

Access to North Rhine-Westphalian administrative documents for foreign authorities via the NRW 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 North Rhine-Westphalia Freedom of Information Act offers the option, however, to obtain access to certain administrative documents upon request.

Legislation

A Freedom of Information Act is in place at both the federal and, in many cases, state level. North Rhine-Westphalia is one of the federal states that have enacted their own Freedom of Information Act.

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 can also make use of the IFG NRW.

To what information does the right to information refer?

Within the meaning of the IFG NRW, information is understood to mean

all information that has been obtained in an official context and that is available in writing, image, sound or data processing form or on other information carriers (§ 3).

For the administrative approach to fighting organised crime, this means that, among other things, licenses are generally covered by the NRW 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 a legal basis, nor a legal interest, nor disclosure to avert specified risks required), § 9
- Trade and business secrets would be disclosed, § 8
- The official decision-making process would be at risk, § 7
- The request is in conflict with the protection of special public interests and enforcement § 6

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

Application

Foreign citizens 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 you assert a legal interest in the disclosure of personal data.
- 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 immediately, at the latest within one month of the application being made (§ 5).

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 NRW 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.