

# LAW AND PRACTICE - WHAT IS MISSING IN THE MACEDONIAN OPEN DATA POLICY?

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## INTRODUCTION

In conditions of intensive digitalization, transparency in the public sector means more than simply publishing documents. It means publishing detailed data in an appropriate and processable format, which is easily accessible, no more than three clicks away, i.e. open data. The term "government data" is also used as a synonym for the term "open data".<sup>1</sup>, and is defined as data from public institutions that anyone can freely access, use, modify and share for any purpose (provided that requirements that preserve origin and openness are respected).<sup>2</sup>.

It is important to emphasize that open data is more than a technical platform. It serves as a mechanism for **strengthening the accountability of institutions, informing public policies, democracy in the country and the competitiveness of the economy, and as such represents a key element of good governance.**

When governments make data available in open formats, they enable all interested parties (citizens, researchers, journalists, and civil society organizations) to have insight into the work of institutions, to evaluate the results of policies. In a broader sense, open data also strengthens democracy in the country, because if institutions actively and regularly publish open data, i.e. data in open format, citizens will be able to inform themselves about the work of institutions, how much and what kind of results they deliver and in the next elections they will be able to make an informed decision on whether to trust them again or punish them. This is not only made to institutions at the central level, but also to local self-government units. In addition, open data is the basis for evidence-based policymaking, encourages innovation and helps reduce information asymmetries that can shield poor performance or corruption from the public. However, open data is of great benefit to the private sector, which can use it to plan their business development. So, from here, it can be said that in a way, open data also contributes to strengthening the country's competitiveness in the global and European markets.

However, to implement open data in practice, it is necessary to establish an appropriate legal and technical framework. In the absence of these prerequisites, the promise of open data

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<sup>1</sup> This identification focuses on the fact that all government, i.e. state data is open data, cannot be kept secret, except in rare situations prescribed by law, and as such, citizens have the right to know it, and the state has an obligation to provide it.

<sup>2</sup> The definition of open data is defined in <https://opendefinition.org/>

remains partially fulfilled. Due to the great importance of open data, the international community has established a legal and strategic framework for their regulation, which countries can adopt and adapt according to their national needs. This is particularly true of the legal framework of the European Union (EU), which the Republic of North Macedonia, as a candidate for future EU membership, is obliged to harmonize with the domestic legal framework. What this regulation contains, to what extent the Macedonian system has adopted it and how it is implemented in practice, we analyze in the following text.

## **INSTITUTIONS AND OPEN DATA: CURRENT CONTEXT AND CHALLENGES**

### **LEGAL FRAMEWORK**

In February 2014, the Law on the Use of Public Sector Data entered into force, transposing Directive 2013/37/EU on the use of public sector data.<sup>3</sup> This directive launched a whole movement to promote greater transparency of Governments around the world, but also because of the great economic potential that was identified as having precisely public sector data, with the opening of which, beyond the original purpose for which institutions create them, companies and citizens can build their own business models, innovations, applications and services based on that data from which they will generate income. The advent of new technologies, especially in the areas of data analysis and the "Internet of Things", had a significant impact on the way data can be used in the economy, so the aforementioned Directive was revised in 2018.

In order to promote several aspects of the policy of transparency, openness and reuse of public sector information, Directive (EU) 2019/1024 was adopted in June 2019<sup>4</sup> of the European Parliament and of the Council. In the context of national legislation, the Ministry of Digital Transformation has taken a step towards harmonization with the directive of the same name, and thus the title of the proposed regulation is the Law on Open Data and Reuse of Public Sector Data analyzed in the text.

### **GOVERNMENT OPEN DATA STRATEGY (2018–2020)**

The Government's Open Data Strategy (2018–2020)<sup>5</sup> shapes commitments around the publication of public sector datasets and the improvement of institutional data practices. The strategy envisioned a central open data infrastructure and a catalogue of datasets, which were intended to serve as a resource for researchers, civil society and the public. This strategic engagement reflects a broader effort to align government transparency obligations with international good practice, ensuring that state bodies – not just the executive branch, but also the legislature and agencies – adopt structured approaches to open data.

A key outcome of the Strategy was the establishment of the Open Data Catalogue,<sup>6</sup> which serves as a supporting tool for institutions to know which datasets they should publish and make available for use. The measures in the Strategy that relate to the technical capabilities of

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<sup>3</sup>Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information Text with EEA relevance:<https://eur-lex.europa.eu/eli/dir/2013/37/oj/eng>

<sup>4</sup>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):<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1024>

<sup>5</sup>The Government's Open Data Strategy (2018–2020):<https://portal.mdt.gov.mk/post-body-files/nacionalni-strategiji-file-GVnk.pdf>

<sup>6</sup>Open Data Catalog:<https://data.gov.mk/dataset/>

institutions and the training and building of institutional human resources for working with open data remained unsatisfactory compared.

In practice, the 2024 Institutional Openness Index indicates that ministries have an average openness level of 35% according to the fulfillment of open data indicators, i.e. it is significantly low.<sup>7</sup> Government institutions also show a low level of openness, i.e. 46%, while the Ministry of Defense has the highest level of openness, i.e. 52%.<sup>8</sup> At the local level, the level of openness is significantly lower, with an openness level of only 18%.<sup>9</sup>

## NATIONAL OPEN DATA PORTAL

The National Open Data Portal [data.gov.mk](https://data.gov.mk)<sup>10</sup> was established in July 2018 as a much more sophisticated solution and replaced the basic portal [www.otvorenipodatoci.gov.mk](http://www.otvorenipodatoci.gov.mk) since 2014. Today, [www.data.gov.mk](https://www.data.gov.mk) functions as a central repository for publicly available datasets from state institutions. The portal consolidates a catalogue of datasets and provides an easy-to-use interface for searching and retrieving information. The portal operationalizes key elements of national strategy and policy commitments into a functional digital infrastructure. The portal is an important transparency tool: it provides everyone with access to raw data on government operations, facilitating independent analysis and the development of evidence-based reporting and applications.

At its launch, a total of 131 datasets from 4 areas, or ministries, were available on the portal, and today the portal contains 707 functional datasets. This is a significant progress in terms of the number of datasets, but still insufficient according to the requirements of the modern digital era. Despite its importance, the portal faces ongoing challenges, for example, not all institutions consistently publish metadata or updated datasets, and there is limited automated infrastructure for real-time data integration.

## TRANSPARENCY OF THE PARLIAMENT

The successful practice of open data has expanded into the legislative sphere with open data initiatives in the Parliament. The establishment of the Parliament's open data portal<sup>11</sup> aims to provide data on parliamentary activities (e.g. composition, work of committees, research results). Such efforts improve public oversight of the law-making and oversight functions, but also popularize and bring the work of the Assembly closer to citizens. The portal presented 17 open datasets at the beginning of its launch in 2022, and a few years later we have only 29 available datasets. The traffic to the new website of the Assembly is continuously increasing precisely due to the visits and use of the published data, but their potential is not fully utilized because there are few products designed based on the data from the Assembly.

## TECHNICAL CAPABILITIES OF INSTITUTIONS

In the Republic of North Macedonia, the legal framework obliges public sector bodies to publish key data sets online, including data related to government functions, financial data, and

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<sup>7</sup>Assessment of good governance of the executive branch in North Macedonia and the region through the Openness Index (p. 51): [https://metamorphosis.org.mk/izdanija\\_arhiva/procena-na-dobroto-vladeenje-na-izvrshnata-vlast-vo-severna-makedonija-i-vo-regionot-preku-indeksot-na-otvorenost-3/](https://metamorphosis.org.mk/izdanija_arhiva/procena-na-dobroto-vladeenje-na-izvrshnata-vlast-vo-severna-makedonija-i-vo-regionot-preku-indeksot-na-otvorenost-3/)

<sup>8</sup>Same (p. 53)

<sup>9</sup>Assessment of good governance in local self-government units in the Republic of North Macedonia through the Openness Index, measurement for 2025 (p. 35):

[https://metamorphosis.org.mk/izdanija\\_arhiva/procena-na-dobroto-vladeenje-vo-edinicite-na-lokalnata-samouprava-vo-republika-severna-makedonija-preku-indeksot-na-otvorenost-merenje-za-2025-godina-2/](https://metamorphosis.org.mk/izdanija_arhiva/procena-na-dobroto-vladeenje-vo-edinicite-na-lokalnata-samouprava-vo-republika-severna-makedonija-preku-indeksot-na-otvorenost-merenje-za-2025-godina-2/)

<sup>10</sup>National Open Data Portal: <https://data.gov.mk/>

<sup>11</sup>Open Data Portal of the Parliament of the Republic of North Macedonia: <https://data.sobranie.mk/>

institutional performance. This legal obligation is designed to ensure that data held by the state is proactively disclosed, rather than buried behind formal information requests or limited by technical barriers to reuse.

However, many public institutions continue to struggle with outdated IT systems, scattered data storage (e.g., spreadsheets or paper records), and limited capacity to automate the publishing and updating of data sets in real time. These operational constraints limit the quality, timeliness, and usability of open data, reducing its potential impact on transparency and oversight.

The analysis of the needs of a new law<sup>12</sup> indicates that out of 50 institutions surveyed, 79% update data manually, and only 5 institutions have the ability to update APIs. The percentages are similar for publications on data.gov.mk. Additionally, 37% believe that converting to an open format requires disproportionate effort, 15% that it is complex, and only 35% publish data in real time or with a frequency of up to one month. The key obstacles identified by the institutions are the lack of ICT staff, limited equipment, outdated systems and difficult extraction from databases.

We conclude that this issue is not enough to be just a legal requirement imposed on public sector bodies, but that additional practical support is needed for many public sector bodies to move towards web-based functionalities and wider use of APIs, and other technology trends, such as the need for machine-readable data and interoperability, certainly remain fundamental.

Despite significant progress with legal and strategic documents, several challenges continue to undermine the full realization of the potential of open data:

- Limited automated updates and real-time data transfer, especially for dynamic data sets (e.g., budget execution, public procurement)
- Limitations of technical capacity in many public bodies
- Insufficient standards for metadata and licensing information, which reduces discoverability and reuse
- Insufficient ICT staff in institutions
- Insufficient hardware and software equipment.

## **REVIEW OF THE DRAFT LAW ON OPEN DATA AND RE-USE OF PUBLIC SECTOR DATA**

In 2025, the Ministry of Digital Transformation prepared a new draft Law on Open Data and Reuse of Public Sector Data.<sup>13</sup>, which has sparked debate among both experts and the general public. The law is a step towards compliance with EU Directive 2019/1024.

As an independent organization dedicated to promoting good governance, public administration reform, and inclusive policymaking, the Center for Change Management (CCM) has consistently advocated for greater transparency, open data practices, and unrestricted access to government documents. The Directive envisions several policy improvements, some of which should be more specifically addressed in the provisions of the new law.

### **PRINCIPLES GOVERNING PAYMENT**

The new Open Data Directive in Article 6 sets out the principles governing the charging of open data. Namely, the basic principle remains that opening up data is free of charge. The idea

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<sup>12</sup>Draft Regulatory Impact Assessment Report - Law on Open Data and Reuse of Public Sector Data (p. 3), available electronically at: [https://ener.gov.mk/Default.aspx?item=pub\\_regulation&subitem=view\\_reg\\_detail&itemid=86996](https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=86996)

<sup>13</sup>Footnote No. 3.

behind opening up data, dating back to the oldest directive from 2003, is that citizens, as taxpayers who finance public sector institutions and bodies, have already paid for the creation of this data, and therefore there is no need to pay again to be able to use it.

However, the implementation of open data policy over the years has shown that institutions still face certain so-called hidden costs when opening up data (e.g., for the development of open data portals, storage costs, human resource costs).

The new Directive therefore stipulates that the use of public sector data is free of charge, but public sector institutions and bodies should be allowed to recover the marginal costs. The wording of the obligation is that the calculation can be made according to objective, transparent and verifiable criteria, in accordance with the accounting principles of each Member State. The Directive establishes an obligation that the total revenue from the acquisition and enabling the re-use of documents during the relevant accounting period should not exceed the costs of their collection, production, reproduction, dissemination and storage of data, together with a reasonable return on investment and, where applicable, the anonymisation of personal data and measures taken to protect commercially confidential information.

The research identified the discriminatory one a practice whereby institutions charge citizens and companies for access to data sets, while providing the same data free of charge to other public institutions. This practice is contrary to the European principle of non-discrimination under the Open Data Directive and undermines fair market conditions.

In line with the ongoing commitment to guaranteeing non-discriminatory and free access to public data, it is necessary to:

- Explicitly prohibit discriminatory pricing practices.
- To establish the principle of free reuse of public sector information as a standard rule.
- Clearly define narrowly tailored exceptions.
- To introduce supervision and sanctions for non-compliance.

## PROCESSING OF RE-USE REQUESTS

Directive 2019/1024 formalises the request for re-use, which existed as a general legal obligation in previous legal acts. The new provisions require institutions to process requests for re-use and make the requested data available to the requester, preferably by electronic means. If the requested data require permission to use them, the conditions under which they allow the use of the data must be offered to the requester within a reasonable period, no longer than that set out in the procedure for handling requests for access to information.

Requests for reuse, including those for which a use permit is available, should be processed within a maximum of 20 days from the date of their receipt, and exceptionally, only in the case of extensive or complex requests, the deadline may be extended for an additional 20 working days.

The law in accordance with the Directive must provide for a remedy, i.e. a right of appeal. Any decision on re-use must contain a reference to the legal remedies in case the applicant wishes to challenge the decision. The legal remedies include the possibility of having such a decision reviewed by an impartial body with appropriate expertise, such as a national competition authority, a relevant access to documents authority, a supervisory body established in accordance with Regulation (EU) 2016/679 (GDPR) or a national judicial body, whose decisions are binding on the public sector bodies concerned.

The Directive, in addition to strengthening the obligations for legal determination of the request, also establishes the obligation to provide a legal remedy, i.e. a two-stage procedure, if the requester has not received the requested data.

Paragraph 3 of this directive does not establish the possibility that one of the grounds for refusing the request may be that the institution is not technically prepared to respond to the

request for open data. Technical capability refers to the IT infrastructure in the institution and qualified or trained staff to implement the obligation for open data established by the Law on the Use of Public Sector Data. However, in reality, there are institutions in the Republic of Macedonia that are not digitally prepared to meet these requirements nor do they have the technical capabilities. Such institutions are obliged to respond to the request, and in the explanation they should state the reason. The body that has the right to act on complaints, and the MDT as an institution for supervising the implementation of the law, will have to determine whether the institution really does not have the technical capabilities to respond to the request. The aim is to prevent the current option from being abused so that institutions that actually have the technical capabilities use this legal opportunity to "circumvent" their obligation.

It is necessary, in accordance with the Directive, to provide practical conditions for data reuse, such as raising awareness of the rights introduced by this law and offering assistance and training to stimulate use.

## INTRODUCTION OF LEGALLY BINDING COLLECTIONS ON HIGH VALUE DATA

The European Commission has identified 6 thematic categories in the Directive of high-value datasets, as referred to in Article 13(1):

1. Geospatial.
2. Earth observation and the environment.
3. Meteorological.
4. Statistics.
5. Companies and ownership of companies.
6. Mobility.

The Directive also leaves an "open window" for further definition of new categories. Another group of data expected to be identified as high-value data includes national and local maps (geospatial), energy consumption and satellite imagery (earth observation and environment), demographic and economic indicators (statistical data), business registers and registration identifiers (companies and company ownership) and several others.<sup>14</sup>

Since defining high-value data is a dynamic process, member states should introduce a mechanism by which they will continuously determine new high-value data, taking into account the national context, i.e. the interests of the business community and citizens.

Currently, the publication of such data largely depends on institutional discretion, the new law should establish:

- A legally binding list of high-value datasets aligned with international standards.
- Obligation to publish in machine-readable, reusable formats.
- Commitment to regular updates and maintenance.
- Introducing clear timelines and compliance obligations.

Moving from voluntary disclosure to legally mandated minimum data sets would significantly increase predictability, transparency, and usability.

It is necessary to adopt a bylaw that will determine a list of data with great value, but within a reasonable period of 6 months from the entry into force of the Law in order to ensure a quality document/list.

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<sup>14</sup> [Directive 2019/1024/EU, recital 66 of the Preamble](#)

## DYNAMIC DATA AND API USE

Under the current Directive, public bodies are required to make data available for re-use where possible in open and machine-readable formats. A prerequisite for this is that dynamic data should be accessible via APIs and be available for bulk download where relevant.

In North Macedonia, many institutions still lack the appropriate digital infrastructure, technical capacity, and internal procedures for systematic data publication. In some cases, data is not even stored in digital formats or is updated manually, making sustainable publication difficult. Open data is often perceived as an additional administrative burden, rather than a core obligation.

Embedding open data obligations into institutional work processes will transform it from an external requirement into standard administrative practice.

In practice, the implementation of new systems in the administration must be coordinated by the Ministry of Digital Transformation, which is responsible for the entire digital transformation, including open data. Hence, the inclusion of electronic data collection, processing and storage must be ensured from the start with appropriate APIs in order to satisfy the legal obligation for systemic data opening in the long term.

Additionally, in the ICT Strategy for 2030<sup>15</sup>One of the ministry's goals is to connect data.gov.mk with the interoperability platform, in order to automate the data publishing process and overcome the human factor in the process.

To address such structural weaknesses, it is necessary to prescribe provisions for:

- Mandatory formal appointment of data officers in all public institutions.
- Introducing mandatory training and capacity building requirements.
- Obligation for institutions to maintain internal data catalogs.
- Require new ICT systems to mandatorily ("by design") integrate open data functionality (API).

The Draft Law on Open Data and Reuse of Public Sector Data is not a technical adjustment, but a democratic necessity. The strengthened legal framework would:

- It has harmonized national legislation with European standards.
- Prevented discriminatory access to public information.
- It ensured the publication of high-value datasets.
- It strengthened institutional accountability.
- It supported innovation, economic growth, and civic participation.

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<sup>15</sup>Strategy for the Development of ICT: SMART/MK 2030, Ministry of Digital Transformation, September 2025, available at the following link:[Strategy for the Development of ICT: SMART/MK 2030](#)

## KEY RECOMMENDATIONS FOR OPEN DATA POLICY

Government transparency is a cornerstone of accountable, democratic governance. It ensures that public institutions operate in an open manner, allowing citizens, the media, and civil society to access information about decisions, budgets, policies, and administrative processes that affect their lives. Transparent governance strengthens trust between the state and its citizens, reduces opportunities for corruption and misuse of public resources, and fosters informed public participation in policymaking and oversight. When information is readily available—through open data portals, proactive disclosures, and robust access to information frameworks—it enables individuals and organizations to monitor performance, evaluate government actions, and advocate for reforms based on evidence rather than speculation.

North Macedonia has laid important foundations for open data reform. However, progress remains uneven and fragile.

The next phase must move beyond the development of portals and voluntary commitments towards enforceable legal standards, i.e. to move from political commitment to prescribing legal obligations.

- Institutionalize open data practices at all levels of government, with clear technical standards and mandatory metadata requirements.
- Investing in automated publishing infrastructure to ensure up-to-date data flows and reduce manual processes and the burden on administrative staff.
- Strengthen capacity building for public officials responsible for data publication, including training and long-term technical support.
- Deepening government initiatives for open data, i.e. support for such a reform from the very top of the authorities, ensuring that data is comprehensive, timely and easily accessible. A successful example of centralizing such a reform is the harmonization of the portals of central institutions, which was designed according to the needs of citizens, and at the same time rationalized because fragmentation was avoided.
- Fostering civic partnerships by regularly organizing hackathons, data challenges, and collaboration forums that bring together government, civil society, and the private sector.
- It is necessary to continuously monitor the activities of the institutions and, if possible, report in an open data format. To open the institutions to the citizens, the CUP has established and maintains the online platform [responsiblegovernment.org](https://responsiblegovernment.org), through which key policies are monitored based on the planned Government Work Program. It is necessary for such proactive monitoring to be carried out by the institutions, in order for them to publish the most accurate data, but also for them to be in accordance with open data standards, so that they can be used for various purposes in the public.

Open data must become a structural element of governance, not an optional reform initiative. To ensure real progress, open data must not be treated as an optional policy, but as an essential part of good governance. Only a systemic approach – a clear legal framework, automated processes, built institutional capacities and regular data updates – can ensure that openness becomes a sustainable practice, not a formal commitment. This creates an environment where institutions operate transparently, citizens have a real opportunity to participate, and society exploits the full value that data brings – as a driver of development, innovation and democratic empowerment.

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