

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



General

To date, there is no explicit legal and/or treaty ground for providing administrative data to foreign administrative bodies. However, freedom of information laws do offer opportunities to gain access to certain Dutch administrative documents.

Legislation

In the Netherlands, the Government Information (Public Access) Act regulates the principles of openness about what the government does. The law includes, among other things, which documents can be requested from an administrative body.

One of the goals of these laws and regulations is to increase the openness of the central government. The law provides for a voluntary disclosure obligation for administrative bodies. In addition, there is the option of disclosure on request. Foreign government bodies can make use of both options.

What is considered documents?

The Dutch legislator applies a broad definition of the term document. Document is understood to mean all information that has been drawn up, or any written document

received. The law relates to existing documents.

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, can be requested under the Government Information (Public Access) Act.

Disclosure on request

Anyone can file a request for public information with an administrative body or an institution, service or company operating under the responsibility of an administrative body. The responsible administrative body decides on the request.

Application

A request for disclosure can be made orally, in writing or electronically. The administrative body must decide on the request within four weeks of receiving the request. If the request is complex or extensive, this period may be extended by two weeks.

The person asking the question is not required to demonstrate that they have an interest in that

information. It is necessary, however, that the request is sufficiently specific and does not conflict with the grounds for exception in Chapter 5 of the Government Information (Public Access) Act.

No costs will be charged for the application, although a fee may be charged for making photocopies, for example.

Grounds for Exception (Chapter 5, Government Information (Public Access) Act)

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

In any case, information will not be disclosed if the information relates to personal data (unless the data subject has given consent or has disclosed the data themselves). These are anonymised where possible. Data arising from a BIBOB investigation is subject to strict confidentiality.

In addition, information may not be disclosed if the weighing of interests shows that the interest does not outweigh interests such as:

- the investigation and prosecution of criminal offences

- the inspection, control and supervision by administrative bodies
- Respect for privacy.

Disclosure on one's own initiative

Every government body must disclose certain government documents on its own initiative. This is, in any case, information about the policy, including preparation, implementation, compliance, enforcement and evaluation. The public government documents can be found, for example, via [Overheid.nl](https://www.overheid.nl) | [Overheidsdocumenten](#), and via the websites of the relevant administrative bodies.

Future vision

Access to administrative documents via the Government Information (Public Access) Act is only a temporary solution, according to EURIEC. 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.