



## Task 2.9 – Open data Estonia

### WP2 – Research and Implementation assessments

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## Open Data Estonia

### *Regulatory sources and aims pursued*

Estonia has a distinct legislation for publishing and reuse open data and access to open data. The main scope of the legislation is to ensure transparency among public institutions and authorities using public data and to regulate the citizens' right to access public data and request for information.

The key document is the Estonian Public Information Act, adopted in 2000 and successively amended in the last years with the latest provisions entering into force in 2016 - the 2013 revisions to the EU Directive on the re-use of public sector information were followed by new principles of „open by default” data and machine-readability of public information.

The legislation authorizes the publication of open data at all institutional levels, promoting the principles of open State and regulating the reuse of open government data.

### *Areas of disclosure of public data*

The Public Information Act defines public information as information recorded and documented in any manner and on any support, obtained or created upon performance of public duties<sup>1</sup>.

It also defines the following as holders of information:

- 1) state institutions and local government authorities;
- 2) legal persons in public law;
- 3) legal persons in private law and natural persons, if they perform public duties, including educational, health care, social or other public services. They're regarded as holders of information for the information concerning the performance of their duties<sup>2</sup>.

In addition, there are others considered equal to holders of information, according to the Public Information Act:

- 1) Undertakings with a dominant position in the market or special rights – the targeted information being the one concerning the conditions and the prices of the supply of goods and services
- 2) Sole traders, non-profit associations, foundations and companies – the targeted information being the one concerning the use of funds allocated from the state or a local government budget for the performance of public duties<sup>3</sup>

Access to public information and reuse of open data is free of charge. All holders of information are required to ensure access and disclosure to the information in their possession for every person in the quickest and easiest manner possible and without charge, unless the law prescribes payment for the release of that information<sup>4</sup>.

The procedure is rather simple. Any person can request the information and it needs to be addressed within five working days by the relevant institution<sup>5</sup>. The holders of information must publish the conditions requested for access and the amount charged (if any). If the person making the request

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<sup>1</sup> Public Information Act, section 4, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>2</sup> Public Information Act, section 5, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>3</sup> Public Information Act, section 5, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>4</sup> Public Information Act, section 4, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>5</sup> Public Information Act, section 18, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>



for information also requires, they're obliged to provide explanations concerning the charges. Upon granting access to information, the inviolability of the private life of persons and protection of copyright is ensured<sup>6</sup>.

### *Publication requirements and data standardization. Personal data protection*

The holders of information are obliged to either disclose the information on a website, either add a link to a webpage through which the information can be accessed. In addition to a website, they can also choose to disclose it by television or radio programmes or by printed press, by displaying the document for public examination in a local government authority or public library or in an official publication<sup>7</sup>.

There are also requirements for the data to be somewhat standardized, if possible and appropriate, according to the Public Information Act. Holders of information are required to grant access to open data in a file format that software applications can easily identify (a machine-readable format) and in a format that is made available to the public without any restriction (an open format)<sup>8</sup>.

The Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data provides the basis for the obligation of holders of information to grant access to it<sup>9</sup>.

If the information contains personal data, however, the public use of such information can be restricted if giving it for public use would significantly breach the inviolability of the private life of the person<sup>10</sup>. Holders of information are also required to maintain records containing details such as for what purpose the information was given and which information classified as internal (and containing personal data) is released<sup>11</sup>.

### *Data accessibility*

Each holder of information, as detailed by the law, must offer access to all public data that it holds. There are two types of procedures: 1. disclosing all public data that it holds and 2. complying with a request for information.

Any individual can request data either in written form or verbal (addressing the request by telephone) following a couple of requirements applicable to requests for information (name of person making the request, contact details, content of information needed). Holders of information are required to clearly explain the procedure and the conditions to those requesting information and also to assist them in every way along the process.

In case the request for accessing information may cause the disclosure of restricted information or is part of restricted datasets, it shall be ensured that the person requesting information will have access to the documents to which restrictions are not applying.

Data that remains unpublished, classified as information intended for internal use only, can be accessed by state and local government officials or employees in order to perform their duties. The law specifies special provisions for categorizing data as for internal use only. This information can

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<sup>6</sup> Public Information Act, section 4, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>7</sup> Public Information Act, section 29, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>8</sup> Public Information Act, section 3, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>9</sup> Public Information Act, section 39, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>10</sup> Public Information Act, section 3, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>11</sup> Public Information Act, section 39, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>



also be granted to other individuals if the Head of the holder of public information considers that it would not harm the interests of the state or of any local authority.

In addition, both central and local authorities are obliged to ensure that there is the opportunity to access public information through the public data communication network in public libraries, free of charge<sup>12</sup>.

### *Drafting techniques*

According to the Estonian law, holders of information are obliged to provide access to information “in the quickest and easiest manner possible”. The law also stipulates that the data sets together with meta-data should comply with the best possible open data formats, including up-to-date version and machine-readable format. However, this is not a formal obligation, as the law provides that these actions should be done „if possible and appropriate“. In case the holder of public information finds it difficult or would involve disproportionately great effort, it should disclose the open data in their original format or any other format.

There is also an obligation to make all public data available (data that is not subject to valid privacy, security or privilege limitations) and ensure a number of characteristics: primary data – data collected at the source, with the highest possible level of granularity, timely – data made available as quick as necessary to preserve the value of data and relevance and ensure accessibility – data available to the widest possible range of users.

There are however recommendations on type of data sets that are made available – which are also underlined and used by the Estonian Open Data Governmental Portal - data must be machine readable, in order to allow automated processing, must be non discriminatory – available to all users, with no prior registration in order to access it and must not be subject to any licenses.

As a principle, the Open Data Governmental Portal recommends that all open data must be published in at least 3-star format (based on the system of Five Star of Openness developed by Tim Berners-Lee in UK<sup>13</sup>) meaning making the data available in a non-proprietary open format and be available to use and manipulate the data as you consider. But there is no legal obligation to standardize the data provided.

### *Benchmarking*

Most of the public bodies in Estonia publish datasets on their activity and reporting procedures - both non financial and financial, with the latter being more common. The type of datasets published varies greatly between the bodies and not always follows the legal framework of the recommendations provided by the authorities.

The national open data portal, available at <https://opendata.riik.ee/en/> centralizes open data from all institutional levels. There are no separate open data sites to encompass information at different

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<sup>12</sup> Public Libraries Act, section 15, <https://www.riigiteataja.ee/en/eli/525062014001/consolide>

<sup>13</sup> 5\* Open Data System, more data available at <https://5stardata.info/en/>



levels, except for the personal sites of the holders of information<sup>14</sup>. However, as the portal is under construction, the available number of data-sets is limited, only 187 datasets from all types of public institutions – both at central and local level, which does not offer enough incentives for valid benchmarking. Also, the portal encompasses an “Ask for Data” section that in theory facilitates the process of requesting information.

Estonia has a high level of transparency in relation to public spending as all public authorities are obliged to disclose their budgets and financial reports. More so, during its Open Government Partnership Action Plan 2016-2018, Estonia committed to increase the transparency of public funding practices.

Concerning public procurement, Estonia has a distinct and specific legislation - the Public Procurement Act (PPA), which transposes EC Directives 2004/17/EC, 2004/18/EC and 2007/66/EC, and governs the awarding process for goods, services, and public works contracts. The country ranks among the most advanced EU countries in terms of procurement and public spending, with all data being publicly available. As an example, anyone can freely browse published procurements, notices, contract information and review committee's decisions on public procurements via the Estonian Public Procurement Register.

Estonia also implemented an online portal - Estonian information gateway [www.eesti.ee](http://www.eesti.ee) - a website allowing access to public electronic services and to reusable information<sup>15</sup>. The data of the holders' databases must be accessible through the Estonian information gateway<sup>16</sup>. Its administrator, in cooperation with holders of information ensures that the presentation of information in the gateway is organized in a user friendly manner<sup>17</sup>.

### *Control authorities*

A number of authorities control the compliance with the Public Information Act:

1. Data Protection Inspectorate;
2. Estonian Information System's Authority;
3. Statistics Estonia.

The Data Protection Inspectorate is the main body supervising compliance with the Public Information Act – the Inspectorate supervises holders of information (specific supervision cases or a general monitoring) regarding the processing of requests for information, publishing public data and allowing widest access to the datasets, data protection, and the protection of information intended for internal use and their personal databases. It can also initiate supervision proceedings, conduct investigations or issue coercive measures.

The Estonian Information System's Authority supervises the application of security measures for information systems, while Statistics Estonia coordinates the area of data governance.

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<sup>14</sup> Open Data Politics in Estonia, pg. 53, [https://www.researchgate.net/publication/330759654\\_Open\\_Data\\_Politics\\_in\\_Estonia\\_Advancing\\_Open\\_Government\\_in\\_the\\_Context\\_of\\_Ubiquitous\\_Digital\\_State](https://www.researchgate.net/publication/330759654_Open_Data_Politics_in_Estonia_Advancing_Open_Government_in_the_Context_of_Ubiquitous_Digital_State)

<sup>15</sup> Public Information Act, section 32, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>16</sup> Public Information Act, section 29, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>17</sup> Public Information Act, section 32, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>



### *Sanctions*

In case a person's access to information is restricted, they have the right to contest the restriction, if it violates their rights or freedoms<sup>18</sup>. They can file a complaint with one of the authorities that control the compliance with the Public Information Act or an action with an administrative court, either personally or through a representative<sup>19</sup>. If the Data Protection Inspectorate refuses to satisfy the complaint, they have the right to file an action with an administrative court against the holder of information<sup>20</sup>.

In case a holder of public information fails to comply with the provisions stipulated by the law on access to open data or timely answer to the requests for information, the Data Protection Inspectorate can issue a warning at first, followed by a sanction and legal actions against the holder of public information. The Data protection Inspectorate may also issue proposals and recommendations for the public institutions.

The law also encompasses sanctions for violation of requirements for disclosure and release of public information. As such, the release of incorrect public information or disclosure or release of information intended only for internal use is punishable by a fine of up to 300 fine units. The Data Protection Inspectorate is authority which conducts proceedings in matters of misdemeanours.

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<sup>18</sup> Public Information Act, section 4, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>19</sup> Public Information Act, section 46, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>

<sup>20</sup> Public Information Act, section 46, <https://www.riigiteataja.ee/en/eli/529032019012/consolide>