

Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (recast)

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1 In order to promote the use of open data and stimulate innovation in products and services, this Directive establishes a set of minimum rules governing the re-use and the practical arrangements for facilitating the re-use of:

- a existing documents held by public sector bodies of the Member States;
- b existing documents held by public undertakings that are:
 - (i) active in the areas defined in Directive 2014/25/EU;
 - (ii) acting as public service operators pursuant to Article 2 of Regulation (EC) No 1370/2007;
 - (iii) acting as air carriers fulfilling public service obligations pursuant to Article 16 of Regulation (EC) No 1008/2008; or
 - (iv) acting as Community shipowners fulfilling public service obligations pursuant to Article 4 of Regulation (EEC) No 3577/92;
- c research data pursuant to the conditions set out in Article 10.

2 This Directive does not apply to:

- a documents the supply of which is an activity falling outside the scope of the public task of the public sector bodies concerned as defined by law or by other binding rules in the Member State, or, in the absence of such rules, as defined in accordance with common administrative practice in the Member State in question, provided that the scope of the public tasks is transparent and subject to review;
- b documents held by public undertakings:
 - (i) produced outside the scope of the provision of services in the general interest as defined by law or other binding rules in the Member State;
 - (ii) related to activities directly exposed to competition and therefore, pursuant to Article 34 of Directive 2014/25/EU, not subject to procurement rules;
- c documents for which third parties hold intellectual property rights;
- d documents, such as sensitive data, which are excluded from access by virtue of the access regimes in the Member State, including on grounds of:
 - (i) the protection of national security (namely, State security), defence, or public security;
 - (ii) statistical confidentiality;

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- (iii) commercial confidentiality (including business, professional or company secrets);
 - e documents access to which is excluded or restricted on grounds of sensitive critical infrastructure protection related information as defined in point (d) of Article 2 of Directive 2008/114/EC;
 - f documents access to which is restricted by virtue of the access regimes in the Member States, including cases whereby citizens or legal entities have to prove a particular interest to obtain access to documents;
 - g logos, crests and insignia;
 - h documents, access to which is excluded or restricted by virtue of the access regimes on grounds of protection of personal data, and parts of documents accessible by virtue of those regimes which contain personal data the re-use of which has been defined by law as being incompatible with the law concerning the protection of individuals with regard to the processing of personal data or as undermining the protection of privacy and the integrity of the individual, in particular in accordance with Union or national law regarding the protection of personal data;
 - i documents held by public service broadcasters and their subsidiaries, and by other bodies or their subsidiaries for the fulfilment of a public service broadcasting remit;
 - j documents held by cultural establishments other than libraries, including university libraries, museums and archives;
 - k documents held by educational establishments of secondary level and below, and, in the case of all other educational establishments, documents other than those referred to in point (c) of paragraph 1;
 - l documents other than those referred to in point (c) of paragraph 1 held by research performing organisations and research funding organisations, including organisations established for the transfer of research results.
- 3 This Directive builds on, and is without prejudice to, Union and national access regimes.
- 4 This Directive is without prejudice to Union and national law on the protection of personal data, in particular Regulation (EU) 2016/679 and Directive 2002/58/EC and the corresponding provisions of national law.
- 5 The obligations imposed in accordance with this Directive shall apply only insofar as they are compatible with the provisions of international agreements on the protection of intellectual property rights, in particular the Berne Convention, the TRIPS Agreement and the WCT.
- 6 The right for the maker of a database provided for in Article 7(1) of Directive 96/9/EC shall not be exercised by public sector bodies in order to prevent the re-use of documents or to restrict re-use beyond the limits set by this Directive.
- 7 This Directive governs the re-use of existing documents held by public sector bodies and public undertakings of the Member States, including documents to which Directive 2007/2/EC applies.