

Directive 2003/98/EC of the European Parliament and of the Council  
of 17 November 2003 on the re-use of public sector information

CHAPTER I

**GENERAL PROVISIONS**

*Article 1*

**Subject matter and scope**

- 1 This Directive establishes a minimum set of rules governing the re-use and the practical means of facilitating re-use of existing documents held by public sector bodies of the Member States.
- 2 This Directive shall not apply to:
- [<sup>F1</sup>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 line 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 for which third parties hold intellectual property rights;
  - [<sup>F1</sup>c documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of:
    - the protection of national security (i.e. State security), defence, or public security,
    - statistical confidentiality,
    - commercial confidentiality (e.g. business, professional or company secrets);]
  - [<sup>F2</sup>ca documents access to which is restricted by virtue of the access regimes in the Member States, including cases whereby citizens or companies have to prove a particular interest to obtain access to documents;
  - cb parts of documents containing only logos, crests and insignia;
  - cc documents access to which is excluded or restricted by virtue of the access regimes on the 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;]
  - d 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;
  - [<sup>F1</sup>e documents held by educational and research establishments, including organisations established for the transfer of research results, schools and universities, except university libraries and]
  - [<sup>F1</sup>f documents held by cultural establishments other than libraries, museums and archives.]
- [<sup>F13</sup> This Directive builds on and is without prejudice to access regimes in the Member States.]

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4 This Directive leaves intact and in no way affects the level of protection of individuals with regard to the processing of personal data under the provisions of [F1Union] and national law, and in particular does not alter the obligations and rights set out in Directive 95/46/EC.

5 The obligations imposed by 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 and the TRIPS Agreement.

#### Textual Amendments

- F1** Substituted by Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information (Text with EEA relevance).
- F2** Inserted by Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information (Text with EEA relevance).

### Article 2

#### Definitions

For the purpose of this Directive the following definitions shall apply:

1. 'public sector body' means the State, regional or local authorities, bodies governed by public law and associations formed by one or several such authorities or one or several such bodies governed by public law;
2. 'body governed by public law' means any body:
  - (a) established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character; and
  - (b) having legal personality; and
  - (c) financed, for the most part by the State, or regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law;
3. 'document' means:
  - (a) any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording);
  - (b) any part of such content;
4. 're-use' means the use by persons or legal entities of documents held by public sector bodies, for commercial or non-commercial purposes other than the initial purpose within the public task for which the documents were produced. Exchange of documents between public sector bodies purely in pursuit of their public tasks does not constitute re-use;
5. 'personal data' means data as defined in Article 2(a) of Directive 95/46/EC.

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6. [<sup>F2</sup>‘machine-readable format’ means a file format structured so that software applications can easily identify, recognize and extract specific data, including individual statements of fact, and their internal structure;
7. ‘open format’ means a file format that is platform-independent and made available to the public without any restriction that impedes the re-use of documents;
8. ‘formal open standard’ means a standard which has been laid down in written form, detailing specifications for the requirements on how to ensure software interoperability;
9. ‘university’ means any public sector body that provides post-secondary-school higher education leading to academic degrees.]

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#### **Textual Amendments**

- F2** Inserted by [Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information \(Text with EEA relevance\)](#).

### *[<sup>F1</sup>Article 3*

#### **General principle**

1 Subject to paragraph 2 Member States shall ensure that documents to which this Directive applies in accordance with Article 1 shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.

2 For documents in which libraries, including university libraries, museums and archives hold intellectual property rights, Member States shall ensure that, where the re-use of such documents is allowed, these documents shall be re-usable for commercial or non-commercial purposes in accordance with the conditions set out in Chapters III and IV.]

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#### **Textual Amendments**

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