

Access to German federal administrative documents for foreign authorities via the Freedom of Information Act



General

At the moment, there is no general explicit legal and/or contractual basis for providing administrative data to foreign administrative bodies on their initiative. The Freedom of Information Act offers the option, however, to obtain access to certain administrative documents upon request.

Legislation

In addition to the Federal Freedom of Information Act, most federal states also have an IFG, which applies to the state authorities.

One of the IFG's goals is to reinforce the rule of law and democracy through transparency. The idea behind this is that by being able to access administrative documents, citizens can obtain an overview of the administration's decisions and the reasons for these decisions.

Foreign (natural) persons and legal entities under private law can also make use of the IFG.

To what information does the right to information refer?

Within the meaning of the IFG, official information is understood to mean any record used for official purposes, regardless of the manner in which it is stored. Drafts and

notes that should not become part of a process are not included (§ 2).

For the administrative approach to fighting organised crime, this means that, among other things, licenses are generally covered by the Freedom of Information Act.

Grounds for exceptions

There are several exceptions where public access can be denied.

Requests will be denied if:

- Personal data would be disclosed (and there is no consent, nor does your interest in the information outweigh the legitimate interest of the third party), § 5
- Trade secrets would be disclosed or if the request would be in conflict with the protection of intellectual property, § 6
- The official decision-making process would be at risk, § 4
- The request is in conflict with the protection of special public interests § 3

If the request can only be partially complied with due to an exceptional reason, the information to be protected is usually redacted.

Application

Foreign citizens and legal entities under private law can request administrative information orally, in writing or electronically from the authority whose information they request.

The application must contain the following information:

- The precise description of the administrative document you are looking to access.
- Your name
- in principle, no justification is required, unless access to personal data is requested (or trade and business secrets).
- You can indicate that you are requesting a certain type of access to information, such as access to files, oral information or a copy of the documents.

Access to information should be given within one month at the latest (§ 7), unless a third party is involved (§ 8).

There is no entitlement to explanation or comment on the relevant document.

Depending on the effort involved, fees may be charged for disclosing the requested information.

Providing oral or simple written information is free of charge.

Future vision

In EURIEC's opinion, access to administrative documents within the framework of the IFG is only a temporary solution. EURIEC advocates that it must be possible to disclose administrative information directly under certain conditions. Doing so would greatly support the administrative crackdown on organised crime that 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.