Re-use of public sector information

2011/0430(COD) - 07/12/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Industry, Research and Energy adopted the report by Ivailo KALFIN (S&D, BG) on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/98 /EC on re-use of public sector information

The committee recommends that the position of the European Parliament adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Scope: the amendments aim to clarify that the directive does not apply to:

- **documents held by a university library** in which the university holds intellectual property rights;
- documents which are excluded from access by virtue of the access regimes in the Member States, including on the grounds of: (i) the protection of **national security** (i.e. State security), defence, or public security; (ii) statistical or commercial **confidentiality**; (iii) protection of **privacy and personal data**;
- documents held by archives, museums or libraries (including university libraries) of a **particularly sensitive religious nature** or that involve traditional knowledge.

The report states that the directive builds on and is without prejudice to **access regimes in the Member States.** It also stresses that public bodies should ensure that access to and re-use of public sector information comply with Union **data protection** legislation.

General principle: in principle, Member States should ensure that documents of public sector bodies are re-usable, **provided that the documents concerned are of types classified as accessible under the national rules** regarding access to public sector information. Where possible, those documents shall be disseminated in an **open format, machine-readable form.**

The text clarifies that a document is machine-readable if digital documents are structured so that software applications can, in an open format manner, easily and reliably identify, recognize and extract individual statements of fact and their internal structure.

Processing of requests for re-use: Members require public sector bodies to make the document available for re-use, by electronic means where possible or, if a licence is needed, to finalise the licence offer to the applicant **within a period of reasonable time** that is consistent with the time frames laid down for the processing of requests for access to documents.

The means of redress shall include the possibility of review by the **impartial body** in the Member State (and not by an independent authority) that rules on the re-use of public sector information.

Furthermore, if public data made available for re-use concern personal data, it should **be specified under what conditions and subject to which specific data protection safeguards** re-use is permissible, if practicable under a licence.

Charges: the Commission proposal provided that in exceptional cases, in particular where public sector bodies generate a substantial part of their operating costs relating to the performance of their public service tasks from the exploitation of their intellectual property rights, such bodies may be allowed to charge for the re-use of documents over and above the marginal costs, according to objective, transparent and verifiable criteria.

Members consider that **this shall not apply to**: (i) public sector bodies that are required to generate revenue to cover a substantial part of the cost of production, reproduction and dissemination of documents; (ii) libraries (including university libraries), museums and archives.

Those exceptions maybe granted provided it is in the public interest and in accordance with objective, transparent and verifiable criteria.

Practical arrangements: Member States shall make practical arrangements **facilitating the cross-language search for documents** available for re-use. In order to contribute to a consistent implementation of the Directive, the Commission may adopt **guidelines** with a list of recommended datasets available for re-use.

Exclusive rights: where an exclusive right granting preferential commercial exploitation terms is necessary to digitise cultural resources, such preferential exploitation **shall not exceed seven years** in general. Such exclusive arrangements established after the entry into force of this Directive, shall be transparent and made public.