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How well do EU institutions handle the right of public access to EU documents?

In the year running up to 28 September 2012, members of the European public presented a total of 214 requests for documents with European institutions and bodies using the AsktheEU.org request platform. As of 23 September, almost 65% of the 214 requests made using AsktheEU.org resulted in full (37%) or partial (28%) disclosure of documents.

In a further 19% of instances (40 requests) the institution responded that it did not hold the information requested, either because the document did not exist or because it was not in that institutions’ possession. Information was refused in only 13 cases (6% of requests).

By contrast, 27 requests (12%), received no response at all from the institution concerned. This is also known as “administrative silence” and is problematic because it is a violation of the right of access to documents under the EU treaties as well as a breach of good administrative practice which requires that members of the public receive motivated responses to the requests. 6 of these cases of administrative silence occurred after the requestor filed a confirmatory application (appeal) and various emails had been exchanged, thus undermining the requestor’s right to legal recourse.

Other problems identified include insistence on using online contact forms for the processing of requests, repeated extensions of time limits for handling confirmatory applications and unnecessary demands for citizens to clarify their requests. For more details read the full AsktheEU.org report which will be launched in late October 2012.

In terms of the kind of information being requested, top topics on AsktheEU.org include (with more than 10% of requests each): European Union internal affairs including relations with Member states; international relations; the economy, finance and business; and mechanisms to prevent conflicts of interest and lobby controls. These are followed by: environmental issues; policies; budgets; human rights issues and development.

RECOMMENDATIONS TO IMPROVE THE HANDLING OF ACCESS TO DOCUMENTS REQUESTS

Greater emphasis on proactive publication:
Publishing more information online reduces the need for citizens to file access to documents requests and for EU officials to process them. Information about the spending of funds directly by the EU and by Member States, as well as information necessary for following the decision-making process, including which public officials are involved in which decision-making bodies, should be readily available online.

Accept email requests: Some institutions such as the European Central Bank and the European Parliament initially resisted permitting requestors to submit requests via email, even though is provided for by Regulation 1049.

Good administrative practice:
When handling access to documents requests institutions should send an acknowledgement of receipt to the requestor and allocate a reference number to the request. Time frames should always be specified, particularly when applying extensions or handling confirmatory applications. AsktheEU.org has registered at least 11 cases of unspecified extensions and almost thirty extensions invoking the maximum 15-day limit.

RESPONSE TIMES TO REQUEST RESULTS 2012

79% INFORMATION RECEIVED
37% INCOMPLETE INFORMATION
40% INFORMATION NOT HELD
13% INFORMATION REFUSED
27% ADMINISTRATIVE SILENCE
8% AWAITING RESPONSE
9% OTHER