Access to document laws as an advocacy tool

Dr Eleanor Brooks @Ellie_Brooks
University of Edinburgh, UK
Where Do Freedom of Information Laws Exist?

Global freedom of information law adoption, by century of adoption

- **FOI Adoption 18th century**
- **FOI Adoption 20th Century**
- **FOI Adoption 21st Century**
- **Countries Without FOI**

Source: Freedominfo.org
Accessing EU documents: Rights and regulations

• EU rules on access to documents are found in Regulation 1049/2001
• They apply to the Commission, Council and Parliament, and other EU institutions have similar systems in place
• The right to ask for EU documents is found in
  • Article 15 of the Treaty on the Functioning of the European Union
  • Article 42 of the Charter of Fundamental Rights of the European Union
• If you are asking for environmental information, the Aarhus Directive (Directive 2003/4/EC) on public access to environmental information also applies.

• Asking for EU documents is free of charge, can be done in any language, and you never have to say why you want the information.

Source: AsktheEU (2023), European Ombudsman (2023)
Accessing EU documents: Rules and processes

- Requests must be made in writing
- Institutions must respond within 15 working days
- Complex requests can warrant extension by further 15 days
- Institutions may refuse – wholly or partially – to fulfil a request if:
  - May undermine public interest or privacy
  - May threaten ongoing decision-making procedures, legal procedures or commercial interests
- Refusals can be challenged in a confirmatory application
- Continued refusals can be taken to the European Ombudsman

Source: AsktheEU (2023), European Ombudsman (2023)
AsktheEU.org

- Platform for making requests; optional but highly recommended
- List of EU institutions and organisations, direct to correct contact point
- Record of correspondence, automatic reminders etc.
- Advice on framing requests, assistance with submission and follow up
- Source of previous / existing requests
Some considerations

• Right to documents, not information
• Careful wording of requests
• Automatic publication of response (AsktheEU Pro)
• Commitment of time and effort

• The reality... ‘the Ombudsman has seen a sharp increase in complaints about access to document delays in the Commission, with the number in 2023 already four times higher than it was for the entirety of 2020’
Examples of FOI requests in health & social research
Thank you

Dr Eleanor Brooks @Ellie_Brooks
Useful resources

- European Ombudsman Access to Documents Guide
- Ombudsman A2D inquiries
- AsktheEU How to request and appeal guide
- MySociety links to FOI systems in other countries
- National Centre for Research Methods (NCRM) resources on FOI