Re-use of public sector information

2011/0430(COD) - 26/06/2013 - Final act

PURPOSE : to facilitate the creation of Union-wide information products and services based on public sector documents, and to ensure the effective cross-border use of public sector documents.

LEGISLATIVE ACTS : Directive 2013/37/EU of the European Parliament and of the Council amending Directive 2003/98/EC on the re-use of public sector information. CONTENT : this Directive amends Directive 2003/89/EC so that it lays down a **clear obligation for Member States to make all documents re-usable** unless access is restricted or excluded under national rules on access to documents and subject to the other exceptions laid down in this Directive. The amendments made by this Directive do not seek to define or to change access regimes in Member States, which remain their responsibility.

Scope : the scope of Directive 2003/98/EC is extended to **libraries, including university libraries, museums and archives.** Wider possibilities for re-using public cultural material should, inter alia, allow Union companies to exploit its potential and contribute to economic growth and job creation.

The amended Directive will apply to 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. It will not apply to :

documents which are excluded from access, including on the grounds of: (i) the protection of national security, defence, or public security ; (ii) statistical confidentiality, or commercial confidentiality;

documents access to which is excluded or restricted by virtue of the access regimes on the **grounds of protection of personal data.**

Treatment of requests for re-use : in the event of a negative decision, the public sector bodies shall communicate the **grounds for refusal** to the applicant. Any decision on re-use shall contain a reference to the means of redress in case the applicant wishes to appeal the decision. The means of redress shall include the possibility of review by an **impartial review body.**

Available formats : documents must be available in any pre-existing format or language, and, where possible and appropriate, in open and machine-readable format together with their metadata. Where possible Member States shall facilitate the cross-linguistic search for documents.

Principles governing charging : where charges are made for the re-use of documents, those **charges shall be limited to the marginal costs** incurred for their reproduction, provision and

dissemination. However, this shall not apply to: (i) public sector bodies that are required to generate revenue to cover a substantial part of their costs relating to the performance of their public tasks; (ii) libraries, including university libraries, museums and archives.

Charges should be set according to **objective**, **transparent and verifiable criteria** and the total income from supplying and allowing re-use of documents shall not exceed the cost of collection, production, reproduction and dissemination, together with a reasonable return on investment.

To ensure transparency, any applicable conditions and the actual amount of those charges,

including the calculation basis for such charges, shall be pre-established and published, through electronic means where possible and appropriate.

Exclusive rights: the directive provides that where an exclusive right relates to digitisation of cultural resources, the period of exclusivity shall in general **not exceed 10 years.** In case where that period exceeds 10 years, its duration shall be subject to review during the 11th year and, if applicable, every seven years thereafter. The arrangements granting exclusive rights

shall be transparent and made public.

Review: the Commission shall carry out a review of the application of the Directive before **18 July 2018** and shall communicate the results of that review, together with any proposals for amendments to this Directive, to the European Parliament and the Council.

ENTRY INTO FORCE : 17/07/2013.

TRANSPOSITION : 18/07/2015.

APPLICATION : from 18/07/2015.