

General objective: Stimulate the re-use of public data for the European economy and society

Application to universities/academics: as **data users** and as **data providers**

Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (recast) ([Open Data Directive](#))

Relevant provisions:

- Chapters I-V** Lay down rules on the **re-use** of data generated or collected at the expense of public budgets (**'public data'**) by citizens and legal entities for commercial and non-commercial purposes (e.g., on request procedures, formats, fees, licenses).
- Article 1(1) jo. Article 10** Contains a special regime for the re-use of certain publicly funded **research data**.

Anticipated impact on universities:

| Topic | Capacity | Impact | Explanation |
|-----------------------|---------------|--------|---|
| Re-use of public data | Data user | High | Academic researchers may invoke the (national implementations of the) Open Data Directive to obtain access to a wide variety of public data potentially interesting to a wide scope of research areas. |
| Research data sharing | Data provider | High | Research performing organisations are legally obliged to make certain research data available for re-use, namely, research data that have been collected or generated in the context of (partially) publicly funded research and that have already been made publicly available through an institutional or subject-based repository (Article 10(2) ODD). This can come with serious administrative and financial burdens, as compliance with Article 10 ODD may be a very time- and knowledge intensive task, and therefore costly. Mandatory national open access policies must encourage research performing organisations to make publicly funded research data openly available in the first place, thus triggering the re-use obligation (Article 10(1) ODD). |

Interactions with other legislation & potential (consistency) issues:

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|--------------------|---|
| Interaction | The re-use obligations of the Open Data Directive do not apply to documents for which third parties hold intellectual property rights, documents which are excluded from access by national access regimes on the grounds of commercial confidentiality (e.g., trade secrets) and documents access to which is excluded or restricted by national access regimes on grounds of protection of personal data. To nevertheless stimulate the re-use of such 'sensitive' data in a secure manner, Chapter II of the recently adopted Data Governance Act lays down complementary re-use rules. Interestingly, the Data Governance Act does not distinguish between research data and non-research data. |
| Issue | Universities may file for patents to protect their innovations. However, when universities are obliged to publish research data underlying innovations on the basis of national open access policies as backed by the Open Data Directive, this could potentially hurt their patent applications, as it is generally required to avoid disclosure prior to filing a patent application. ¹ |

¹ See: ALLEA Statement on IPRs and Open Science ALLEA Statement, Aligning intellectual property rights with open science, April 2022.