

# Act on the Inspection of Files and Access to Information including Scale of Administrative Fees

*This is a non-official translation of the German original wording. In case of differences between the English translation and the German original only the German text published in the Gazette of Laws and Ordinances is valid and takes legal effects.*

# Act on the Inspection of Files and Access to Information (Akteneinsichts- und Informationszugangsgesetz, AIG)

of 10 March 1998  
(Gazette of Laws and Ordinances I/98, [No. 04], p. 46),  
as last amended by the Act of 8 May 2018  
(Gazette of Laws and Ordinances I/18 [No. 7])

The *Land* Parliament has adopted the following Act:

## Section 1 Right to inspect files

Any person is entitled to inspect files in accordance with the provisions of this Act, unless such inspection is precluded by overriding public or private interests pursuant to sections 4 and 5 or other legal provisions contain sector-specific regulations applicable to an unlimited group of persons.

## Section 2 Scope

(1) The right to inspect files exists vis-à-vis the authorities and institutions of the *Land*, the *Land* establishments, the municipalities and municipal authorities, municipal enterprises and institutions in accordance with section 92 (2) no.1 and no. 2 of the local government law of the *Land* of Brandenburg, the other *Land* corporations, facilities and foundations under public law, as well as natural and legal persons under private law to which statutory tasks of the *Land* have been transferred by law or on the basis of a law for performance in public law forms, unless stipulated otherwise in the following. The right to inspect files vis-à-vis the Municipal Examination Office in the Ministry for Internal Affairs and the County Audit Office with the District Administrator as the general, lower *Land* authority shall exist only insofar as administrative tasks are affected.

(2) The right to inspect files exists vis-à-vis the administration of the *Land* Parliament, the *Land* Audit Office, the *Land* Commissioners which do not belong to the *Land* authorities, institutions and establishments referred to in subsection (1), as well as authorised representatives and the organs administering justice, insofar as they perform administrative tasks. The right to inspect the files exists vis-à-vis state universities, research facilities, central research institutions, schools and examination institutions, unless they are active in the fields of science, research, teaching, instruction and examination.

(3) The right to inspect files exists vis-à-vis the agencies referred to in subsection (1), first sentence, whose area of responsibility also covers other *Länder* of the Federal Republic of Germany only insofar as the files refer exclusively to the *Land* of Brandenburg.

(4) In ongoing proceedings the files shall be laid open to inspection up until such time as an enforceable or final decision or a decision terminating the proceedings in another manner is issued only in accordance with the law of procedure applicable in the respective case.

(5) The right to inspect files does not exist vis-à-vis

1. the Office for the Protection of the Constitution of the *Land* of Brandenburg,
2. the agencies referred to in subsection (1), first sentence, insofar as they compete on the marketplace,
3. the supervisory authority of foundations under civil law.

### **Section 3 Definitions**

For the purposes of this Act, 'files' shall be all documents recorded in writing, electronically, visually, acoustically or in another manner, insofar as they exclusively serve official purposes. They shall not include drafts and notes which do not form an integral part of the case files and which are destroyed at the latest after these are closed.

### **Section 4 Protection of overriding public interests**

(1) The application to inspect files shall be refused if

1. disclosure of the content of the files would affect matters concerning *Land* defence or the international relations of the Federation or of another *Land* or could compromise relations between the *Land* and other states or intergovernmental institutions, the European Union, the Federation or the *Länder*,
2. *(repealed)*
3. the content of the files relates to consultations of the *Land* Government or work in their preparation,
4. disclosure of the content of the files could compromise matters affecting criminal prosecution and enforcement, threat aversion, other internal security affairs or the activities of the police or could cause a sufficiently serious threat to public security,
5. laying open the files to inspection would disclose the contents of files which were drawn up by an authority in the conduct of court proceedings, criminal law or disciplinary law preliminary investigations or administrative fines proceedings or which it has received on account of the proceedings or which serve or have served the supervision of another agency.

(2) The application to inspect files should be refused

1. insofar as the content of the files refers to the opinion-forming process within or between authorities or administrative bodies or to procedures which are to be deliberated or adopted in accordance with section 36 (2) of the local government law of the *Land* of Brandenburg in non-public meetings or which were deliberated or adopted in a non-public meeting,
2. if the premature disclosure of the content of the files could jeopardise the success of forthcoming measures to be taken by an authority,
3. if the application refers to the transmission of documents which are not yet finished or to drafts of decisions as well as to work on their immediate preparation, or
4. if the proper performance of the public agency's tasks would be sufficiently seriously compromised,

unless the interest in inspection of the files overrides the conflicting public interest in an individual case.

(3) The obligation to observe statutory confidentiality obligations or professional or special official secrets which are not based on statutory provisions shall remain unaffected.

## **Section 5**

### **Protection of overriding private interests**

(1) The application to inspect files shall be refused, subject to the second sentence and to subsections (2) and (3), insofar as

1. personal data would be disclosed, unless the data subject has consented to the disclosure or the disclosure is permitted on the basis of another legal provision,
2. the protection of intellectual property, in particular copyright, precludes inspection of the files, or
3. access would be provided to trade or business secrets, unless the information is disclosed with the consent of the enterprise affected.

The files may be laid open to inspection insofar as in the light of the purpose of the political involvement, on account of the special circumstances of the individual case, the applicant's interest in disclosure overrides the data subject's interest in the confidential treatment of the information. Section 4 (3) shall apply *mutatis mutandis*.

(2) Where company data are affected by the application to inspect files, the enterprise must be heard. Before allowing the files to be laid open to inspection in accordance with subsection (1), second sentence, the data subject shall be heard.

(3) When inspecting the files the disclosure of the involvement of an office-holder in administrative procedures or other government tasks, as well as his or her name, title, academic title, internal function description, official address and telephone number is also permissible, unless such disclosure is precluded by any interests of the office-holder warranting protection.

## **Section 6**

### **Inspection of files**

(1) The application to inspect files must be sufficiently precise. In the cases referred to in section 4 (2) and section 5 (1), second sentence, the special circumstances of the individual case must also be set forth on account of which an overriding interest in disclosure is being asserted. The application must be made in writing or in electronic form to the authority keeping the files. In the cases referred to in the second sentence, the authority keeping the files must give the applicant the opportunity to make a statement within two weeks. Where the applicant lacks information to make the application sufficiently precise, he or she shall be advised and supported by the public agency. Where an application is submitted to an agency which is not competent, that agency shall be obligated immediately to pass the application on to the competent agency and to inform the applicant thereof. Notification of a decision on the application must be given within one month; where this is not possible, provisional notification shall be given. If the application is refused, the authority keeping the files must provide written grounds therefor. The notice of refusal must contain a reference to the right pursuant to section 11 (2), first sentence.

(2) Where the protection of the public and private interests referred to in sections 4 and 5 can be guaranteed by removing parts of files or individual data, the applicant shall be given access to the remaining parts of the files. If such removal involves disproportionate effort, only the right to the furnishing of information exists.

(3) *(repealed)*

(4) The application may be refused if the applicant is already in possession of the requested information or can be reasonably expected to obtain it from generally accessible sources or if the application serves the purpose of hindering or delaying the performance of administrative acts.

## **Section 7**

### **Manner of granting access to information**

(1) The competent agency shall, subject to subsection (3), determine the procedure for granting access to information at its reasonable discretion. Where the right to access to information exists, this shall be fulfilled by laying the originals of the documents open to inspection, by transmitting copies, electronic mail, making information carriers available, or in another manner. Where the files are kept electronically, the files may be laid open to inspection by making available printed copies of the files, presenting the electronic documents on a screen or transmitting electronic documents. The manners of access referred to in the second and third sentences exist in parallel and are not mutually exclusive. The making of notes shall be permitted. Upon application, the competent agency shall make copies of the information carriers. The applicant may also be referred to publications by the competent agency. With the consent of the applicant, access to information may also be provided by furnishing information.

(2) Information may be furnished orally, in writing or electronically.

(3) Where an application refers to a specific manner of access to information, the application shall be complied with, unless there is an important reason for granting access to the information in another manner. In particular, a significantly greater administrative effort shall be an important reason.

## **Section 8**

### **Uniform applications and restriction to furnishing of information**

(1) The right to inspect files shall be restricted to the furnishing of information where more than 50 applications have been made which refer to the same information and the information is comprehensible even without the information carrier. In derogation of the first sentence, the access to information may be restricted to the furnishing of information where there are less than 50 applications if laying the files open to inspection would involve disproportionate effort.

(2) In the case of applications signed by more than 50 persons on lists of signatures or in the form of multiple copies of identical texts (uniform applications), sections 17 and 19 of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz, VwVfG*) in conjunction with section 1 (1), first sentence, of the Administrative Procedure Act shall apply to the *Land* of Brandenburg mutatis mutandis.

## **Section 9**

### **Right to information of citizens' action groups and associations for the purpose of influencing public affairs**

(1) This Act shall apply mutatis mutandis to citizens' action groups and associations for the purpose of influencing public affairs within the meaning of Article 21 para. 3 of the Constitution of the *Land* of Brandenburg, insofar as they assert their right to information.

(2) Applications in accordance with subsection (1) may be filed only by the board or a person authorised specifically to do so. In cases of doubt, proof of such authorisation shall be furnished to the authority.

## **Section 10**

### **Costs**

(1) Costs (fees and expenses) shall be charged for official acts performed on the basis of this Act. The fees shall be fixed in such a manner that there is an appropriate relationship between the administrative effort on the one hand and the right to inspect files on the other. Regulations as to costs in other legal provisions shall remain unaffected.

(2) The *Land* Government is authorised, in consultation with the Committee of the *Land* Parliament responsible for Internal Affairs, to determine by way of a statutory instrument for which administrative acts fees are charged, the amount of those fees and the reimbursement of expenses.

(3) The municipalities and municipal associations may charge fees and expenses for official acts performed on the basis of this Act and may regulate these by statute. The provisions of the Community Charges Act (*Kommunalabgabengesetz*, KAG) for the *Land* of Brandenburg shall be applicable.

### **Section 11 Commissioner for the Right to Inspect Files**

(1) A *Land* Commissioner for the Right to Inspect Files shall be appointed to safeguard the basic right to inspect files and of access to information. This task shall be performed by the *Land* Commissioner in accordance with section 14 of the Brandenburg Data Protection Act (Brandenburgisches Datenschutzgesetz, BbgDSG). The election and legal status of the *Land* Commissioner shall be determined in accordance with section 14, 15 and 16 of the Brandenburg Data Protection Act (*Brandenburgisches Datenschutzgesetz*, BbgDSG). She or he shall bear the official and functional designation "The *Land* Commissioner for Data Protection and for the Right to Inspect Files".

(2) Any person is entitled to bring a matter before the *Land* Commissioner. In such cases the *Land* Commissioner shall have the following duties and powers.

(3) She or he shall monitor the enforcement of this Act.

(4) Should she or he identify violations against the provisions of this Act she or he shall lodge a complaint about these

1. at the *Land* administration and directed to the highest responsible *Land* authority,
2. at the local government administration and directed to the community responsible in this connection, or to the association of local authorities responsible in this connection,
3. at university-level institutions and colleges of higher education and directed to the president of the institution or the rector, at public schools and directed to the headmaster,
4. at other corporate bodies, institutions and public-law foundations and directed to the management or to the organ with corresponding representational authorization.

The *Land* Commissioner shall demand a statement from these bodies within a deadline to be determined by her or him. In the cases defined by clause 1 nos. 2 to 4, the *Land* Commissioner shall also simultaneously inform the responsible supervisory authority. The *Land* Commissioner may combine proposals for redressing specific flaws and for otherwise improving data protection with the complaint. The *Land* Commissioner may abstain from lodging a complaint or from demanding statements from the respective bodies, particularly if minor flaws or flaws which have been redressed in the meantime are concerned, or if their removal has been ascertained.

(5) The official statement required by paragraph 4 clause 2 shall also contain a description of the measures taken as a result of the complaint lodged by the *Land* Commissioner. The bodies named in paragraph 4 clause 1 numbers 2 to 4 shall send a copy of their statement submitted to the *Land* Commissioner to the responsible supervisory authority.

(6) The *Land* Commissioner shall be authorized to inform data subjects about the complaint and the measures taken in accordance with paragraph 5 as a result of this, exercising appropriate professional discretion.

(7) Public bodies are obliged to support the *Land* Commissioner and her or his representatives in fulfilling their duties. In particular, they shall be provided with

1. information regarding their questions and the ability to inspect all procedures and records,
2. access to all places of work at any time.

Inspection in accordance with clause 2 number 1 may also be granted by electronic means. Professional secrecy and official confidentiality shall not release public bodies from the duty to support the *Land* Commissioner and her or his representatives.

(8) The *Land* Commissioner shall be authorized to process personal data required for the fulfilment of her or his duties conferred to her or him by this Act, under the conditions of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L 119 as of May 4 2016, p. 1, L 314 as of November 22 2016, p. 72). She or he may also collect personal data within the framework of regulatory measures in individual cases, without the knowledge of the data subject, if the existence of a flaw in data protection procedures can only be established by this method. The data processed in accordance with clauses 1 and 2 may not be stored, altered or used for other purposes.

(9) The *Land* Commissioner shall be consulted before legal and administrative provisions concerned with the right to inspect files and of access to information. She or he may advise the *Land* Government and individual ministers, the communities and the associations of local authorities, as well as other public bodies.

(10) The *Land* Parliament and the *Land* Government may request the Land Commissioner to prepare appraisals and official statements concerning on the application and interpretation of the law. The *Land* Parliament and its committees may demand her or his presence or her or his oral or written observations. The *Land* Commissioner may participate in meetings of the *Land* Parliament and its committees in compliance with the valid parliamentary rules of procedure, and may comment on matters of significance for the inspection of files and access to information orally or in writing.

(11) The *Land* Parliament, the Committee on Petitions or the Committee responsible for Internal Affairs or the *Land* Government may request the *Land* Commissioner to investigate matters and procedures which directly concern her or his field of duty.

(12) The *Land* Commissioner shall cooperate with the authorities and other bodies responsible for monitoring the observance of provisions on access to information by an unrestricted group of persons on the federal level and in the *Länder*. She or he shall be entitled to monitor the observance of data protection procedures on behalf of these bodies at their request, and to process personal data for this purpose.

(13) The *Land* Commissioner shall present the *Land* Parliament with a report about her or his activities every two years in accordance. The *Land* Government shall present an official statement within six months as far as the report relates to the responsibilities of the *Land* Government.

## **Section 12** **Limitation of basic rights**

This law limits the right to data protection (Article 11 paragraph 1 of the Constitution of the *Land* of Brandenburg) and the right to freedom of occupation (Article 49 paragraph 1 clause 1 of the Constitution of the *Land* of Brandenburg).

**Scale of Administrative Fees  
for Official Acts Performed in the Enforcement  
of the Act on the Inspection of Files and Access to Information  
(Akteneinsichts- und Informationszugangsbührenordnung, AIGGebO)**

of 2 April 2001  
(Gazette of Laws and Ordinances II/01, [No. 06], p. 85),  
as last amended by the Ordinance of 19 December 2005  
(Gazette of Laws and Ordinances II/05, [No. 34], p. 596)

On the basis of section 10 (2) of the Act on the Inspection of Files and Access to Information of 10 March 1998 (Gazette of Laws and Ordinances I, p. 46), the *Land* Government, in consultation with the Committee on Internal Affairs of the *Land* Parliament, decrees the following:

**Section 1  
Scale of fees**

Fees shall be levied for official acts performed in the enforcement of the Act on the Inspection of Files and Access to Information in accordance with the enclosed scale of fees, which forms an integral part of this Ordinance.

**Section 2  
Calculation of fees**

When determining the amount of the fee, consideration shall be given to the following in the individual case:

1. The amount of administrative effort involved in performing the official act, insofar as expenditures are not calculated separately as expenses, and
2. Upon application, the economic circumstances of the applicant.

**Section 3  
Expenses**

(1) Expenses which are required in connection with performance of a chargeable official act shall be regarded as included in the fee.

(2) Subsection (1) shall not apply where the right to inspect files is fulfilled in a manner other than by inspection of the original documents (section 7 of the Act on the Inspection of Files and Access to Information); the applicant shall reimburse expenses resulting therefrom. The amount of the expenses shall be determined in accordance with No. 3 of the scale of fees in the Annex. Expenses shall also be reimbursed where an official act is free of charge or levying of the fee is waived in full or in part.

**Section 4  
Entry into force; expiry**

This Ordinance shall enter into force on the day following that of its promulgation.

## Annex

## Scale of fees

No.	Fee charged for	Fee (EUR)
1	Transmission of information	
1.1	Furnishing of information	0 to 100
1.2	Enabling the inspection of the files and other information carriers	
1.2.1	in simple cases	0 to 100
1.2.2	in cases requiring extensive administrative effort	100 to 500
1.2.3	in cases requiring exceptional administrative effort, particularly where numerous data need to be removed to protect overriding public or private interests (sections 4 and 5 of the Act on the Inspection of Files and Access to Information)	500 to 1,000
2	Notices of objection	
2.1	Issuing of notices of objection, if and insofar as they are rejected	10 to 50
2.2	Issuing of notices of objection against cost decisions, if and insofar as they are rejected	10
3	Expenses	
3.1	Making of duplicates, copies or computer print-outs <ul style="list-style-type: none"> <li>• for the first 50 pages, per page</li> <li>• for each further page</li> </ul>	0.50 0.15
3.2	Expenses for the transmission of information in accordance with section 7, third sentence, nos 2 to 5 of the Act on the Inspection of Files and Access to Information	the amount actually incurred