



D 2.8 – Open data Romania

WP 2 - Research and implementation assessment

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## Open data Romania

### *Regulatory sources and aims pursued*

Romania has a clear legal framework and 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 (including SOEs or autonomous bodies). The access to data is two folded: the authorities are obliged to publish certain information about their activities while any person has the right to request data from the public bodies.

The principle of reuse of public data addressed in Directive no. 2003/98/EC was transposed into Romania by Law no.109 / 2007 on the reuse of information in public institutions (as amended and supplemented by Law no.299/2015). The purpose of the law is to regulate the conditions for the publication and reuse of existing information in public institutions.

The law stipulates that the reuse of documents held by public institutions is free for all natural and legal persons and that public institutions must provide conditions to facilitate access to documents available for reuse, in particular by drawing up lists and directors when using electronic means, with the most important documents for reuse. In 2015, a guide for the publication of open data for public institutions<sup>1</sup>, designed by the Chancellery of the Prime Minister and the Open Data Coalition, was made public. An updated version appeared in 2019, including a methodology for publishing open data<sup>2</sup>.

Additionally, the Emergency Ordinance no. 41/2016<sup>3</sup> on the establishment of simplification measures at the central public administration level and on amending and completing some normative acts that impose new conditions for the publication of the datasets. Thus, public institutions and specialized bodies of the central public administration have the obligation to publish sets of data of public interest on the portal [www.data.gov.ro](http://www.data.gov.ro) - including the naming, description and the length of time it is recommended to update the datasets. The procedure for publishing and updating these datasets is established by Government Decision.

Romania also has a stand-alone law regulating access to information of public interest - Law no. 544/2001<sup>4</sup>. This law confers any person the right to obtain information about the activity of any public authority or institution, including other entities using public resources such as autonomous institutions or state owned companies.

### *Areas of disclosure of public data*

Disclosure of open data is regulated by the national legislation, including types of datasets to be published, procedures and time span per procedures, administrative sanctions or costs. Publishing datasets is compulsory in Romania, for either central and local authorities, including state owned companies or independent or autonomous authorities. This information is part of Law no 109/2007 regarding the reuse of information from public institutions (modified by Law no 299/2015).

Public institutions are obliged to provide conditions easing the access to available documents by publishing available lists of documents and designating those responsible for their access and reuse. Most public bodies publish the relevant data sets on their own websites. In order to facilitate the access

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<sup>1</sup> Guidelines for publishing open data, March 2015, [http://ogp.gov.ro/wp-content/uploads/2015/03/GHID-DE-PUBLICARE-A-DATELOR-DESCRISE\\_martie-2015.pdf](http://ogp.gov.ro/wp-content/uploads/2015/03/GHID-DE-PUBLICARE-A-DATELOR-DESCRISE_martie-2015.pdf)

<sup>2</sup> Methodology for publishing open data, February 2019, <http://ogp.gov.ro/resurse-date-deschise/>

<sup>3</sup> Available in Romanian language <http://legislatie.just.ro/Public/DetaliiDocument/179586>

<sup>4</sup> Available in Romanian language <http://legislatie.just.ro/Public/DetaliiDocument/31413>



and search of electronically and automatically processed documents, public institutions must also publish the documents on the governmental data portal [www.data.gov.ro](http://www.data.gov.ro), along with the relevant metadata, in compliance with the rules for its use. As far as possible, public institutions must facilitate multilingual access and search for documents.

There are three phases in disclosing public data (upon request) and each institution usually has a designated person or department to fulfil this task: 1) Identification - identifying the set of data 2) Evaluation – technical and judicial evaluation of the data to be disclosed and 3) Disclosure – publication of the datasets prioritizing their importance (high impact, requests received from multiple individuals, no need for deadline extension, etc).

Also, in the case of data requests, the public authorities need to provide an answer within 20 working days through the Public Relations Department designated for this purpose. In the case of highly complex requests, the deadline may be extended by a further 20 working days. In this situation, the applicant will be notified of the need to extend the deadline within 15 working days since the receipt of the request.

Any rejection of a claim, in whole or in part, must be accompanied by a reference on how to contest it if the applicant wishes to contest the decision received. The decision to address requests for reuse of documents may be contested by the applicant. Both the complaint against the decision and the appeal are judged in an emergency procedure and are exempt from the stamp tax.

Where fees are charged for the reuse of the information, those fees are limited to the marginal cost associated with document delivery. In the case of fees for the reuse of documents held by public institutions, any applicable condition and the actual amount of such fees, including the basis for calculating these taxes, are pre-established and published by electronic means whenever possible and appropriate, including on the internet page of the institution.

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

Public institutions must publish their data sets on their own website (if any) or publish them offline, and facilitate access to available documents for reuse. Also, public institutions are required to publish open data on **data.gov.ro**. The [data.gov.ro](http://data.gov.ro) portal was created in 2013 as part of Romania's efforts to ease the access to transparent information and to centralize the open data published by the Romanian institutions according to the principles and standards in the field.

Both formats of the datasets and metadata should, as far as possible, comply with formal open standards, but there is no legal obligation to standardize the data. Moreover, public institutions are not obliged to create, adapt documents or provide extracts from documents if this would require disproportionate costs going beyond the scope of a simple operation. The data sets that need to be provided are distinctly underlined in the legislation, tackling the type of public body (different data sets for public central institutions or state owned companies – but including data on the activity, financial information, non financial reports, etc.)

Romania also regulates the categories of sensitive data (personal data) and special regime data that cannot be published as open data. The legal framework is defined by Law no. 190/2018<sup>5</sup> on implementing measures for the implementation of Regulation (EU) 2016/679 of the European

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<sup>5</sup> Available in Romanian language <https://lege5.ro/Gratuit/gi4dsnjugi2q/legea-nr-190-2018-privind-masuri-de-punere-in-aplicare-a-regulamentului-ue-2016-679-al-parlamentului-european-si-al-consiliului-din-27-aprilie-2016-privind-protectia-persoanelor-fizice-in-ceea-ce-priv>



Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation), respectively Decision no. 174 of October 18, 2018<sup>6</sup> regarding the list of operations for which National Authority Supervision for Personal Data Protection is required to carry out the impact assessment on the protection of personal data.

The Romanian legislation regulated different grounds on which the public administration authorities, acting as data operators, publish their personal data as follows:

1. Processing is necessary to fulfil a legal obligation by the operator;
2. Processing is necessary for the performance of a task which is in the public interest or which results from the exercise of the public authority with which the operator is invested;
3. Processing is necessary for the legitimate interests pursued by the operator or a third party, unless the interests or fundamental rights and freedoms of the data subject that requires the protection of personal data are prevalent, in particular where the data subject is a child.

### *Data accessibility*

In Romania, the legal framework providing access to information of public interest (whether already published or not published by central and local public authorities) is defined by Law 544/2001, which gives every person the right to request public data. Increasing transparency and efficiency in the public administration and enabling the participation of all relevant actors in creating a framework for relevant open data access is also the major objective of the Open Government Annual Implementation Plan (2018-2020).

Institutional transparency by increasing the availability of open public data made available by public authorities is also one of the specific objectives of the National Anti-Corruption Strategy (SNA). Among the measures proposed by the SNA 2012-2015 to increase institutional transparency are: accession to the Open Government Partnership, ensuring compliance with national legislation on public information and transparency of decision-making, development of e-government solutions, e-administration or e-Justice, implementing projects to promote integrity and good governance in partnership with civil society, improving communication strategies. Not all these measures have been implemented up to this date.

For the period 2012-2015, the first period of implementation of the anti-corruption strategy, the evaluation report reveals that the decision-making transparency was provided by the evaluated institutions, mainly by publishing drafts of normative acts on their own sites, but there is also an institution evaluated where the provisions of Law no. 52/2003 on transparency of decision making are poorly applied. During the mentioned period, at the level of the central public administration, 1271 sanctions for violation of the legal obligations regarding the institutional transparency were issued.

Romania also has a well-regulated legal framework for access to public information. For the period 2012-2015, over 885,120 requests were registered at the level of the central administration, with 839,878 responses provided. At the same time, 1,129 legal complaints were filed. At the level of the central public administration, 166 sanctions were imposed for violation of legal obligations.

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<sup>6</sup>Available in Romanian language <https://www.dataprotection.ro/servlet/ViewDocument?id=1556>



At the level of the independent authorities, 19,231 requests for information of public interest were recorded (over 5,000 at the National Integrity Agency, over 2,800 at the National Anti-Corruption Directorate, over 1,000 at the Electoral Permanent Authority, over 2,200 at the Superior Council of Magistracy, over 2200 at the Senate), with 19,149 responses issued. 4,341 legal complaints were also processed.

On public procurement<sup>7</sup>, all public acquisitions in Romania are mandatory published on SICAP – The Electronic System for Public Procurement. The system is a unitary informatics infrastructure allowing each Romanian contracting authority to electronically publish bids. The system is available both in Romanian and English language allowing user friendly experience for a 3<sup>rd</sup> peer.

The open access area of the system contains a large bulk of data sets for public procurement including:

- Data on the contracting authority;
- Data on the type of services/goods/works part of the public procurement;
- Details on each steps of the procedure and type of procedure;
- Estimated value of the contract;
- Data on the bidders;
- Details about the winning offer, name of the winning supplier and final cost of the contract.

In addition, the program encompasses aggregated sets of data for topic of public procurement (e.g agriculture, transport, constructions, etc) and procedure statistics per counties (type of public procurement, number of contracting authorities, number of public procurement per specific authority, registered suppliers, etc). Thus, one can easily analyze the public procurement initiated at the level of one small municipality or the total value of public procurement for the Health Sector, as an example.

### ***Drafting techniques***

According to the Romanian law, public institutions and bodies are obliged to disclose specific datasets regarding their activity. However, the datasets should comply with formal open standards, but there is no legal obligation to standardize the data provided by the institutions.

Most of the datasets are scan documents, un-editable, in .pdf formats and do not fit into the general framework of easily accessible open data. These data sets vary greatly among institutions and public bodies. The data sets part of the data.gov.ro are usually in editable forms, but due to the high number of public bodies and institutions (especially at local level), the portal only encompasses a low number of data sets.

The recommendation to provide specific directors/names/information on the data sets by each authority is rarely fulfilled. Both central and local authorities disclose public data in various formats and under registration number (e.g City Council Decision no 123/2019), thus being difficult for a third party to access that specific data with any prior description. The gradual advance from 2 and 3-star to 4 and 5-star data publishing format is encouraged.

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<sup>7</sup> Regulated by Law Law 98/2016 revised and updated on public procurement



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## **Benchmarking**

Most of the public institutions and bodies publish their activity reports, financial or non financial reports on their websites. The type of published datasets varies greatly between institutions and public bodies and not always follows the legal framework.

The financial reports and public spending of the bodies that fall under the obligation to disclose public data are the most common datasets published on websites and data.gov.ro. However, their format is different and most of the time refers to scanned documents that are only readable but not editable or easily accessible and require additional work to analyze it.

For local public authorities, as an example, there are a series of recommendations on the prioritization of key data sets such as budget, budget execution, public procurement, building permits, transportation timetables, public services - kindergartens, schools, parks, hospitals etc. - company licenses, public safety and crime, food safety, etc.

The online portal data.gov.ro currently has 1500 datasets from 99 central and local institutions (on a wide range of topics – ranging from institutions part of the judiciary to environmental agencies). The data are referring to both financial and non-financial reports. Compared to 2016, when 633 sets of open data were published on data.gov.ro, in March 2018, over 1400 sets of open data are recorded. It has been found that the constant updating of data sets that require a half-yearly or annual update, except for those requiring more frequent updates, has been observed.

The Romanian Government is at the 4th National Action Plan since joining the international initiative of Open Government Partnership in 2011. Under the Open Government Annual Implementation Plan (2018-2020), SGG proposes to publish additional 535 sets of data of up to 2020. Also, at the level of the central institutions there is a list of data sets assumed under the National Action Plan for Publication. The progress of this endeavour to publish similar data sets for each institution and allow cross checking is still under progress.

Worth mentioned that at the level of the previous implementation period of the Annual Plan (2016-2018), it was also attempted to create a pilot program for automatic data publishing on data.gov.ro in the areas of public procurement, tax records and air quality. The program still appears as "Not Started".

## **Control authorities**

The General Secretariat of the Government ensures the coordination of the process of opening public data in Romania and administers the national portal data.gov.ro, the central access point for the open data sets published by the Romanian public administration authorities and institutions and the point of contact with the Commission European (europeandataportal.eu).

Also, according to Government Decision no. 245/2015 for the approval of the National Strategy for the Digital Agenda for Romania 2020, the General Secretariat of the Government is the coordinator of three key strategies: 1) Development Strategies. Open Data - Providing accessible, reusable and redistributable data 2) Standardization of procedures and 3) Open data provided by public institutions should be concentrated on a single platform at national level.



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### *Sanctions*

Non disclosure or partially disclosure of public data are subject to sanctions. Administrative sanctions are the ones used the most. The evaluation report of the National Anti Corruption Strategy 2012-2015 reveals 1271 sanctions in the mention period for breaching the provisions of institutional transparency. More so, 166 sanctions were issued based on the Law 544/2001 that guarantees unconditioned access to public information. We underline that most these are administrative sanctions.

In case the applicant considers the answer received from the public institution being partially complete or the authority refuses to disclose public data, he or she has the possibility to file a criminal complaint and appear before a Court. If the Court agrees with the applicant, the public authority will be obliged to reveal the requested datasets.