Basic information

2018/0111(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Re-use of public sector information. Recast Repealing Directive 2003/98/EC 2002/0123(COD) **Subject** 1.20.05 Public access to information and documents, administrative practice 2.40 Free movement of services, freedom to provide 3.30.06 Information and communication technologies, digital technologies 3.30.25 International information networks and society, internet	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ITRE Industry, Research and Energy	SYLIKIOTIS Neoklis (GUE/NGL)	19/06/2018
	Shadow rapporteur BONI Michał (PPE) POPA Răzvan (S&D) BAREKOV Nikolay (ECR) PETERSEN Morten (ALDE) REDA Felix (Verts/ALE) TAMBURRANO Dario (EFDD)	

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection (Associated committee)	REDA Felix (Verts/ALE)	16/05/2018
CULT Culture and Education	ZAGORAKIS Theodoros (PPE)	01/06/2018
LIBE Civil Liberties, Justice and Home Affairs	CORRAO Ignazio (EFDD)	09/07/2018

Committee for opinion on the recast technique	Rapporteur for opinion	Appointed

	JURI Legal Affairs	GERINGER DE OEDENBERG Lidia Joanna (S&D)	18/07/2018
Council of the European Union			
European Commission	**Commission DG**	**Commissioner**	
	Communications Networks, Content and Technology	GABRIEL Mariya	
European Economic and Social Committee			
European Committee of the Regions			

Key events

Date	Event	Reference	Summary
25/04/2018	Legislative proposal published	COM(2018)0234	Summary
28/05/2018	Committee referral announced in Parliament, 1st reading		
13/09/2018	Referral to associated committees announced in Parliament		
03/12/2018	Vote in committee, 1st reading		
03/12/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
07/12/2018	Committee report tabled for plenary, 1st reading	A8-0438/2018	Summary
10/12/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
12/12/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
19/02/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	GEDA/A/(2019)001128 PE634.786	
04/04/2019	Decision by Parliament, 1st reading	T8-0352/2019	Summary
04/04/2019	Results of vote in Parliament		
06/06/2019	Act adopted by Council after Parliament's 1st reading		
20/06/2019	Final act signed		
20/06/2019	End of procedure in Parliament		
26/06/2019	Final act published in Official Journal		

Technical information

Procedure reference	2018/0111(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast

Legislative instrument	Directive
Amendments and repeals	Repealing Directive 2003/98/EC 2002/0123(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/8/13026

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE625.526	18/07/2018	
Committee draft report		PE623.664	12/09/2018	
Amendments tabled in committee		PE628.645	12/10/2018	
Amendments tabled in committee		PE628.688	12/10/2018	
Committee opinion	IMCO	PE623.902	19/10/2018	
Committee opinion	CULT	PE625.322	27/11/2018	
Committee opinion	LIBE	PE627.951	28/11/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0438/2018	07/12/2018	Summary
Text agreed during interinstitutional negotiations		PE634.786	06/02/2019	
Text adopted by Parliament, 1st reading/single reading		T8-0352/2019	04/04/2019	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2019)001128	06/02/2019	
Draft final act	00028/2019/LEX	20/06/2019	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2018)0234	25/04/2018	Summary
Document attached to the procedure	SWD(2018)0127	26/04/2018	
Document attached to the procedure	SWD(2018)0128	26/04/2018	
Document attached to the procedure	SWD(2018)0129	26/04/2018	

Document attached to the procedure	SWD(2018)0145	26/04/2018	
Commission response to text adopted in plenary	SP(2019)443	12/06/2019	
Follow-up document	COM(2023)0703	14/11/2023	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2018)0234	18/07/2018	

Additional information

Source	Document	Date
European Parliament	Briefing	
European Commission	EUR-Lex	

Final act

Directive 2019/1024
OJ L 172 26.06.2019, p. 0056 Summary

Re-use of public sector information. Recast

2018/0111(COD) - 07/12/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Industry, Research and Energy adopted the report by Neoklis SYLIKIOTIS (GUE/NGL, CY) on the proposal for a directive of the European Parliament and of the Council on the re-use of public sector information (recast).

The Committee on Internal Market and Consumer Protection, exercising its prerogative as an associated committee in accordance with Rule 54 of the Rules of Procedure, also gave its opinion on the report.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal.

Subject matter: the proposed Directive aims at establishing a regulatory framework governing the re-use of public sector information in order to promote the use of open data and stimulate innovation in products and services.

Scope: the Directive shall not apply to documents related to the provision of services in the general interest; to the re-use by direct competitors of public undertakings of documents produced in the scope of the activities directly exposed to competition and exempted from procurement rules under Directive 2014/25/EU, for as long as they fulfil the conditions therein.

Due to the critical nature of their activities and to security and notification requirements, neither shall the Directive apply to documents access to which is excluded or restricted on the grounds of the protection of the security of network and information systems or according to rules governing operators of critical infrastructures including operators of essential services.

General principle: Member States shall ensure that documents to which this Directive applies shall be re-usable for commercial or non-commercial purposes.

For documents in which libraries, including university libraries, museums and archives hold intellectual property rights and for documents held by public undertakings, Member States shall ensure that, where the re-use of such documents is allowed by the public undertaking or private undertaking which produced them, these documents shall be re-usable for commercial or non-commercial purposes.

Member States shall ensure the creation of data based on the principle of '**open by design and by default**', with regard to all documents falling in the scope of this Directive, while ensuring a consistent level of protection of public interest objectives, such as public security, including where sensitive information related to critical infrastructures are concerned.

Requests for re-use: public sector bodies, public undertakings and private undertakings shall, through electronic means where possible and appropriate, **process requests for re-use** and shall make the document available for re-use to the applicant or, if a licence is needed, finalise the licence offer to the applicant within a reasonable time that is consistent with the time-frames laid down for the processing of requests for access to documents.

The decision whether or not to authorise re-use of any or all documents under this Directive shall remain with the public undertaking or private undertaking concerned.

Member States shall ensure that:

- support is granted in seeking access to documents;
- lists of public sector bodies, public undertakings and private undertakings are publicly accessible;
- practical arrangements are defined for ensuring that the re-use of public-sector information can be exercised effectively;
- public sector bodies public undertakings and private undertakings inform the public adequately of the rights they enjoy on the basis of this Directive and as a result of existing access to information rules, laid down at national or at Union level, and to an appropriate extent provide information, guidance and advice to this end.

Protection of personal data and anonymous information: all obligations arising from this Directive shall be fulfilled guaranteeing the protection of privacy and personal data in respect with the Union data protection legislation, including in cross-border data reuse, by ensuring the anonymisation of the personal data.

Members considered that the term '**anonymous information'** should be defined. It shall mean any information that cannot be related, directly or indirectly, alone or in combination with associated data, to a natural person or personal data rendered anonymous in such a manner that a data subject is no longer identifiable.

Practical arrangements: the Commission and the Member States shall further **simplify the access to datasets**, in particular by providing a **single point of access** and progressively make available suitable datasets from public sector bodies with regard to all documents to which this Directive applies as well as to data from Union institutions.

Preservation of public sector information: Member States shall ensure the implementation of meaningful preservation policies for public sector information in any format which offers the best possible guarantees of long-term access.

Re-use of public sector information. Recast

2018/0111(COD) - 26/06/2019 - Final act

PURPOSE: to facilitate the creation of Union-wide information products and services based on public sector documents.

LEGISLATIVE ACT: Directive (EU) 2019/1024 of the European Parliament and of the Council on open data and the re-use of public sector information.

CONTENT: public sector information represents an extraordinary source of data that can contribute to improving the internal market and to the development of new applications for consumers and legal entities. Intelligent data usage, including their processing through artificial intelligence applications, can have a transformative effect on all sectors of the economy.

Subject matter and scope

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 to facilitate the reuse of data held by the public sector.

The new Directive extends the scope of the rules on the re-use of public sector information (PSI) beyond public sector bodies, so as to also cover public companies in the transport and utilities sectors.

General principle

The Directive shall be based on the general principle that Member States shall ensure that the documents to which the Directive applies are reusable for commercial or non-commercial purposes. It promotes the use of open data (data presented in open formats that can be freely used and shared for any purpose).

Processing of requests for re-use

Public sector bodies and public enterprises shall process requests for re-use and make their documents available in any pre-existing format or language and, where possible and appropriate, in electronic form, in formats that are open, machine-readable, accessible, traceable and reusable, together with their metadata.

Member States shall encourage public sector bodies to produce and make available documents that fall within the scope of the Directive in accordance with the principle of 'open by design and by default'.

On a practical level, Member States shall adopt practical measures to facilitate the search for documents available for reuse, such as an asset list of key documents with relevant metadata.

Research data and dynamic data

Member States shall support the availability of research data by adopting national policies and relevant actions aiming at making publicly funded research data openly available ('open access policies'), following the principle of “open by default” and compatible with the FAIR principles.

In that context, concerns relating to intellectual property rights, personal data protection and confidentiality, security and legitimate commercial interests, shall be taken into account in accordance with the principle of “as open as possible, as closed as necessary”

The new rules shall also encourage the dissemination of dynamic data such as weather or transport data transmitted in real time.

High value data

The Directive introduces the concept of high-value data sets to be made available free of charge via application programming interfaces (APIs). It provides, in Annex I, a list of six main categories of high-value data sets: (i) geospatial, (ii) earth observation and environment, (iii) meteorological, (iv) statistics, (v) companies and company ownership, and (vi) mobility.

The Commission may adopt delegated acts to amend this list by adding new thematic categories of high value data sets to reflect technological and market developments.

Charging

The re-use of documents shall be free of charge.

However, the recovery of the marginal costs incurred for the reproduction, provision and dissemination of documents as well as for anonymisation of personal data and measures taken to protect commercially confidential information may be allowed.

No sooner than 17 July 2025, the Commission shall carry out an evaluation of this Directive, and submit a report on the main findings of that evaluation to the European Parliament and to the Council as well as to the European Economic and Social Committee.

ENTRY INTO FORCE: 16.7.2019.

TRANSPOSITION: no later than 17.7.2021.

Re-use of public sector information. Recast

2018/0111(COD) - 25/04/2018 - Legislative proposal

PURPOSE: to facilitate the re-use of of public sector information from Member States.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: **public sector information (PSI)**, e.g. meteorological data, digital maps, statistics and legal information is a valuable resource for the digital economy. Therefore, the EU has been promoting the re-use of public sector information for several years.

Directive 2003/98/EC of the European Parliament and the Council on the re-use of public sector information (‘PSI Directive’) aims to facilitate the re-use of PSI throughout the Union by harmonising the basic conditions for reuse and removing major barriers to re-use in the internal market. In July 2013 Directive 2003/98/EC was amended by Directive 2013/37/EU, with the aim to encourage Member States to make as much material held by public sector bodies available for re-use as possible.

The **review** was carried out by the Commission concluded that the Directive continues to contribute to the achievement of its main policy objectives, but there are a number of issues that need to be addressed in order to fully exploit the potential of public sector information for the European economy and society. They include:

- provision of real-time access to dynamic data via adequate technical means;
- increasing the supply of high-value public data for re-use;
- preventing the emergence of new forms of exclusive arrangements;
- limiting the use of exceptions to the principle of charging the marginal cost.

The overall objective is to contribute to the strengthening of the EU’s data-economy by increasing the amount of public sector data available for re-use, ensuring fair competition and easy access to markets based on public sector information, and enhancing cross-border innovation based on data.

IMPACT ASSESSMENT: on the basis of the elements presented in the impact assessment, a mixed package of lower intensity regulatory intervention combined with an update of existing soft law was chosen as the preferred option.

CONTENT: the proposal for recasting Directive 2003/98/EC aims to:

- facilitate the creation of Union-wide information products and services based on public sector documents;
- **ensure the effective cross-border use of public sector documents** on the one hand by private companies, particularly by small and medium-sized enterprises, for added-value information products and services, and on the other hand by citizens to facilitate the free circulation of information and communication.

Scope of the Directive and the general principle: with the recast, the scope of application of the Directive shall be extended to:

- documents held by **public undertakings** active in the areas defined in the Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors and by public undertakings acting as public service operators insofar as they are were produced as part of the provision of services in the general interest;
- **certain research data**, a specific category of documents produced as part of scientific research, namely results of the scientific fact-finding process (experiments, surveys and similar) that are at the basis of the scientific process.

The **general principle** that documents falling within the scope of the Directive are re-usable **for commercial and non-commercial purposes** under the conditions set forth in this Directive (Article 3) is unchanged for documents within the scope of the Directive before the recast.

For documents to which the scope of application is extended by the recast, the general principle applies only insofar as the public undertakings in question have made the documents available for re-use.

Terms and conditions for making re-use data available: the proposal takes into account the growing importance of **dynamic ("real-time") data** and includes the requirement on public sector bodies to make such data available through an Application Programming Interface (API). For a limited number of fundamental high-value datasets (to be adopted through a Delegated Act) there will be a hard obligation to do so.

Principles governing charging: the re-use of documents shall be **free of charge or limited** to the marginal costs incurred for their reproduction, provision and dissemination, and, where applicable, anonymisation of personal data and measures taken to protect commercially confidential information. The re-use of high value datasets shall be **free** of charge for the user. These datasets shall be available for free, machine-readable and accessible via APIs.

Derogations are provided for: (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; (iii) private partners.

Research data: the proposal specifies that Member States shall support the availability of research data by adopting national policies and relevant actions aiming at making all publicly funded research data openly available ('open access policies'). It also provides that **data already available** in "open access" research data repositories shall be re-usable for commercial and non-commercial purposes according to the provisions of the Directive.

Exclusive arrangements: the proposal specifies that the prohibition of exclusive arrangements shall also extend to such arrangements that do not expressly grant an exclusive right in the re-use of documents, but may lead to a situation where access is limited to one or very few re-users.

Re-use of public sector information. Recast

2018/0111(COD) - 04/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 560 votes to 34, with 25 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on the re-use of public sector information (recast).

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Subject matter

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 re-use of: (i) existing documents held by public sector bodies of the Member States; (ii) existing documents held by public undertakings; (iii) research data.

The Directive shall be based on the general principle that Member States shall ensure that the documents to which the Directive applies are reusable for commercial or non-commercial purposes.

This Directive does not apply to documents:

- related to activities directly exposed to competition and therefore, pursuant to Article 34 of Directive 2014/25/EU, not subject to procurement rules;

- on the protection of national security (that is to say, State security), defence, or public security;

- access to which is excluded or restricted on the grounds of sensitive critical infrastructure protection related information;

- 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.

Processing of requests for re-use

Member States shall establish practical arrangements to facilitate effective re-use of documents. Those arrangements may in particular include the means to supply adequate information on the rights provided for in this Directive and to offer relevant assistance and guidance.

Open data

Since the amended Directive also promotes the use of open data (data presented in open formats that can be freely used and shared for any purpose), the notion of open data has been added to its title to reflect this fact.

Public sector bodies and public undertakings shall make their documents available in any pre-existing format or language and, where possible and appropriate, by electronic means, in formats that are open, machine-readable, accessible, findable and re-usable, together with their metadata.

Member States shall encourage public sector bodies and public undertakings to produce and make available documents falling within the scope of this Directive in accordance with the principle of "open by design and by default".

Research data

Member States shall support the availability of research data by adopting national policies and relevant actions aiming at making publicly funded research data openly available ('open access policies'), following the principle of “open by default” and compatible with the FAIR principles.

In that context, concerns relating to intellectual property rights, personal data protection and confidentiality, security and legitimate commercial interests, shall be taken into account in accordance with the principle of “as open as possible, as closed as necessary”

High value datasets

The amended text introduces the notion of high-value datasets to be made available free of charge through application programming interfaces (APIs). It provides, in Annex I, a list of six main categories of high-value datasets: (i) geospatial, (ii) earth observation and environment, (iii) meteorological, (iv) statistics, (v) companies and company ownership, and (vi) mobility.

The Commission may adopt delegated acts to amend Annex I by adding new thematic categories of high value datasets to reflect technological and market developments.

It shall also adopt implementing acts establishing a list of specific high-value datasets falling within the categories set out in Annex I and held by public sector bodies and public undertakings among the documents to which the Directive applies. Those implementing acts may specify the arrangements for the publication and re-use of high-value datasets. Such arrangements shall be compatible with open standard licences.

In order to identify such high-value datasets, the Commission shall carry out appropriate consultations, including at expert level, carry out an impact assessment and ensure complementarity with existing legal acts with regard to the re-use of documents.

Charging

The re -use of documents shall be free of charge. However, the recovery of the marginal costs incurred for the reproduction, provision and dissemination of documents as well as for anonymisation of personal data and measures taken to protect commercially confidential information may be allowed.