

Access Info Europe

Activity Report 2016

Message from the Executive Director

Taking Stock of the Right to Know on 250th Anniversary of the World's First Access to Information Law

This report gives an overview of Access Info Europe's work during 2016 and describes how we have contributed both to development of the right of access to information – the public's right to know – across Europe, as well as supporting use of that right to address issues confronting democracy in the region.

The year 2016 was a special year for the global right to information community as it marked 250 years since the adoption of the world's first access to information law.

It was also the year in which the very first official International Right to Know Day was celebrated. Civil society has been celebrating this day since 2002, but to have it officially recognised by UNESCO was a major step forward!

For Access Info Europe it was also our 10th birthday – something we celebrated on the anniversary of our October 2006 registration with the Spanish authorities with party in Madrid, appropriately held in an open-air venue on the roof a building powered by solar energy, hosting many friends from around the world who were in Madrid for the International Open Data Conference.

Anniversaries are always a useful time to take stock and that is something Access Info has been doing a lot of: measuring how well the right of access to information is being respected both in law – with our much-used [RTI Rating](#), which evaluates the strength of access to information laws on paper – and also with an increased focus on how well the right of access to information is working in practice, in particular when it comes to transparency of decision making. We report on what we have learned and what we have done to continue strengthening the right, in this annual report. We also note where we have had an impact and where we are still working to have one.

Last but not least, in Access Info's 10th year, it's a timely moment to thank all our many friends without whom our work would not be possible. We believe in collaboration and we recognise that our impacts – at the EU level, in Spain, and in many countries across Europe – could not have been achieved without the support of the civil society organisations we partner with, the pro bono lawyers who help with our legal cases, the journalists who write about our work, the inter-governmental organisation who support our standard setting work, and the donors who make it all possible. So thanks to all of you and here's to another 10 years of advancing transparency across Europe!



Helen Darbshire
Executive Director & Vice President



Partners: Networking for Impact

Getting the year started, in February 2016, Access Info convened a two-day meeting in our offices in Madrid of twenty right to information activists from across Europe to discuss challenges and opportunities for the fight of access to information in Europe.

This was the first such European level meeting of specialist civil society groups focused exclusively on access to information.



Invited guests at the meeting including representatives of the European Ombudsman's office, the Spanish Transparency Council, as well as experts from Madrid City Hall, the Madrid Region parliament, journalists, and academics.

The necessity of the meeting was reflected in the discussions and conclusions: for all that has been achieved in recent years, there are still many core problems with government transparency.

We discussed areas of priority, which were confirmed in a follow-up survey, as including: **decision-making transparency**, **European Union transparency**, and thematic areas such as opening up **lobbying** and transparency around handling the **refugee crisis**. We discussed **pressure on civic space** in many countries and how it is affecting the environment in which we work.

In terms of strategies, participants agreed that **research and mapping** is essential in order to be able to conduct **evidence-based advocacy** for change. Challenging refusals to provide information is a priority and the discussions repeatedly returned for the need for **strategic litigation**, accompanied by **advocacy strategies, with regional coordination and information sharing to increase impact**.

Discussing the need to for RTI groups to continue **standard setting**, we identified **balancing privacy with access to information** as one priority, another being standards for **record keeping** in order that information exists in the first instance.

There was agreement to **coordinate in processes such as the Open Government Partnership** and to **cooperate on fundraising** in order to secure funds for the **RTI sector to have a greater impact**.

European Regional RTI Network

- ✓ Coordinated projects and joint fundraising for increased impact
- ✓ Strategic Litigation with coordinated sharing of comparative law and jurisprudence
- ✓ Research into Decision Making Transparency for use in evidence-based advocacy

250 Years of the Openness Principle

1766: The First Access to Information Law

18th Century Enlightenment thinkers such as Peter Forsskal and Anders Chydenius have a claim to fame amongst right to information activists as they were, respectively, the inspiration behind and the drafter of the world's first access to information law.

Forsskal published his "Thoughts on Civil Liberty" in 1759, and Chydenius wrote the law that was adopted in 1766, the law set out the basic principles of the openness of administrations that have not changed to this day.



To mark the 250th Anniversary of the right of access to information – the first Freedom of the Press law was included in and still forms part of the Swedish constitution, a series of activities were held in Helsinki (Finland and Sweden were one country at the time) on 3 May 2016, World Press Freedom Day, organised by UNESCO. Access Info participated in the events, also holding panel discussions on how to continue advancing the right, such as a debate on how to ensure that information helps deliver gender equality as part of the Sustainable Development Goals.

2016: The First Official International Right to Know Day

Fittingly, 2016 also saw the first official International Right to Know Day, celebrated around the globe on 28 September. The day was created by civil society activists at a meeting held in Sofia, Bulgaria, in 2002, and has now been recognised by the United Nations system, with formal UNESCO approval.

A statement coordinated by Access Info Europe and signed by 19 RTI groups from across Europe, raised concerns that a lack of government transparency is damaging democratic processes, thereby facilitating rising mistrust and demagogic populism in Europe.

The groups noted that recurrent obstacles to enjoying the right to know, such as lack of adequate record keeping, failure to keep track of exchanges with lobbyists, decisions taken without proper justifications or supporting evidence, and the over-application of exceptions continue to undermine the principle of openness a full 250 years after it was first enshrined in constitutional law.



#AccessToInfoDay



Campaigning for Stronger Access to Info Laws

In spite of being the year in which Finland and Sweden were celebrating 250 years of the world's first openness law, and in spite of all the national levels and the jurisprudence from international human rights instances confirming this right, there are European countries that have weak or non-existent legal frameworks for the access to information.

At Access Info we work with our partners across Europe to campaign for stronger laws. Here is an overview of some of those campaign actions in 2016.

Austria: Calling for Reform of the World's Worst FOI Law



Austria has the world's worst access to information law, coming in at position 111 out of 111 laws!

In February 2016, Access Info and the International Press Institute analysed a proposed draft. We noted that it falls seriously short of international standards, and called for improvements.

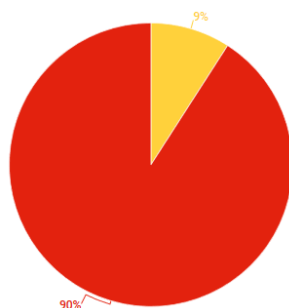
Throughout 2016, Access Info worked with our partner Forum Informationsfreiheit Austria with strategy design, research, sharing of comparative

information on best practices, and monitoring, in order to support work to get political support for a serious reform of the law.

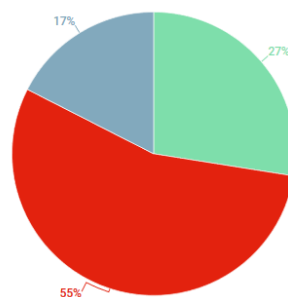
We monitored decision-making processes, including evaluating availability of information regarding the proposed constitutional amendment FOI law, reform of copyright act, amendment to tobacco law, tax reform, and police state protection act. We found that none of the requested information was available in practice, and only 27.5% was available via requests. Such evidence – which shows that the situation in practice is far worse in Austria than in other countries – helps boost the campaign for a stronger law.



WAS THE INFORMATION WE LOOKED FOR
PROACTIVELY PUBLISHED?

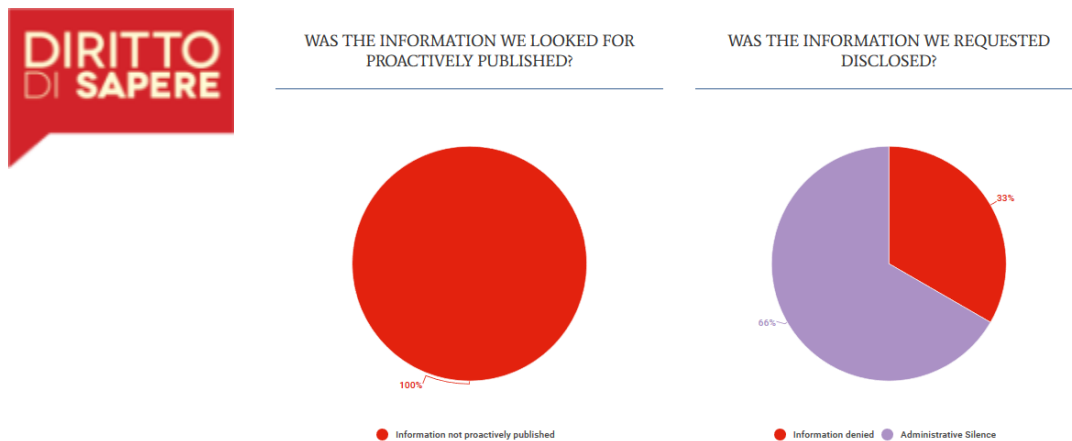


WAS THE INFORMATION WE REQUESTED
DISCLOSED?



Italy: Combatting the problem of administrative silence with a new FOIA!

Italy has long had a weak access to information law, and also lurked at the bottom of the global RTI Rating. The poor legal provision was compounded by lack of a bureaucratic culture of transparency that had very real impacts in practice: there is minimal proactive publication of information and record-breaking high levels of administrative silence in response to requests.



The data from monitoring under Access Info’s Decision-Making Transparency project, carried out in Italy with partner Diritto di Sapere, shows that we failed to obtain any information on the decision-making processes we were evaluating: reform of the budget law, the prorogations decree, the stability law and educational reform. Administrative silence in response to our requests was 66%, not a surprise as that’s the level that other monitoring exercises in Italy have revealed.

Working with Diritto di Sapere we undertook a series of activities to campaign for a stronger law. These included analysis of the draft FOIA law, and meetings and debates with civil society, journalists, public officials, and politicians, including Minister of Administrative Reform Marianna Madia.

In a major success for the campaign, in May 2016 a new, stronger law, going by the English acronym “FOIA” was adopted. It pushed Italy up to position 55 of 111 countries, with an improved score of 85/150 points.


Once the law was adopted, we participated in events promoting its use, including in Naples in June 2016, where the Chiedi request platform (based on mySociety’s Alaveteli platform) was also explained to potential new requesters.

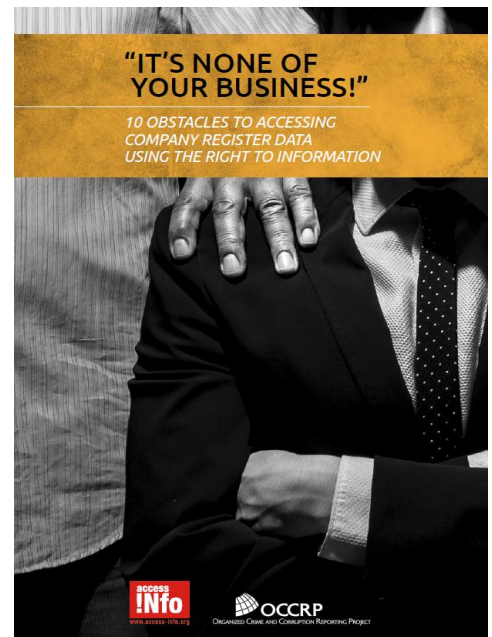


Opening Up Company Registers

One of the biggest obstacles for journalists and civil society watchdogs engaged in exposing corruption, organised crime, money laundering, and tax evasion is tracking the complex company structures that loop through offshore tax havens and greatly facilitate illegal activities.

Access Info has been working for a number of years mapping the transparency – the lack of transparency – of Company Registers in a project developed with the Organised Crime and Corruption Reporting Project. Our goal is to advance debate about how to ensure that journalists have the information that they need to do their work.

In April 2016, as the Panama Papers scandal exploded, Access Info released “It’s None of Your Business” – the first ever comprehensive survey of access to company registers across Europe. The launch of the report was accompanied by a comprehensive [Company Register Transparency campaign interactive webpage](#). The full report is available here: 



The report examines 30 European jurisdictions, in most of which it’s impossible to obtain the information about company owners: For an investigative journalist tracking down money laundering or organised crime, the main obstacle to accessing company registration information in Europe is financial: the register can be obtained for prices ranging from €75,000 in the Netherlands to € 286,000 in Estonia; single record costs range from €2.33 in France to €767.00 in Russia.

This situation endures in spite of repeated promises in fora such as the G7, G20 and Open Government Partnership to open up company data. Of 32 countries surveyed, the only two exceptions are the UK, which has a fully open company register available for download since just since June 2015, and Denmark, where the register may be accessed by those with a Danish Electronic ID. Not one of the remaining 30 countries provides free of charge bulk access to registers.

The report was widely disseminated via social media and was promoted during the International Journalism Festival in Perugia. The recommendations helped provide a focus to civil society activism in the wake of the Panama Papers.

Ending abuse of anonymous companies

Over the course of the 2016, Access Info continued to work on the transparency of company registers, with a focus on beneficial ownership, coordinating advocacy with civil society organisations. One of our successes was to secure and help draft the language in the Paris Declaration of the Open Government Partnership on “[Ending Abuse of Anonymous Companies](#)” in which governments and other actors could commit to working for opening up company register data.

Firm commitments to act have been made by 5 national governments, 1 subnational government and 7 civil society organisations, and the issue has become a priority for the OGP.

OGP Paris Declaration - Ending abuse of anonymous companies

Partners will reduce the opacity around corporate ownership by collecting accurate, adequate, and timely basic and beneficial ownership information (including legal ownership information and trusts). In the interests of increased competitiveness, a level playing field for business, limiting fraud, and minimizing conflict of interest, countries may choose to achieve this goal through the creation of public registries of beneficial ownership that are open and free for use by all. Under this action, partners (governments, civil society, and the business community) may commit to working together to identify and promote best practices for collecting and making public beneficial ownership data. [Full text here](#)

Open Government Partnership

As the Open Government Partnership becomes an increasingly relevant and influential forum for advancing government transparency, Access Info has engaged actively.

In the first part of 2016, Access Info Europe, along with Latin American network *La Alianza para la Libertad de Expresión*, coordinated a [civil society letter](#), signed by 64 organisations from around the world, that called for more transparency of and participation in OGP processes. This had the immediate impact of increasing transparency of the selection of new members of the OGP Steering Committee.

Other demands of the letter, such as the need to establish clear and rigorous criteria for dealing with human rights violations by OGP participating countries, and the importance of ensuring real participation and co-creation of OGP Action Plans are being taken up by the Steering Committee.

With these goals in mind, Helen Darbishire of Access Info presented her candidature and was selected as a Steering Committee member. Her second is Alberto Alemanno, of The Good Lobby, and President of Access Info Europe.



An important opportunity for securing increased commitment by OGP countries to priority transparency actions came in the [Paris Declaration](#), adopted as part of the Paris summit held in December 2016. Access Info was directly involved in drafting the declaration, held workshops during the

summit at which key points were discussed, and we are encouraging governments and civil society to sign up to the à la carte Action Commitments.

In addition to a commitment on opening up company registers noted above, the Paris Declaration contains commitments on adopting [strong Access to Information laws](#) and on [Lobbying Transparency](#).



In October 2016, Access Info Europe launched a set of principles on how to ensure that there is an appropriate balance between the right of access to information and the right to privacy in measures to promote government transparency, including access to information laws and open data policies.

The principles came about following extensive research by Access Info and a network of pro bono lawyers from across Europe working with us, into law and jurisprudence across Europe.

They were launched to packed audience at the International Open Data Conference in October 2016, at an event co-hosted with the and Stiftung Neue Verantwortung.

The principles received significant attention during and after the Conference and valuable feedback and support from experts around the world.

Ensuring that public authorities strike the correct balance between the right of access to information and protection of privacy is now one of the strategic goals of a series of legal cases that Access Info Europe has ongoing at the national and EU level. Examples include challenging the application of data protection to names of government representatives in minutes of meetings, to the travel expenses of public officials, to knowing who is responsible for decision making on public procurement.

Decision-Making Transparency

While the celebrations of 250 years of access to information were underway, Access Info during 2016 processes and published the findings of our major study into transparency of decision making in 12 European jurisdictions into a total of 96 decision making processes, which revealed that, overall, almost **two thirds (60%) of key decision-making information is not available to the European public.**

Just 20% of information was [proactively available](#) and only 30% was fully disclosed [when requested](#) using national laws, despite [European legal frameworks in theory permitting access to information regarding decision-making processes](#) such as minutes of meetings or documents submitted by lobbyists.

The research focussed on the availability of information of essential public interest for engaging in decision-making processes. The classes of information whose availability we assessed were: the appointment diaries of public officials; the minutes of the meetings; documents submitted during public consultations or any other documents submitted by lobbyists and interest groups during the decision-making process; and the documents justifying the decision.

The Decision-making processes studied

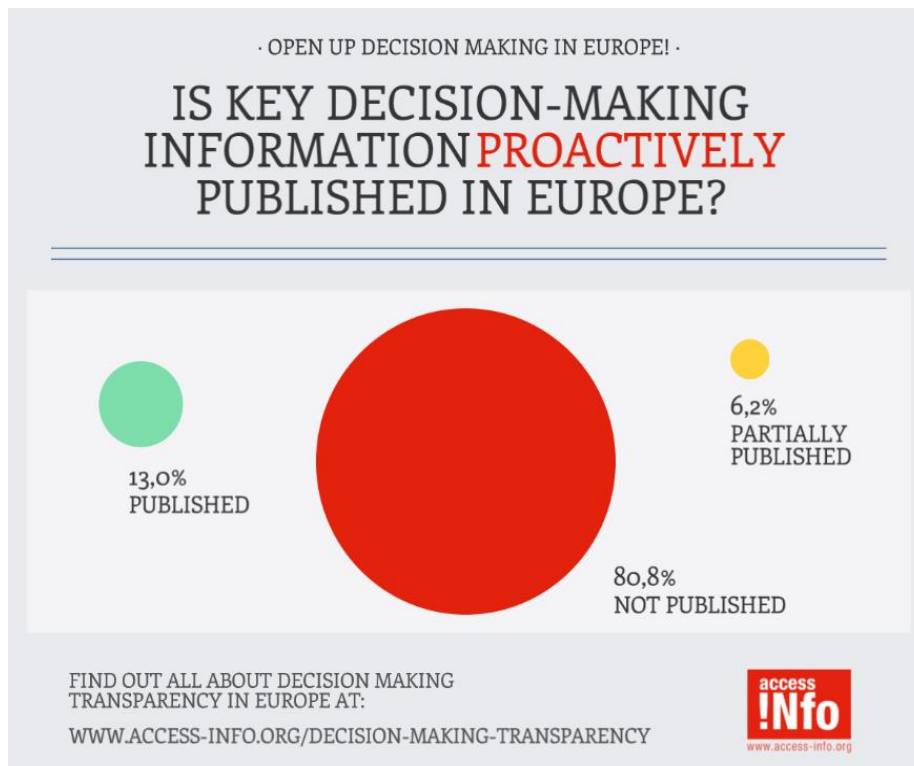
Amendment of the Pesticides Act (Austria); Act on Exploitation of Oil in the Adriatic (Croatia); Reform of the Environmental Protection law (Finland); Pharma Law on medicine costs (Germany); Simplification of the licensing process for new businesses (Greece); Public Health (Standardised Packaging of Tobacco) Act (Ireland); Reform of the national system of education (Italy); Redrafting of Public Procurement Law (Poland); Net neutrality in the Electronic Communications Act (Slovenia); Law on self-generated renewable energy (Spain); Investigatory Powers Bill (UK), and the EU-Turkey Agreement (European Union).

When it came to the type of information that could be obtained, either proactively or pursuant to requests, there was a particular challenge obtaining minutes of meetings and documents submitted by third parties (such as lobbyists), both essential documents for following the decision-making process.

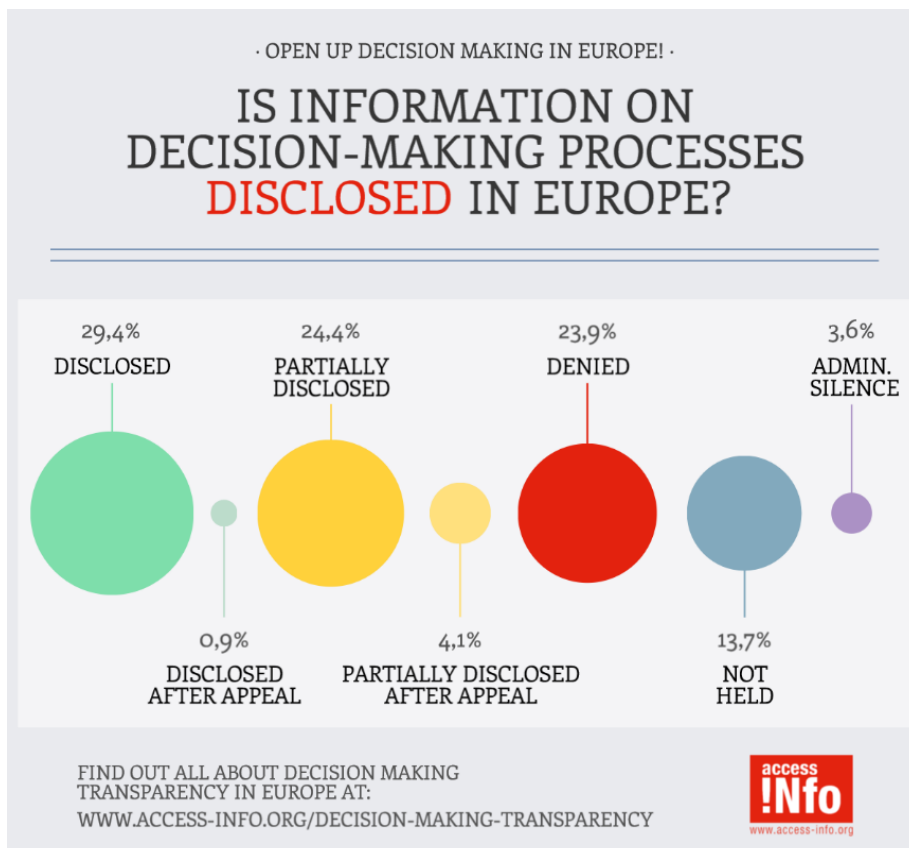
Types of documents	Proactive		Request	
	Full	Partial	Full	Partial
Appointment diaries of public officials	0%	10%	11%	64%
Minutes of meetings	0%	7%	11%	28%
Documents submitted by third parties	10%	2%	36%	25%

The State of Decision-Making Transparency across Europe

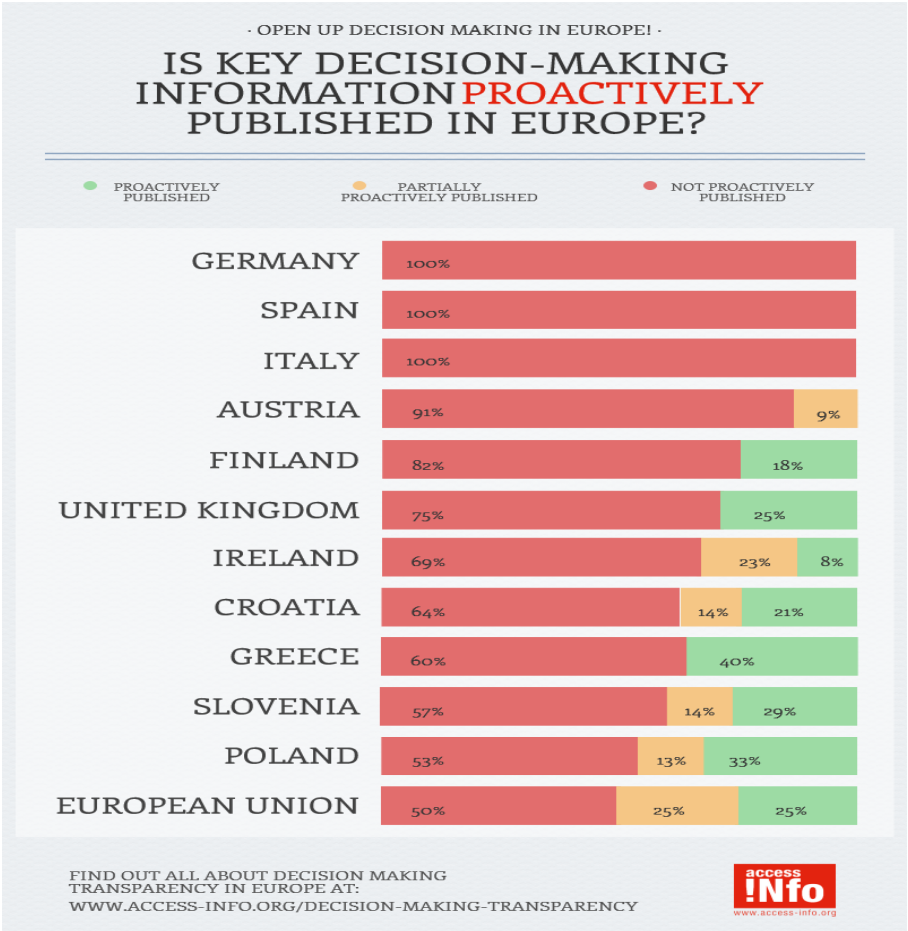
Access Info's research, conducted with our partners across Europe shows a worrying picture when it comes to decision-making transparency particularly a lack of proactive publication, with the vast majority of the information we enquired after not published and hence out of the reach of all but the most active citizens who are ready and confident enough to use their right of access to information:



And even when someone requests information, there is no guarantee that it will be received:



County-by-Country overview of Decision-Making Transparency



Decision-Making Transparency: The Refugee Crisis

One of the most important decision-making areas affecting the future of the European region has been how it responds to the current influx of migrants and refugees, commonly referred to as the Refugee Crisis.

Concerned by the lack of transparency around the conclusion of a deal between the EU and Turkey by which migrants would be returned from Greece, a plan that many human rights experts said breached international humanitarian law, the Access Info team filed a series of requests and submitted follow up appeals to challenge refusals to provide information.

During this process, it became clear that there is in fact no EU-Turkey “agreement” but rather a “statement” issued on 18 March, accompanied by a series of implementing actions. This is in spite of many heads of government tweeting about the agreement or telling their members of parliament that an “agreement” had been concluded.

Amongst the information that Access Info requested, were any documents held by the Council of the EU and the Commission that evaluate the legality of the deal or other related legal advice. We were told that the Council did not hold such documents and that the Commission does – or at least, a series of emails from its Legal Services, to which we were refused access, being provided only

with heavily redacted texts, with the Commission citing protection of legal advice, protection of decision making and protection of international relations as reasons for not providing more information.

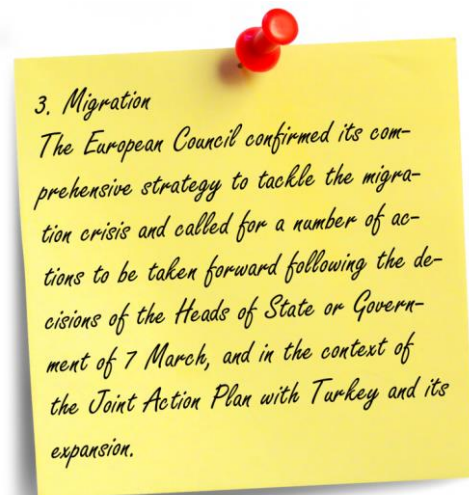
After our administrative level appeal was rejected, [Access Info presented a legal challenge to the European Court of Justice in December 2016](#), seeking access to this legal advice. The legal case is likely to continue through 2017 into 2018.



Decision-Making Transparency: Record Creation

When you are tracking a decision-making process and you realise that the minutes of key meetings are so brief that they fit into a tweet or onto a post-it, you begin to realise that there is something failing in the accountability process. This is particularly problematic when the decisions will directly affect individuals whose human rights are at risk.

Yet this is exactly what Access Info found when we started looking into the EU-Turkey deal.



So in addition to more formal actions such as our Court Case to obtain more information, we mounted a social media campaign to raise awareness of the problem.

Failures of record creation at the national level

The situation at the EU level reflects our research into the way in which minutes of meetings are taken in many countries across Europe, as revealed by Access Info's Decision-Making Transparency project: many responses to requests relating to decision making were that no relevant documents were held (such as minutes of meetings) even when it was known that such meetings had taken place. For all request submitted, there was an overall 30% information not held rate for minutes of meetings.

This is a problem which affects participation and accountability and also undermines efficiency in the decision-making process itself. The root of the problem is the lack of an administrative requirement to create records in the first place.

Comparative Legal Research

Access Info during 2016 carried out research across Europe, looking 12 jurisdictions. We found that most have no or a minimal legal framework requiring the keeping of records. Only one jurisdiction, that of Scotland (which has a separate freedom of information regime from the remainder of the UK), has specific requirements that particular types of records of government decision making be created: a specific "duty to document" clearly set out in law with a specific oversight mechanism.

In other countries, there are a range of bureaucratic good guidelines and at least patchy good practices that could form a strong foundation for strengthening the obligations of public bodies to

keep a record of the process or taking decisions, thereby improving both the possibility of real-time participation and ensuring accountability for those decisions.

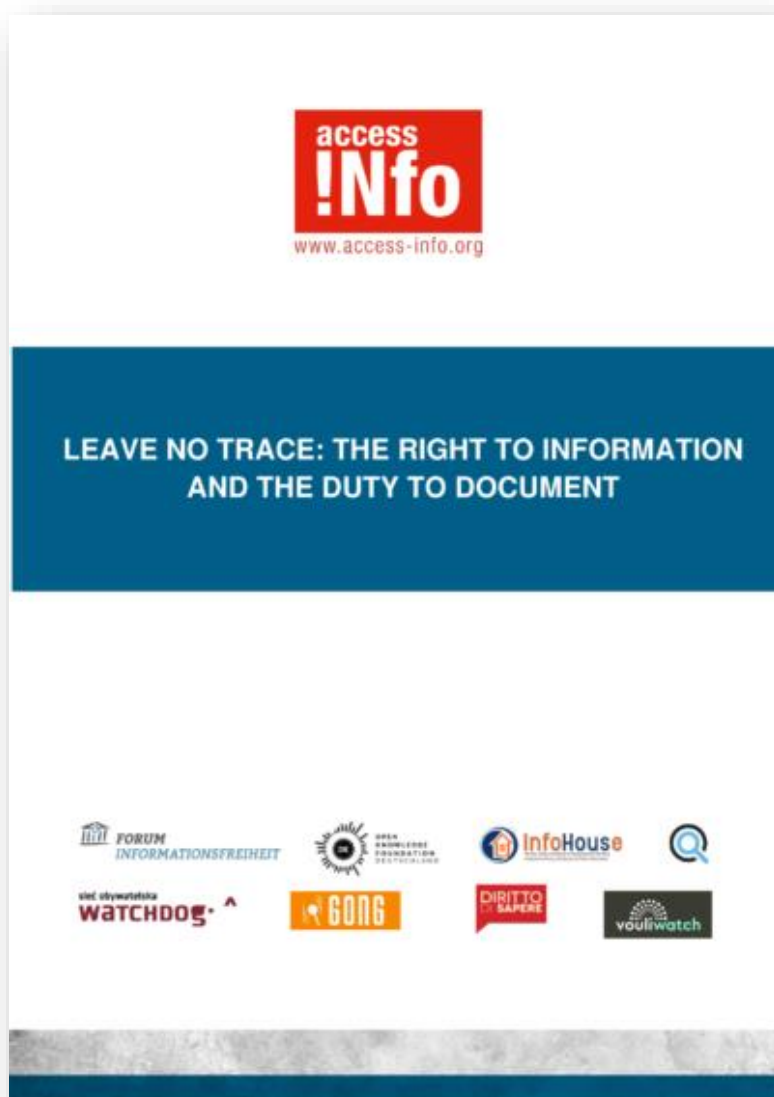
When it comes to specific classes of information, the picture is more complex. For example, five out of the 13 jurisdictions examined – Hungary, Scotland, Sweden, the United Kingdom and the European Commission – have legal provisions providing for record keeping of meetings with internal actors in the decision-making processes of government department. On the other hand, for legal advice to government departments, just three jurisdictions have laws requiring this class of information to be documented, namely Poland, Spain, and the European Commission. In addition, guidelines are in place in Ireland and the United Kingdom. For the rest there are no obligations, and whilst there may be traditions of bureaucratic record keeping, our research shows that these often fail in practice.

Discussing the Duty to Document

The draft report, *Leave No Trace: The Right to Information and the Duty to Document*, was presented by the expert commissioned by Access Info, Nuala Haughey of Think Tank for Action on Social Change at the OGP Summit in Paris in December 2016, where one of the main right to information sessions was “[Leave no trace? How to combat off the record government](#)” organised by the Access Info.

The Session included key invited speakers such as the Scottish Minister for Parliamentary Business, Joe Fitz Patrick, the Canadian Information Commissioner, Suzanne Legault, and the EO Ombudsman Cabinet senior advisor on access to documents, Graham Smith. All three spoke in favour of obligations record keeping, something which has been particularly advanced in Canada and hence provides a good practice model for European countries.

The main conclusion of the discussion was that civil society needs to work with Information Commissioners to secure legal obligations to keep records. As well as including this recommendation in our longer term goal that Access Info and partners will continue working on.



Transparency for an Accountable European Union

Transparency of the EU is a high priority for Access Info because it's decision making affects many of the laws and policies of the 28 Member States and impact directly on the lives of Europe's 512 million citizens.

What happens in Brussels is already a mystery to many EU citizens and if the EU is not sufficiently transparent, there is a huge risk that the public will simply lose faith in what it does. Indeed, the depth of the democratic crisis of trust and legitimacy became only too apparent in 2016 and touched the EU directly, as one country, the UK, voted to leave the Union.

Without taking positions on what the EU should or should not do in specific policy areas, Access Info works to open up EU decision making, to ensure that human rights are respected, and that all EU processes abide by the democratic principles of participatory and accountable governance.

What that means in practice is constant monitoring of how the EU transparency is going and designing strategic interventions to defend or advance transparency, whether it be something big, like opening up the decision-making process around the EU-Turkey deal or something relatively minor such as public officials responsible for transparency going on vacation in August and putting an out of office message saying that they might be slow in responding to requests.

Here are some of the main issues we campaigned on in 2016.

Transparency of Decision Making: Focus on Secretive “Trilogues”

Around 85% of EU laws are agreed in first reading, following the three-way “trilogue” negotiations between the Council of the EU (the Member States), the European Parliament (MEPs) and the European Commission (the executive branch). There is a big concern that the trilogues are closed and secretive, deals are done, texts are agreed, and there is no room for debate around the process nor any accountability about how the decisions were taken.



EU institutions urged to adopt Ombudsman proposals for trilogue transparency

Access Info undertook a number of actions during the year to respond to this situation, calling for transparency of trilogues in [submissions to the European Parliament](#) and [to the European Ombudsman](#), and during follow up [parliamentary debate](#). We welcomed the European [Ombudsman's subsequent recommendation](#) on opening up trilogues. Although this is not a binding decision, it will have an important impact on the debate in Brussels around how to comply with the requirement in the EU treaties that that legislative process be open to citizens.

“It is imperative that we have open and accountable law-making in Brussels, something that is clearly required by the EU's treaties,”

Helen Darbshire, Access Info Europe

EU Lobby Transparency: Who is shaping decisions in Brussels?

The campaign for stronger regulation and transparency of the huge Brussels lobby industry continued in 2016 with a focus on the discussions around the possibility of a mandatory lobby register. We participated in [consultations on the EU Lobby Register](#), mobilising other civil society to engage in this as well and campaign in meetings and letters.

Working with the ALTER EU Coalition, Access Info undertook research into how the lobby register is working, submitting requests via AsktheEU.org to find out about meetings with lobbyists, and issues such as the revolving door phenomenon, and respect for the code of conduct for EU officials.

“Our research has shown that corporate lobbyists, registered or not, are knocking on the doors of all the permanent representations all the time.”

Andreas Pavlou, Campaigner and Researcher at Access Info Europe.

This **research provided the evidence for our campaigning**: it showed for example [that many key lobby meetings are held with Commission officials](#) just below the level where public reporting is required.

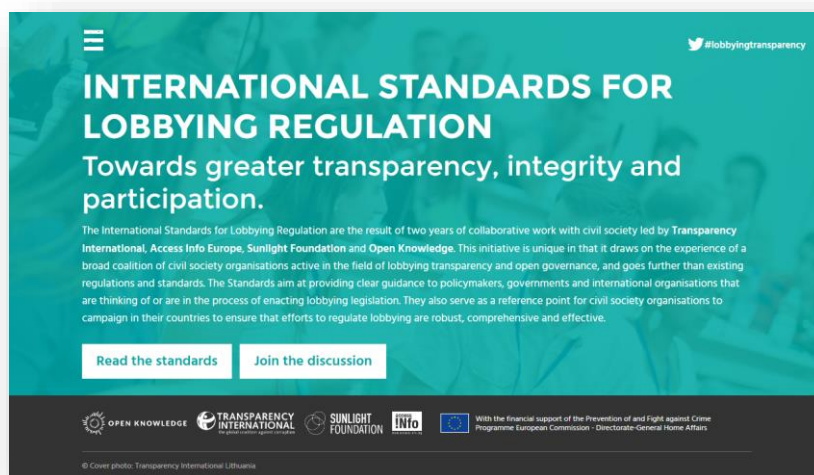
We also [demonstrated that there is significant lobbying of Member State representations](#) in Brussels, which largely goes under the radar, not captured by EU lobby transparency rules. There is also poor record keeping and lack of transparency even when asked: Only four of the seventeen governments approached (Ireland, Romania, the Netherlands, and Poland) provided significant information on lobby meetings.

Promoting the International Standards for Lobby Regulation

A basis for the lobby reform proposals put forward by Access Info and our colleagues in the ALTER-EU network are the International Lobby Regulation Standards developed by Access Info, the Sunlight Foundation, Transparency International, and Open Knowledge, and launched in late 2015.

In [separate consultations to the European Union and the Council of Europe](#) we

promoted these principles as the basis for any future lobbying regulation emphasising the fundamental right of access to information should underpin regulation of lobbying.



Having an impact on European Union Transparency

Impacts: Commission should plan better for transparency of names of experts!

In December 2016, following a formal [complaint submitted by Access Info](#), the European Ombudsman's recommended that the European Commission systematically obtain consent to publish the names of public officials charged with decision-making on public procurement prior to their appointment.

The particular complaint revolved around a public procurement process financed by the EU in Serbia for waste water treatment, but the application of this part of the decision is much wider than one single process: advance planning so that it is possible for there to be transparency of decision-making process has been an ongoing ask by Access Info given the difficulties we have with the conflict between access to information laws on the one hand and data protection rules on the other. The European Ombudsman's recommendation is therefore very relevant not only at the European Union level but also in most countries across Europe.

“In order effectively to guarantee transparency and maintain public trust in the EU administration, it would constitute good administrative practice if, prior to appointing persons to a procurement evaluation committee, the Commission were to systematically obtain their consent to the disclosure of their names. Such disclosure at the conclusion of the evaluation process should be considered a condition of appointment.” – Emily O'Reilly, European Ombudsman

Impacts: Public figures should expect a high degree of transparency!

In an important [Decision](#) from the European Ombudsman, in May 2016, European Ombudsman Emily O'Reilly said that data relating to the professional competence and activities of public figures, especially those appointed to a high level public posts, may not require the same level of protection as might apply to personal data in other circumstances.

Access Info Europe and the [HEC-NYU EU Public Interest Clinic](#) welcomed the Ombudsman's Decision on their complaint about the lack of transparency in the selection process for judges to the European Union Court of Justice (ECJ).

Impacts: The Right to Know doesn't take vacations!

A right is a right that can be exercised 365 days of the year and does not depend on the vagaries of when bureaucrats go to the seaside. In August 2016, the Access Info team was surprised to see response messages from the European Commission saying that due to holidays, answers to requests might take longer than the 15 working days prescribed by law.

Access Info responded with a letter to the relevant officials, and a social media campaign. In early September – when everyone was back at work – we secured [a commitment not to repeat this practice in the future](#).



Measuring TTIP Transparency

The European Union's negotiations over the Transatlantic Trade and Investment Partnership were highly controversial, with different actors taking radically different stances. The polarised debate was fuelled by a lack of transparency about the negotiations, something which in itself was highly criticised and became a point of contention.

As part of Access Info Europe's EU work as well as our Decision-Making Transparency project, we set out to map transparency of the TTIP. As a result, we developed a comprehensive webpage, which includes a timeline for TTIP transparency – important as over time more information did become available.

We set out clearly which documents are and are not available. For example, EU textual proposals and position papers were made public, whereas consolidated papers, “non-papers”, and correspondence were not. Some classes of document such as minutes of meetings or legal advice were either only sometimes available or only partially available.

With this work we aimed to bring evidence to the debate on how transparent the TTIP process is. At the end of the day, different actors still had different opinions about whether there was sufficient transparency, but at least the debate around it and the progress made in securing the release of some documents has set a base-line for other such negotiations in the future.

TTIP TRANSPARENCY OVER TIME

The following timeline guides you through the development of transparency around the TTIP negotiations. Browse through, and let us know if you think we have missed something!



JANUARY 1, 2013

WHAT IS TTIP?

TTIP - The Transatlantic Trade and Investment Partnership - is a trade and investment agreement currently being negotiated between the EU and USA. It has not been free from controversy - whilst EU institutions have called TTIP the most transparent free trade negotiation ever, civil society has criticised the lack of access to information about the negotiations. Institutions have responded with more transparency but many say that more can be done.



THE KEY ACTORS' OPINIONS

GREATLY IMPROVED!	COULD DO BETTER...	HIGHLY INSUFFICIENT!
		
<p><i>"There is no doubt that the debate continues but our initiatives are starting to bear fruit, particularly on transparency. The steps we've taking are being acknowledged."</i></p>	<p><i>"Regarding transparency, civil society involvement, public and political outreach: [The European Parliament recommends the Commission] to continue ongoing"</i></p>	<p><i>"The negotiations over TTIP are taking place behind closed doors, although the agreement will have far-reaching effects for the citizens of the EU. Even the"</i></p>

AsktheEU.org: new look for successful platform



AsktheEU.org is Access Info's popular platform for helping citizens make requests to the European Union: it's easy to submit a request and to track its progress. By having all nearly 4000 requests on line, AsktheEU.org contributes to making transparency about the EU more transparent!

AsktheEU.org runs on the Alaveteli software, developed by our UK-based partner mySociety, who also run the technical sides of the platform. In 2016, Access Info and mySociety gave AsktheEU.org a fresh new look and greater functionality.

» Mobile responsive

Back in 2011, the site was built for use from desktop machines, but in 2016 we realised that mobile users make up about 50% of the traffic. So we redesigned the site to be mobile responsive, something that should be a breath of fresh air for half our visitors!

» Lighter, faster pages

The new site is now much quicker to load. The designers achieved this by cutting down the number of files in the pages' styling. This is essential for those accessing from places with low bandwidth.

» Easier to read

The changes are not only aesthetic: the cleaner layout is easier to scan and find what you're looking for. And for those with visual impairments there are zoom functions, with no degradation in experience and underlines to facilitate finding links. It all goes along

Interesting Facts:

- Alaveteli is the name of the town in Finland where Anders Chydenius - the man who wrote the world's first access to information law back in 1766 - was born.
- Alaveteli has helped citizens make over 315,000 Freedom of Information requests in 25 jurisdictions around the world.

with our goal of making transparency more transparent.

Spain: Steps Backwards and Forwards

2016 was a year of tremendously mixed fortunes for the right of access to information in Spain, which meant that Access Info was active both in responding to setbacks in order to defend the right to know, and in celebrating successes, many of them arising from our own work to ensure implementation of the very young and rather weak Transparency Law, which came into force on 10 December 2014.

The political context was a difficult one with elections being repeated in June 2016 after a failure to form a government, which meant that some basic aspects of the legal framework got stuck on hold – including the much overdue implementing regulation of the law, that strictly should have been adopted in 2013.

Another transparency priority that was stuck during 2016 was Spain's membership of the Open Government Partnership, which at the year's end still lacked a forum for dialogue with civil society.

The biggest surprise of all was at the start of the year, when the government announced that it would be going to court to challenge the Transparency Council's decision that the Cabinet Office (Ministry of the Presidency) should give Access Info documents on progress being made as part of Spain's commitments assumed under its participation in the Open Government Partnership, documents that that Spanish government has exempted with the qualification of "internal" or "auxiliary".

In February, Access Info has joined this case as an interested party submitting our arguments, including making references to the fundamental right of access to information in European Court of Human Rights jurisprudence and stressing the need to obtain the information in order to participate in decision making, in this case about promoting transparency and participation!!

The case is only the tip of the iceberg of a government holding a poor record on its commitment to OGP core values: both action plans [have been heavily criticised](#) by Spanish CSOs for their lack of ambition and vague commitments. Access Info in 2015 [presented a formal complaint](#) to the OGP Steering Committee raising concerns around a serious lack of transparency and participation in Spain. Little progress was made on the OGP during 2016, at least nothing that was visible to civil society given the information lockdown, which continued after the Partido Popular was reelected and able to form a government.

In the absence of participation mechanisms, the only option was to write letters to the government, to continue with litigation, and to continue helping other civil society organisations and members of the public to request information, and to brief journalists on the situation.

In the letter writing we got support from global civil society in October, at the time of Access Info 10th birthday, when, on the occasion of the International Open Data Conference held in Madrid, a total of 22 visiting civil society organisations joined Access Info and Madrid-based Civio in a [letter to the Deputy Prime Minister](#) critiquing lack of progress on transparency in Spain.

The letter called for:

- » Recognition of a genuine right of access to information, along with improving the access to information law and giving greater powers to the oversight body (Transparency Council)

- » Full implementation of open data across government, including by adopting the International Open Data Charter and the Open Contracting Data Standard, as many other European countries have done.
- » A truly open public corporate register and an open and public register of the beneficial owners of companies: The Spanish company register should be released as open data: free of charge to access, complete, downloadable in bulk, and open licensed by default.
- » Transparency and civil society engagement in the Open Government Partnership, including the government dropping its legal challenge to making open documents related to the OGP.

At year's end, a reply had not been received, but there was some light at the end of the dark tunnel of silence: responsibility for OGP processes was handed to a different Ministry, that of Economy and the team there immediately made contact with civil society to discuss how to establish a participatory forum. After a positive first meeting held between Access Info and the new Spanish government OGP team the OGP summit in Paris, one of the government representatives of came along to the first transparency beers meeting (see below).

Spain's Tax on Sunshine: What do the documents tell us?

In May 2016, Portugal [announced four straight days of zero emissions energy production](#) using renewable sources. Given its endless sunshine, and high potential for wind and wave energy, why isn't Spain keeping up? The reason is a controversial 2015 law that imposes prohibitive taxes on use of home-produced energy (such as from solar power).

And why was that law adopted? Access Info and the [Platform for a New Energy Model](#) set out to investigate the decision-making process behind the 2015 Law, pushed through by former Minister of Industry [José Manuel Soria](#), who in April 2016 was forced to resign following Panama Papers revelations that he and his family operated a network of companies in offshore tax havens including the Bahamas and Jersey.

Documents from a public consultation held in 2013, released after a decision in our favour by Spain's Transparency Council, were analysed by journalists at digital newspaper [eldiario.es](#). The documents reveal that even members the governing Popular Party criticised the law in strong terms, describing it as "persecution" of the solar energy sector and with one going to far as to accuse the Minister of preparing a "final solution" to do away with renewables. Others regional governments describe the future law as a "revolutionary tax" and stated that the policy even runs counter to the party's own energy policy, and note that no other country has introduced such a system.

In total there were about 15,000 submissions to the public consultation from members of the public, which also were against the proposed energy law.

None of the documents submitted to the consultation had previously been made public –a lack of transparency around public consultations that is quite typical in Spain. The access to information request helped expose the fact that the controversial law, said to favour the coal industry, was pushed though in the face of both public and political resistance.

It's a classic example of how lack of transparency permits private interests and lobbying to skew decision making away from clear public interests. In this case with the secrecy having a direct and damaging environmental consequence.



Cooperation with the Transparency Council

Spain's Transparency Oversight role, receiving and deciding on complaints, and also in promoting the right of access to information. In February Access Info Europe signed an Agreement with the Transparency Council and during the year carried out activities such as the training of public officials, and participating in events to discuss the law.

Opening Up the Spanish Cabinet

An important victory at the in November 2016 was the [ruling by the Transparency Council](#) that Access Info should be given access to the agendas for the weekly meetings of the Spanish Cabinet, the Council of Ministers. Spanish Transparency Council confirms that Agendas of Cabinet meetings of the Government is public information

The Council's Decision rejected the Government's arguments that these are internal documents and instead found that their release would not harm the confidentiality of the Cabinet discussions.

Request Marathon

One innovative activity, carried out between the Access Info, the Council, and the organisation Cívico, was to organise a "Request Marathon" on International Right to Know Day, 28 September 2016, with members of the public being invited to submit requests.

The reason that this was necessary is the challenge identity requirements of Spain's law: to submit a request via digital means, you have to have an electronic ID certificate – something most Spanish people do not have. The only other option is to submit requests in person, which is a huge disincentive for many requesters.

During the Marathon at total of 140 requests were received from the public. Many were still being processed at the end of the year. They will form a useful data set for evaluating the implementation of the law.

Transparency Beers & Cheers

2016 started with Access Info along with colleagues at Oxfam, organising Spain's first Transparency Beers or "Cañas Transaprentes" in Spanish. This informal meeting, that we repeated at intervals during the year, provided an opportunity for representatives of NGOs, journalists, and some public officials and politicians to meet and chat about transparency-related issues.

New Executive and International Advisory Boards

Access Info Europe completed renewal of its Executive Board and International Advisory Board, as approved by the General Assembly, and announced this to our networks in late September.

In our public announcement, we also noted that these changes came as Access Info celebrates 10 years of successes in promoting and defending the right of access to information in Europe.

This new leadership will steer the course for the next phase of our existence.

The new Executive Board is as follows:

- » President: Alberto Alemanno, Jean Monnet Professor of Law at HEC Paris, Global Clinical Professor at New York University School of Law
- » Vice President: Helen Darbishire, Right to Information Activist and Founder of Access Info Europe
- » Secretary: Carlos Cordero, Director of Sustentia, expert corporate justice, development, transparency, and human rights, and a founder of Access Info
- » Treasurer: Christian Mihr, Journalist, international media policy expert and human rights professional, Director of RSF Germany
- » Liaison with the International Advisory Board: Päivi Leino-Sandberg, Adjunct Professor of EU Law, University of Helsinki

Access Info's International Advisory Board leads the strategic thinking of the organisation. We are also delighted to welcome:

- » Chair: Päivi Leino-Sandberg, Adjunct Professor of EU Law, University of Helsinki. Paivi will also sit on the Executive Board.
- » Deputy Chair: David Goldberg, Academic and right to information activist, who helped set up Access Info and was our first Honorary Member.

The other members of the International Advisory Board are a distinguished set of experts in transparency and related fields:

- » Gavin Sheridan, Investigative journalist and co-founder of TheStory.ie
- » Ana Petrusheva, Managing Editor (Balkan Insight), Country Director Macedonia
- » Staffan Dahllöf, Freelance reporter
- » Kevin Dunion, Honorary Professor and Director of the Centre for Freedom of Information, University of Dundee
- » Natasa Pirc-Musar, Lawyer and open government activist
- » Zuzana Wienk, Founder and program director of Fair-Play Alliance
- » Fabrizio Scrollini, President of DATA Uruguay
- » Julia Keseru, Global Matchbox Lead, The Engine Room

Access Info Europe takes this opportunity to thank all of our team and our supporters.

Income and Expenditure Accounts

Financial Year 1 January 2016 – 31 December 2016

This is a summary presentation in English of the original accounts prepared under Spanish law by:

Numéritas, SL
ALCALA 75 3ªIZQ
28009 MADRID
B83593764

Income	
Grants and Project funds	258,258.52
<i>These funds comprise:</i>	
» Open Society Foundations	152,764.52
» Sticking Adessium	100,000.00
» ALTER-EU	4,494.00
» VETERMON	1,000.00
Honoraria Conferences & Consultancies	5,739.13
Reimbursement travel / Per diems	3,586.72
Donations private individuals	380.28
Interests / reimbursements tax / other	28.29
Total Income	267,992.94

Expenditure	
Personnel & Management Costs	
Executive Director (with tax and insurance payments)	60,984.00
Staff and professional team (inc. tax and social security)	94,221.31
Consultants & Researchers	9,865.22
Accountant, Payroll	6,267.01
Legal services	2,835.08
<i>sub-total</i>	174,172.62
Operating and Project costs	
Accommodation	5,005.87
Bank charges (includes transfer fees)	465.08
Conference Room Hire + Event Refreshments	3,618.60
Depreciation Office Equipment & Furniture	1,647.84
Design - Graphic & Web	689.70
Gifts (in lieu of accommodation) and presents	38.95
Insurance - Office, Liability, Travel, Health	1,171.60
Office & IT Equipment	90.08
Office cleaning	2,874.46
Office rental	26,136.00
Office supplies, consumables, newspapers, books	1,156.49
Postage and couriers	75.79
Printing	3,118.79

Refreshments, business meals, per diems	1,836.92
Re-Grants to Partners	21,370.00
Per diem	155.00
Software	454.96
Telephone/internet/mobile/Skype	1,537.17
Travel (includes long distance and local ground transport)	9,288.85
Utilities - Electricity, Gas & Water	1,154.24
Web domains	260.22
Web hosting	1,370.91
<i>sub-total</i>	83,517.52
Total Expenditure	257,690.14
BALANCE	10,302.80

Approved by the *Junta Directiva*