II

*(Non-legislative acts)*

# DECISIONS

## COUNCIL DECISION (EU) 2017/1842

## of 9 October 2017

## on the open data policy of the Council and the reuse of Council documents

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 240 thereof,

Whereas:

(1) New information and communication technologies have created unprecedented opportunities for aggregating and combining content from different sources. The trend towards an information and knowledge society influences the life of all citizens across the Union by enabling them to gain new ways of accessing and acquiring knowledge.

(2) Public sector information is an important source of knowledge and innovation in the private sector, supporting the creation of better digital services for citizens and companies across Europe.

(3) The Council and other EU institutions collect, produce and disseminate a wide range of information relating to the policies and areas of activity of the Union. The EU institutions hold documents which could be reused in digital products and services and which could become a useful content resource for citizens and companies alike.

(4) Directive 2003/98/EC of the European Parliament and of the Council ([1]) sets out minimum rules for the reuse of public sector information in the Member States and encourages Member States to go beyond those minimum rules and to adopt open data policies.

(5) Following the adoption of Commission Decision 2011/833/EU ([2]), in 2012 the European Commission set up the European Union Open Data Portal ('EU ODP') which aims to be a single point of access to data from the EU institutions and other bodies of the Union.

(6) In June 2013, the Union endorsed the G8 Open Data Charter and undertook to implement a number of open data activities identified in the G8 Collective Action Plan under that Charter.

(7) In its Conclusions of 24 and 25 October 2013, the European Council identified open data as an untapped resource with a huge potential for building stronger, more interconnected societies that better meet the needs of the citizens and called for the active promotion of the reuse of public sector information.

([1]) Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90).

([2]) Commission Decision 2011/833/EU of 12 December 2011 on the reuse of Commission documents (OJ L 330, 14.12.2011, p. 39).

(8) In its Conclusions of 2 March 2015, the Council highlighted that full and efficient exploitation of tools and services such as open data can drive for better productivity and better services and should be facilitated. Furthermore, in its Conclusions of 29 May 2015, the Council encouraged the development of a data-friendly policy environment in the Union which promotes interoperability, the use and re-use of government data for research and innovation purposes while ensuring the necessary data protection.

(9) The EU ODP currently contains a large number of data sets and links to Open Data Portals of the Member States. The Council has participated in the EU ODP since 2015, using the following three datasets: metadata of the Council's Public Register, metadata of requests for public access to Council documents and the Council's votes on legislative acts.

(10) To date, the Council has participated in the EU ODP through pilot projects. As those pilot projects have been successful, an open data policy for Council documents should be laid down in order to capitalise on and maximise the experience gained so far and to allow the Council to define the conditions governing the publication and reuse of its documents.

(11) An open data policy for Council documents would improve the flow of information between the Council and the general public; it would lead to the wider use and spread of information about the Union; it would enhance the Council's reputation for openness and transparency; and it would strengthen the accountability of the Council as a public institution.

(12) The open data policy for Council documents should promote the development of tools and applications that help users search for and identify documents for reuse.

(13) This Decision should not apply to documents for which the Council is not in a position to allow reuse in view of third party intellectual property rights or access rights regimes in Member States.

(14) The right of access to Council documents remains regulated by Regulation (EC) No 1049/2001 of the European Parliament and of the Council [1].

(15) This Decision should be without prejudice to and should be implemented and applied in compliance with the rules on the protection of individuals with regard to the processing of personal data, as well as with the security rules for protecting EU classified information,

HAS ADOPTED THIS DECISION:

*Article 1*

**Subject matter and objective**

1. This Decision establishes an open data policy of the Council ('the open data policy') by defining the principles, conditions and limits governing the reuse and the practical means of facilitating the reuse of documents held and produced by the Council, as defined in Article 2(1).

2. The open data policy shall have the following objectives:

(a) to improve the flow of information between the Council and the general public; and

(b) to facilitate the wide reuse of information.

*Article 2*

**Scope**

1. This Decision applies to documents held and produced by the Council which have been made public by the Council.

[1] Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

2. This Decision shall not apply to documents held and produced by the Council for which the Council is not in a position to allow reuse in view of:

(a) intellectual property rights of third parties; or

(b) access rights regimes in Member States.

3. This Decision is without prejudice to and shall be implemented and applied in accordance with:

(a) the rules on the protection of individuals with regard to the processing of personal data, and in particular Regulation (EC) No 45/2001 of the European Parliament and of the Council ([1]);

(b) the rules on public access to Council documents, and in particular Regulation (EC) No 1049/2001; and

(c) the security rules for protecting EU classified information, and in particular Council Decision 2013/488/EU ([2]).

*Article 3*

**Definitions**

For the purposes of this Decision, the following definitions shall apply:

(1) 'document' means:

(a) any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institutional sphere of responsibility of the Council;

(b) any part of such content;

(2) 'reuse' means the use by persons or legal entities of documents for commercial or non-commercial purposes other than the initial purpose for which the document was produced;

(3) 'personal data' means data as defined in point (a) of Article 2 of Regulation (EC) No 45/2001;

(4) 'open format' means a file format that is platform-independent and made available to the public without any restriction that impedes the reuse of documents;

(5) 'machine-readable format' means a format structured for software applications to identify reliably individual statements of fact and their internal structure.

*Article 4*

**General principles**

The General Secretariat of the Council ('the GSC') shall ensure that documents are made available for reuse:

(a) by all;

(b) without the need to make an individual application;

(c) free of charge; and

(d) for commercial and non-commercial purposes.

*Article 5*

**Non-discrimination and exclusive rights**

1. Any applicable conditions for the reuse of documents shall be non-discriminatory for comparable categories of reuse.

([1]) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

([2]) Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

2. The reuse of documents shall be open to all potential actors in the market. No exclusive rights shall be granted.

*Article 6*

**Conditions for reuse**

1. Documents shall be made available for reuse under the following conditions:

(a) the obligation for the reuser to acknowledge the source of the documents;

(b) the obligation not to distort the original meaning or message of the documents;

(c) the non-liability of the Council for any consequence stemming from the reuse.

2. If necessary, the GSC may apply other conditions to a particular type of document.

3. The GSC shall take appropriate measures to protect the rights, interests and public image of the Council in all appropriate fora.

*Article 7*

**Available formats**

1. The GSC shall make documents available:

(a) in any existing format or language version held by the Council;

(b) on the internet; and

(c) where possible and appropriate, in open and machine-readable formats.

2. The GSC shall not be obliged to:

(a) create, adapt or update documents;

(b) provide extracts, if doing so would involve a disproportionate effort, going beyond a simple operation;

(c) translate documents into any official language versions other than those already available; or

(d) continue to produce certain types of documents or to preserve the documents in a given format with a view to their reuse.

*Article 8*

**Report**

By 10 October 2022, the GSC shall submit a report to the Council on the application of this Decision, including the implementing actions taken by the GSC in order to make documents available for reuse in open and machine readable formats.

*Article 9*

**Entry into force**

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 9 October 2017.

*For the Council*
*The President*
S. KIISLER