrast to the right to privacy.

But even if the 'sharpest knife', the Commissioner's right to lodge an official complaint (as in DP matters) existed, its practical effect would be limited as not binding the agency. On the other hand, the findings are integrated in the Commissioner's annual report to Parliament and eventually discussed, sometimes successfully, in its own parliamentary committee (which is unique in Germany).

In which ways can oversight bodies with no more (executive) powers than that be more effective for the benefit of the claimant?