

14 July 2007

European Commission
Transparency Initiative

ANSWERS TO QUESTIONS PRESENTED IN GREEN PAPER COM(2007) 185 final

Preface

First of all I thank for the opportunity express opinion in this public consultation.

However there has been some confusion of the dates. In the web page http://ec.europa.eu/civil_society/consultations/index_en.htm is said that the consultation closes on 15 July 2007. That web page links to the web page http://ec.europa.eu/transparency/revision/index_en.htm and in that web page it is said that the consultation closes on 31 July 2007. On the other hand in the green paper COM(2007)185 final it is said that the consultation will last to mid July 2007.

I have given this opinion based on information that this consultation closes on 15 July 2007 (two of three occurrences) as the date of this opinion indicates.

Question 1:

General:

The amount of information provided by European Union institutes is huge. I have browsed many times starting from the address <http://europa.eu/>. Every time there is something that you have not noticed before.

Since there is many institutions and every institution have their own pages with own webmasters I suppose that co-ordination all that activity is a big challenge – all due respect to the people in charge.

Answer:

My answer is **B**.

Some explanation:

Ease of use is the main issue. It was mentioned in the green paper that ease of use cannot be created by legislation since it is more a technical question.

Page http://europa.eu/index_fi.htm is **great**, since it is collection of everything and starting point. After that style of pages, places of the links and the logic of use varies a lot which is

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some sort of problem. There are also many techniques used when different institutions have done their web pages.

Of course it is a huge task to create coherence to all pages since there is so much information and institutions. Therefore it is gradual task that should be started some day – it may be started already.

Question 2:

Answer:

My answer is **YES**.

Some explanation:

I could just complain that you (European Union institutions) should disseminate information more actively. But it is not constructive to just complain without concrete proposals to improve something.

What is needed more in the European Union institutions web pages is following:



Actually it is not the image per se since that icon represents to millions of people around the world that you can subscribe to a news feed (RSS feed). This icon represents so called RSS feed which means that this feed can be read by so called RSS Reader. The RSS feed itself is mainly hard to read for absolute majority of people and therefore there has to be that RSS Reader which transforms the feed to human readable form.

There is lot of web pages about RSS feed. Best place to start gathering information about it is [http://en.wikipedia.org/wiki/RSS_\(file_format\)](http://en.wikipedia.org/wiki/RSS_(file_format)) and this page will forward to many relevant pages. And information of RSS readers can be found in the page http://en.wikipedia.org/wiki/RSS_reader which will forward to dozens of other pages.

What we **ABSOLUTELY NOT** need in the European Union institutions web pages is following (actually from one European Union institution web page).

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Mailing List Login	
Login	<input type="text"/>
Password	<input type="password"/>
<input type="button" value="Login"/> <input type="button" value="Reset"/>	

Not registered yet? [Click here](#)

It can be said that web page operations we know in their present form are older than ten years. During that time a general web page user has become very cautious to give any private information to that kind of mailing list register. Of course there is promises that any information will not be used in illegal activity but that is not very assuring in some cases. Therefore it can be said that all kind of mailing list registers are (huge) hindrances to active dissemination of information.

Thinking of active dissemination of information all hindrances should be removed. In this case it is totally useless register of their personal information which causes also useless administrative work to European Union institutions since all kind registers mean more work.

Therefore European Union institutions should remove all kind mailing list registers for general public and replace them by RSS feeds. RSS feed does not need any kind of registration and is generally very easy to use.

In principle to get public information should mean NO registrations.

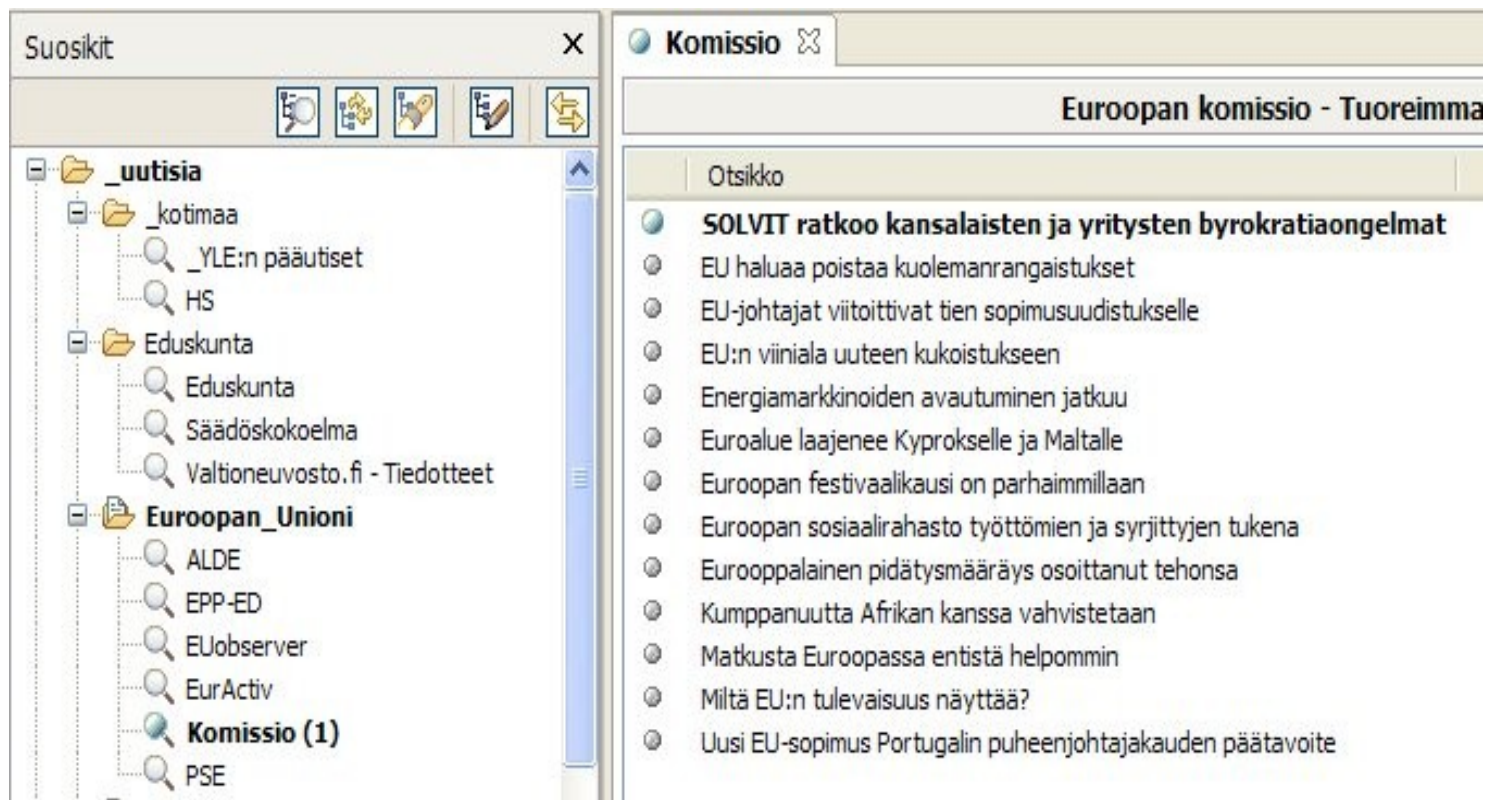
In the page http://ec.europa.eu/index_fi.htm there is the image mentioned before which will lead to RSS feed provided by the European Commission. It can be said that European Commission is a good example of using RSS feeds in disseminating their information – no mailing lists, no registrations. Now the news of Commission (Komissio in Finnish) can be seen in the RSS reader and the news are in human readable form.

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Where should European Union Institutions use these RSS feeds? Of course the news provided by the institution are nice but there is one problem. All news provided by the institution go through their own journalistic process which means that not all activity is covered in these news. The example before was about European Commission news and the news are selected by the European Commission staff. Since it is well known that there is a lot of activity going on in the Commission it might be impossible to make news of all activity.

Therefore there is a need for RSS feeds in following news pages.

<http://europa.eu/geninfo/whatsnew.htm>

http://europa.eu/press_room/index_en.htm

In page

http://europa.eu/geninfo/whatsnew_inst.htm

there should be that orange image to every institution and from that page it should be easy to subscribe to news feed of specific institution (agencies etc. also).

Of course every institution should have their own RSS feed in their main web page.

Generally speaking in some institutions one RSS feed is not enough. For example European

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Parliament is providing at least three general news list which are only as a web page but not as RSS feed.

As was mentioned before news pages alone is not enough and there is some pages the green paper mentions already. Therefore RSS feed at least in following pages but this should be examined thoroughly.

<http://www.europarl.europa.eu/oeil/>

There should be RSS feed about council meetings and documents related to those meetings before and after meetings.

http://www.consilium.europa.eu/cms3_applications/applications/newsRoom/loadBook.asp?BID=104&LANG=1&cmsid=364

Page

http://europa.eu/documents/comm/index_fi.htm

will lead to many interesting documents. Also this page should contain RSS feeds which would help to follow daily activities in the European Commission. When a new document is added to register also information about that should be in the in the RSS feeds.

<http://eur-lex.europa.eu/JOIndex.do>

In general it can be said that the basic assumption behind the European Union web pages is that people would every day come and browse through that maze of web pages to get all news they want. Actually that means lot of work if done every day. The general principle should therefore be that people come once and start following daily activity through RSS feed and when there is something interesting they came again back to the web page.

Therefore European Union institutions should go through their web pages, add RSS feed to relevant places and start active dissemination of information with RSS feeds.

Question 3:

Answer:

My answer is **YES**.

Some explanation:

The question was rather tricky when considering explanations before the question. When thinking just the amount of citizens in the European Union there should clear rules to access the documents. Every exception etc. creates more administrative work since exceptions etc.

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must be explained.

Question 4:

Well.

A tricky question again since there is juridical process going on with this issue. I read both Regulation (EC) N:o 45/2001 and Regulation (EC) N:o 1049/2001 to have an opinion. However, I did not look on cases T-194/04, T-170/03, T-161/04, T-121/05 and T-166/05 as was hinted in footnote 28.

Anyway.

According to Finnish Constitution an individual can have opinions (even though she/he might not use all information provided, i.e. as hinted in footnote 28).

Answer:

My answer is **C**.

Question 5:

Answer:

My answer is **B**.

Some explanation to answer 4 (and partly to answer 5)

I was more interested about administrative committees, i.e. those that are under leadership of a civil servant. They should be separated from committees that are under leadership of a member of Parliament.

Maybe the term administrative committee is not the best term.

In the Finnish context the civil servant(s) responsible for an administrative committee (temporary, legally based committee, committee preparing law proposal, etc. in <http://www.hare.vn.fi/>) can be found.

So I think that it would not hurt daily working if there is public information of the responsible civil servant(s) for certain committee. So that could be regulated in Regulation (EC) N:o 1049/2001 if it is to be modified.

Then there is the question who is consulted when an administrative committee is working.

In Finland it is possible to see **which organisation** the administrative committee (temporary,

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legally based committee, committee preparing law proposal, etc. in <http://www.hare.vn.fi/>) consulted, i.e. that specific organisation gave its position paper to the committee.

So it would be good to know at least **which organisations** gave their position paper or opinion when a committee has been working.

It can be said that many interest groups (at least in Finland) publish many kind of position papers in public and their opinions are highly public regardless their consultations in a committee.

Of course there might be some differences in the position papers and opinions presented in public and presented to a committee. Since committees are in all situations funded by taxpayers and they are part of public institutions there should be rule that all records of the committees are therefore public.

Then there is question of the publicity of position papers since they could be said to be private or public property also depending of the originating organisation. So that could be regulated in Regulation (EC) N:o 1049/2001 if it is to be modified. There might be some questions of copyrights etc. and therefore there should be clear rules of handling information given by private organisations to a committee. When that is handled there should be no problems in publishing those position papers in public.

The next question is signatories of the position papers, i.e. should the name of signing person(s) be revealed. This question can be considered with same question of revealing names of attendees in committee meetings.

How much there should be information about attendance of committee meetings in committee records?

There should be at least information **which organisations** were presented in specific committee meeting.

Then there is the question of revealing personal data, i.e. the name of attendees and signatories of position papers. So that could be regulated in Regulation (EC) N:o 1049/2001 if it is to be modified.

It is tricky question. Is representative of an organisation representing her/his own opinions or opinions of her/his organisation? I proposed earlier that at least the name of the organisation represented should be revealed which implicitly means that those opinions are opinions of an organisation and not an individual. However there is an individual presenting these opinions since an organisation is not organisation without individual persons.

However. For example in the case of Finnish Law (The Penal Code of Finland ¹ , Chapter 24

¹ <http://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf>

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- Offences against privacy, public peace and personal reputation, Section 8 - Invasion of personal reputation (2)) is stated following.

“The spreading of information, an insinuation or an image of the private life of a person in politics, business, public office or public position, or in a comparable position, does not constitute an invasion of personal reputation, if it may affect the evaluation of that person’s activities in the position in question and if it is necessary for purposes of dealing with a matter with importance to society.”

Now the main question is that is a representative in a committee in position **comparable** person in politics, business, public office or public position as stated in that section of Finnish Law? I don’t know about other laws in Europe but as an example from the Finnish context this issue is not so easy to solve. I did not study the case law of Finland to ascertain the interpretation of this specific section.

Is a representative in a committee person in politics, business, public office or public position?

Then there is question of revealing of names of those attending persons who are representing organisation that is not public, i.e. organisation that is not created by legislative measures. These organisations can be called interest groups. Are those representatives of interest groups persons in politics, business, public office or public position?

Yes?

How that can be assured since certain person might be in that position for certain time? When is a representative of an interest group in that position? Right after she/he becomes an employee of an interest group or in some other position? What are rights and duties of that kind of person? What is the limit of invasion of personal reputation?

No?

It is well known fact that representatives of interest groups try to influence preparation of laws. Are they then persons persons in public position? On the other hand citizens can always contact their representatives and public servants. Are they then just citizens using their constitutional rights? On the other hand some of the interest groups have more resources than an average citizen. On the other hand an average Finnish citizen can pay her/his member or other fee to the Finnish branch organisation and trust that the European central organisation is handling her/his case in relevant places in the European level. Is the representative of an European interest group then gone through an election process that is comparable to public election?

I suppose that there are many other controversies in the question of revealing name of attendees in committee meetings and signatories of position papers. In the current situation I am not aware of all these controversies.

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The least that could be done – after the decision of revealing of name of attendees and signatories of position papers is done – is explaining all practical, legal and ethical issues related to revealing names and putting that information public– in human readable language.

In general it should be regulated in Regulation (EC) N:o 1049/2001 if it is to be modified that how and when is personal information of attendees and signatories of position papers is revealed. The regulation should also notice the difference of public and private organisations since the attendees of private and public organisations in committees are under different legislation when publicity of their documents must be handled according to that difference.

Question 6:

Answer:

My answer is **”NO opinion”**.

Some explanation:

I have not done request for documents to any European Union institution and therefore I have not experience time frames etc.

Since electronic databases of European Union institutions are expanding all the time it is more a question what is not in the databases. Therefore there should be clear classification of documents and clear rules which documents are to be added to database(s).

I suppose that some of the very complex document requests are related to investigative journalism or possible juridical actions. Both of these cases might be burdensome since in both cases the person(s) making request will go through all possible options and might ask large collection of documents.

Depending of the institute there have been working databases for some years and therefore in many organisations there is at the moment duplicate system when keeping old manual records and updating electronic databases. It is possible when the databases have been working for longer time the requests will be more on those documents which are in the databases and then it is more about guidance than actually finding manual records and copying them. However this is only assumption which can be wrong when looking backwards after certain time, e.g. 10 years forward from the date of this opinion.

Question 7:

Answer:

My answer is **YES**.

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Some explanation:

It is better to clarify. If it is not clarified thoroughly there will be at certain point be case in the Court of First Instance. Better clarify now than after the judgement.

Then there is question of dynamic documents meaning that information which is not in one specific information object, i.e. information is revealed "on the fly". It is possible that some institution already have or might have in future a database where the information is only numbers or pieces of text on the database. Then with dynamic electronic request information from database is not electronic document since it might be only in some sort presentation in the device possibly unknown at the current situation.

Therefore the definition should be open enough to take handle possibly changing technological measures.

Question 8:Answer:

My answer is **YES (a little bit uncertain)**.

Some explanation:

Interesting. Why this has not been regulated before?

As mentioned before the general rule is making documents public and this should not be a problem. Then it comes to categorising documents according to their usage since there might be those juridical actions not related to non-legislative areas. Clear classification of these documents could help the situation. May be these documents could be in the register numbered and in some cases the title could be revealed with information of publication rules, e.g. "document in the case X and document will be published after Y action(s) according to rules Z" or "document A will be published according to rules Z".

The idea in above might too complicated in the real life and should be considered as theoretical exercise. If there are lot of different regulations it might create a register that is as complex as PreLex. Also indicating to having a document in same case might be unwise; on the other hand it might be quite public information that there is that kind of case going on and therefore it is quite evident having document(s) related to that case.

Therefore I am little bit uncertain can answer be really YES after more thorough examination.

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I was interested about “pending decisions on non-legislative areas”. Does this cover those committees that are not created by legislative measures? Like I mentioned before I was interested about documents and representatives in those numerous committees.

Then there is always category “not otherwise specified”. May be this is the hardest class since I suppose that there is some cases public pressure to make public certain document not in any category. May be in these cases the reason of not making public should be explained thoroughly.

Final comments:

The amount of citizens in European Union is huge in the current situation. When Finland joined European Union there was less citizens in European Union . Therefore it is fully understandable that there is now growing interest for documents provided by the institutions. Also translation of documents to all official languages is a huge task since there is now even more languages after accession of the newest member states.

The decision process in the European Union is not as straightforward as in Finland since there is much more actors in the decision process. Especially in the co-decision process at its longest version there is a lot of phases and they all should be informed properly. It is quite normal that in the news releases is reported that Parliament or Council has decided something but actually there has been for example first reading of those institutions before next phases.

The PreLex database is a small miracle since it combines the actions of all institutions and all documents in the official decision process. Since there is many layers and many techniques used in institutions information services I suppose that technical people spent a lot of time creating that system. But now in use it is invaluable tool for following the official decision processes.

The next phases should be combining web pages to create more coherent entity. The page http://europa.eu/index_fi.htm is absolutely great and after there should be as logical web pages after that.

I was interested of opening the decision process before its official start when COM final document is passed forward. When compared to Finnish context it is quite easy to follow what kind legislation is in preparation (<http://www.hare.vn.fi/>), who is responsible, organisations consulted and when the law proposal should be ready. Only RSS feed is missing from that service. Similar service with RSS feed would be good in the European Union context. And when the legal issues in publishing meeting records, position papers, meeting attendees and signatories of position papers are solved it is only technical question to have that kind of service. Then it would be easy to follow what law proposals are coming before publishing the COM final document.

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I stressed the need for RSS feeds. Of course it is a new task to create that kind of service. When thinking technically there should be solutions that creates web pages and RSS feeds at the same time to save administrative work time. When thinking that administrative work time is should not be used for duplicate work. On the other hand there is many technical layers in the information services as can be seen and changing some technical solutions might be a problem.

On the other hand it can be said that ease of access is also one thing of active dissemination of information. RSS feeds eliminate many phases and with update action in the RSS reader can automatically be fetched news around the world in matter of seconds. With that kind of ease the European Union news can (at least in theory) reach larger audience than with conventional web page. Since there is nowadays millions of people using RSS readers it can be regarded rather general solution.

It should be noticed that European Union institutions have done good job when creating information services with new technologies. It is totally different situation when comparing situation before accession of Finland. Now it is much more easier to get relevant information from European Union without distortion since there is in many cases straight electronic connection. Even though there is a lot of distorted information against and in favour European Union there should be always way to check the actual information. In current situation it can be said that the possibility for checking actual information is better than ever and there are still some ways to improve those possibilities.

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