

Access to Belgian administrative documents by foreign administrative bodies through freedom of information laws



General

To date, there are no explicit legal and/or treaty grounds to provide administrative data to foreign administrative bodies on one's own initiative. However, freedom of information laws do offer opportunities to gain access to certain Belgian administrative documents upon request.

Legislation

The general freedom of information laws on documents is included in federal and state legislation. For example, the freedom of information laws at the federal level are included in the Constitution (Article 32 of the Constitution) and the Act of 11 April 1994 on the freedom of information laws.

One of the goals of these laws and regulations is to reinforce the rule of law and democracy. The underlying idea is that citizens can get an overview, through access to administrative documents, of the decisions of the administration and the justification behind the decisions. Foreign government bodies can also make use of this legislation.

What is meant by administrative document?

Federal and state governments apply a broad definition of administrative documents. Administrative document is generally understood to mean all information, in whatever form, that the administrative authorities have at their disposal.

The principle is that all available information from a government is public as a rule. Public access can only be limited if there is a ground for exception.

When it comes to the administrative approach to the fight against organised crime, this therefore means that, among other things, licences, in principle, fall under the freedom of information laws.

Grounds for exceptions

There are several grounds for exception to refuse public access. Below, only the reasons that may play a role in the administrative approach to organised crime are listed.

Requests will be denied if disclosure is detrimental to:

- A duty of confidentiality
- The protection of privacy (unless the data subject agrees)

- Secret deliberations of government departments

Application

Foreign administrative bodies can request administrative documents by sending an email or a letter to the government agency that holds an administrative document.

This application must contain the following information:

- The description of the administrative document you wish to access
- Your name and postal address
- A description of what you are looking to obtain
 - o Access to documents
 - o Explanation of documents
 - o A copy or transcript of the documents
- If you want to obtain information of a personal nature, you will need to prove that you are directly and personally affected in your legal situation. Documents of a personal nature include, for example, an administrative document that contains an assessment or a value judgement of a named or easily identifiable natural person, or the description of a behaviour which, if publicly disclosed, may cause apparent harm to that person. This means that in such cases, you will need to be

able to demonstrate an interest.

The right of access and the right to explanation can be exercised free of charge. A fee for the actual costs may be charged for obtaining a copy.

Future vision

According to EURIEC, access to administrative documents via the Government Information (Public Access) Act is only a temporary solution. EURIEC advocates that it should be possible to share administrative information directly under certain conditions. This is in the context of the administrative approach to organised crime, which is gaining a foothold in more and more countries. Until there are legal possibilities for this, the legislation around public access to administrative documents in Belgium, the Netherlands and Germany, offers a limited possibility.