



FOIA in Europe for Journalists



You can send your Freedom of Information requests to the EU, of course, but sometimes you need information belonging to one specific country. Although the laws are very different from country to country, we will try to give an overview of the main points in some of them, as well as share some tips for using this tool.

★ Be very very specific

Before presenting the request, find out:

- Is there a specific name for the data/document?
- Who has it?
- Do they have a legal (maybe EU) mandate to have it?

The more informed you come off ass and the more precise the question, the better.



Study and understand the law

**Specially the exceptions and the resources available to
you in case they don't answer your question.**

Why the exercise of the right of access to public information (often) fails

Unfortunately, it is not common for access requests to be satisfied within a reasonable period of time, even with a favourable opinion from a transparency council, where they exist. “If the entity does not provide information or does not reply, the only option is to demand it through administrative litigation. This can take years, even a decade,” says Daniel Kerekes, data journalist at the Slovak organisation Denník N. In Spain, public entities sometimes ignore rulings by the Council for Transparency and Good Governance, which has no sanctioning power.

This reality makes it difficult, in practice, to exercise the right to know. In Italy, according to Luca Giunti of the organisation Openpolis, “the procedure has an implicit cost in terms of time and resources (e.g. lawyers who can follow the case)”, which means that a large proportion of citizens do not make requests for access or, if necessary, do not follow up with legal demands.

In Germany, according to Arne Semsrott, spokesperson for FragDenStaat, “the main problems are slow answers and fees; it’s possible for authorities to take up to 500 € per request” if it will take more than a nominal amount of time. Not only that: although the deadline for a decision under federal law is one month, those who do not receive requested information must wait three months before complaining. This means that in many cases, the actual time to respond to requests is longer than the four weeks set by law.

As a result, the common trend is that requesters must fight almost constantly to obtain data from public administrations. In addition, authorities can also limit access to public information by restrictions that turn into real barriers. Among the usual exemptions are the right to privacy, economic and commercial interests, or national security. The application of these limits is often inconsistent, creating uncertainty for requesters. This is the case in Poland, for example: “The reasons for not providing information can be arbitrary,” says editor Urszula Kifer of Frontstory.

Except for Italy and Spain, whose transparency laws are more recent, most of the countries surveyed in this investigation have transparency laws that date back almost a quarter of a century, yet those countries have not resolved the problems with implementing their transparency laws. In other cases, such as in Greece, regulatory gobbledegook hinders the right of access. This is an obstacle to transparency, despite the fact that, according to the sources consulted, on paper, the regulations marked a turning point in public accountability

On Trial to Defend the Right to Know

In Spain, Civio has gone to court to defend transparency and the need for public administrations to be accountable. In 2020, Spain's Supreme Court agreed with Civio and ruled that the right to access public information also applies to information from before the enactment of Spain's transparency law. Before that, in 2019, the Supreme Court also upheld an appeal by Civio to identify the temporary staff of the Court of Auditors, prioritising public interest over the protection of personal data. Currently, Civio continues to fight in court to ensure algorithmic transparency and access to public information related to drug prices and sanctions imposed by the Labour and Social Security Inspectorate.

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Anticipate the 'no'

Sometimes you cannot have a discussion after and you only get one shot at obtaining the information you want



Divide and conquer

**Three questions are better than
one**



Be patient

Country	Deadline for reply	If the information is requested on day 1, the administration should respond...
<u>Slovakia</u>	8 working days	Before the 11th of the same month
<u>Poland</u>	14 calendar days	Before the 15th of the same month
<u>Portugal</u>	10 working days	Before the 15th of the same month
<u>Croatia</u>	15 calendar days	Before the 16th of the same month
<u>Czech Republic</u>	15 calendar days	Before the 16th of the same month
<u>Slovenia</u>	20 working days	Before the 29th of the same month
<u>Greece</u>	20 working days	Before the 29th of the same month
<u>Italy</u>	30 calendar days	Before the 31st of the same month
<u>Germany</u>	One calendar month	Before the first day of the following month
<u>España</u>	One calendar month	Before the first day of the following month

Public entities in Italy, Germany and Spain have one calendar month to respond to requests for access to public information. They do not always meet this deadline, despite it being the longest of the countries examined in a Civio-led investigation by members of the European Data Journalism Network (EDJnet).

At the other extreme is Slovakia, which grants its authorities only eight working days, excluding weekends and public holidays. Poland, Portugal, Croatia and the Czech Republic, allow almost half a month to respond to requests made through their transparency laws. Slovenia and Greece allow 20 working days, which places them almost at the bottom of the countries analysed.

What the ten European countries surveyed do share is a general lack of compliance with transparency rules. “The law is good. The problem is its implementation,” says Croatian journalist Dijana Pribačić Jurić of H-Alter. “We have had cases where, after a lengthy administrative procedure, we received information on our journalistic requests only after two to three years, when they are no longer relevant in a journalistic sense,” adds Toni Gabrić, editor in chief of the same media outlet. The same happens in Spain, Portugal and Greece, according to sources interviewed by Civio.



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