



URBAN CO-CREATION DATA LAB

LEGAL AND REGULATORY FRAMEWORK ON OPEN DATA COLLECTION

SEPTEMBER 2021

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1 Executive Summary

This document is an output developed within the execution of the Activity 3: Co-Creation Labs: perform experiences and validation by cities, namely the “Report on the legal and regulatory frameworks applicable to open data collection in each city”. It provides the legal framework from the European Union, national and local perspectives on open data collection for the city of Lisbon and the Provincial Council of Badajoz. This legal framework is essential to understand the constraints and rules applied to open data collection in the selected cities, impacting the data that may be collected and used in the development of the analytical services in the context of the project.

2 Objectives

2.1 Strategic Objective

The main objective of this activity is to validate the Co-Creation Labs proposed services in the selected cities (Lisbon + 2) and provide additional use cases.

2.2 Operational Objective

The operational objective of this activity is to support the definition of the methodology that will be applied throughout all the pilot sites so they can also become Co-Creation Labs, as well as to provide an evaluation framework and technological tools to support users and stakeholders that is common to all Co-Creation Labs.

2.3 Tasks

The development of this activity includes the implementation of following tasks:

Task 3.1: Expand Co-Creation Labs: methodology, framework, and technological tools definition

This task will produce methodology, framework, and technological tools on Co-Creation labs. This requires:

- Definition of the methodology that will be applied throughout in the two additional pilot city sites, so they can also become Co-Creation Labs, and ensure coordination with the project's tasks;
- An evaluation framework and technological tools to support users and stakeholders that is common to all Co-Creation Labs; and
- User and usability guidelines to apply in use cases implementation and testing in each city.

Task 3.2: Coordination of Co-Creation Labs: use cases implementation

Under this task, the use cases will be implemented in the two participating cities. This will be recorded in the report of use case implementation and performance in each city and include their recommendations. This task will:

- Implement and coordinate the user trials in each pilot city via Co-Creation Labs methodologies, to assure that the services work with different data sets (local open data of each city) and to define and test local use cases for the same services;
- Execute each use case by implementing and testing each service in each city by each group of users;
- Select users to establish sustainable user communities through the enablement of feedback mechanisms and the identification of users motivated to make use of services, particularly considering those with high data processing needs. These user communities could be used in the future to track changing preferences in terms of new smart city services; and
- Provide a wrap-up high-level document with recommendations for future work on smart cities services and use cases, with a view to business sustainability, highlighting specific open data local issues, differences in uses cases in each city and explaining possibilities for new services.

2.4 Outputs

- Report on Co-Creation Labs: methodology, framework, and technological tools;
- Report on the legal and regulatory frameworks applicable to open data collection in each city;
- Report of use cases implementation and performance in each city;
- Recommendations for implementation: handbook for smart cities Co-Creation Labs.

2.5 Milestones and means of verification

Milestone number	Milestone description	Indicative completion date	Completion date	Means of verification
5	Define methodologies to follow in all cities' Co-Creation Labs	30/09/2021	31/01/2022	Report on Co-Creation Labs is available
10	Complete use cases implementation in all cities' Co-Creation Labs	30/11/2021	31/01/2022	Report on completed use cases implementation in all cities is available

3 Legal and regulatory frameworks applicable to open data collection

3.1 Legal and regulatory framework to open data collection in European Union State Members

3.1.1 Directive 2003/4/CE of January 28

Directive 2003/4/CE, repealing and replacing Directive 90/313/EEC on the freedom of access to information on the environment, seeks to achieve wider availability and the disclosure of environmental information to the public. The main objectives, as per Article 1, are to guarantee citizen access to information about the environment in the possession of public authorities, as well as to establish basic conditions and practical methods to access that information. Specific mention is made to the utilization of computer telecommunication and electronic technology, which is further elaborated in Article 3, mandating the

maintenance of such information in open and machine-readable formats. Key recipients (enactors of this directive) are the public authorities at national, regional, and local levels (Article 2 No. 2).

Environmental information, according to Article 2 Paragraph 1, is defined as a) the state of elements like air, water, atmosphere, soil, earth, landscape and areas of natural interest; b) factors and substances that are released to the environment that affect the previous elements (e.g., energy, noise, radiations, emissions, discharges); c) policies, legislation and plans that could affect the previous mentioned elements and factors; d) reports on the implementation of environmental legislation; e) cost/benefit analysis and economic scenarios of environmental plans; and f) the state of health and peoples security, including contamination of food chain, life conditions and places with cultural interest. However, public authorities may deny some environmental information requests if that information compromises the confidentiality of public authorities' procedures, international relations, public safety, national defence, intellectual properties rights, environment protection regarding the referred environmental information. Denial is provisioned (Article 4) in response to a request that is directed to the incorrect authority, is unreasonable, is too general, or references data yet incomplete. Denial is also appropriate if the information compromises:

- a. The confidentiality in the proceedings of public authorities, in commercial or industrial economic interest, or intellectual property rights;
- b. International relations, public security, or national defence;
- c. The course of justice, specifically the reception of a fair trial or conduction of a criminal enquiry;
- d. The confidentiality of personal data in absentia of that party's consent to disclose;
- e. The interests of a party that has voluntarily supplied personal data; and
- f. The protection of the environment.

3.1.2 Directive 2003/98/CE of November 17

Public information – social demographical, economic, geographic, weather, touristic, educational, business, etc. – held by different public entities has potential value for the creation of digital projects and services, which may contribute to economic growth and job creation. The local contexts at various levels of public administration have resulted in different practices and rules within and between each state. Opportunities for international services amongst Member States requires harmonization across borders, simultaneously maximizing potential for exploitation across borders, while minimizing discriminatory conditions and further deviation in practices.

Considering that public entities collect, produce, reproduce, and disclose documents to fulfil their duties of public services, Directive 2003/98/CE establishes a general framework about the conditions of reuse of public documents to guarantee fair, appropriate, and non-discriminatory conditions in the reuse of that information. The main goals are to a) create products and services at the EU scale based on public sector documents, b) empower private companies to create transnational added value products and services using this information, and c) limit distortions in competition regarding the EU market.

Though providing a foundation for re-use of information, that allowance is not obliged by this directive.

3.1.3 Directive 2013/37/UE of June 26

Since the previous directives were adopted, the amount, kind, and sources of data, as well as the interest in and techniques developed for the manipulation of this data, has exponentially increased. This revolution promotes the development of new products and services, including applications derived from public sector data. Open data policies encourage the wide availability and re-use of public sector information for non-public use, however the foundations provisioned in previous directives are out of pace with the current quantities, qualities, and requirements of data services within the EU, nor an obligation to allow reuse.

As such, Directive 2013/37/UE amends Directive 2003/98/EC and mandates the:

- a. Obligation for the Member States to make all the documents of the public sector reusable, excepting if the access is restricted due to national rules about document access, and without compromising other exceptions provided by the directive;
- b. Extension in the directive framework to include documents in the possession of libraries, including university libraries, museums, and archives;
- c. Establishment of a guidelines for the implementation of re-use fees, which should be limited to marginal costs related with the collection, production, reproduction, and disclosure of the documents made available to be reused;
- d. Introduction to reinforce rules regarding transparency in the procedures of public entities; and
- e. Reinforcement of the ban of unnecessary restrictions or exclusivity.

The documents that are excluded from the Directive 2013/37/UE are:

- a. Documents that fall outside of the scope (sufficiently transparent and subject to review) of the petitioned public sector service by local law, rules, or administrative practices of the Member State;
- b. Documents that concern the protection of defence, national or public security, statistical confidentiality, or commercial confidentiality;
- c. Documents to which access is restricted within the Member States;
- d. Parts of documents containing only logos, crests, and insignia;
- e. Parts of documents containing personal data that subject to protection;
- f. Documents held by educational and research establishments; and
- g. Documents held by cultural establishments (other than libraries, museums, and archives).

Entities of the public sector should provide their documents in any format or language that already exist. When possible, public servants should also provide information with their metadata in an open and machine-readable format (such that software applications can easily identify, recognize, and extract specific data from them) to promote interoperability. However, public entities are not obligated to create or adapt data in cases that involve a disproportionate effort, going beyond their simple manipulation.

This directive impacted the EU economy by supporting the development of digital products and services that leverage public sector information in transnational markets. It also addressed distortions of access between interested parties while reducing the cost of access for users.

However, despite these advantages, several obstacles impeding the effectiveness of its application were also identified, namely:

- a. High Member-State control in the right to access data;
- b. The assignment of high costs for valuable datasets (e.g., geospatial, commercial registry, financial data) to cover the disclosure and reproduction costs of the data;
- c. The lack of access to real-time dynamic data;
- d. The requirement to reduce restrictions in data access;
- e. The existence of new exclusive agreements;
- f. The frequent allegation of exceptions to the marginal costs free schedule; and
- g. The lack of coherence between the directive and other European legislation instruments (e.g., the Data Bases Directive and the General Data Protection Regulation, GDPR).

3.1.4 Directive (EU) 2019/1024 of June 20

Directive (EU) 2019/1024 of the European Parliament and Council is a recasting of the original Directive 2003/98/EC regarding open data and the re-use of public information. Much of the directive restates elements already addressed in the previous series of directive amendments, but more concisely communicates the current objectives and expectations. Additionally, it incorporates further measures to mitigate emerging barriers of access to public sector data while harnessing the rapid changes in digital technologies. It focuses on:

- a. Providing data access in real time via sufficient technical infrastructure;
- b. Improving online discoverability and actual availability of documents and their metadata;
- c. Limiting the use of exceptional cases, regarding the "minimal cost" fee schedule of data availability;
- d. Preventing new exclusive deals between the public sector and data re-users; and
- e. Increasing the availability of public and publicly funded data with high reuse value.

The directive extends the obligation of reuse to public companies and publicly funded information, disambiguating the application of these policies in relation to public sector documents and encouraging Member States to surpass the minimum requirements.

It establishes that dynamic data – digital documents subject to frequent or real-time updates, such as sensor acquired data in the environmental, traffic, satellite, or weather fields – should be made immediately available upon collection or changes (in the case of manual updates) via an API (Application Programming Interface) or block download.

The directive anticipates (Article 2 No. 10) that public data will maintain a high value for a variety of users. This includes societal, environmental, and economic impacts via the development of new services and applications, simultaneously increasing employment. High value datasets are categorized thematically (Annex 1) as a) geospatial data; b) earth and environment observation data; c) weather data; d) statistical data; e) data regarding companies and companies' property; and e) mobility data.

3.2 Legal and regulatory framework to open data collection in Portugal

3.2.1 Law 65/93 of August 26

In Portugal, the right of access to public information was established in article 268 of the national Constitution in 1976. However, the Portuguese state did not legislate the opening of access to administrative documents until 1993, via Law 65/93.

3.2.2 Law 46/2007 of August 24

In 2007, Law 46/2007 transposed European directive number 2003/98/CE to the Portuguese national legislation, obliging public entities to publish electronic administrative documents so that they are digitally accessible and re-usable.

Ministry Council Resolution 91/2010

In 2010, the Portuguese government implemented the Digital Agenda 2015 through the ministry council resolution number 91/2010. The Digital Agenda seeks to provide public administration information in reusable formats for publication and aggregation. This led to the creation of a national open data portal website, dados.gov.pt, where such information is compiled and published in readable and reusable formats for use by any citizen. The Digital Agenda 2015 seeks to facilitate citizen and commercial access to relevant information produced by public services, supporting the creation of new applications and services that may create added value to society.

3.2.3 Law 26/2016 of August 22

Directive 2013/37/UE was transposed to the national Portuguese law in Law 26/2016. The law addresses the principle of an open public administration and provides national citizens with the right to access documents, data, and administrative processes of the public administrations.

Article 37 of the Portuguese Constitution describes a three-dimensional perspective of the right to information: 1) the right to inform; 2) the right to be informed and, the 3) right of being informed. The second dimension addresses the freedom of information collection, the search for information sources, the right access to archives, records and public documents, and the freedom in the choice of the means to access information. As such, Article 2 Number 2 of Law 26/2016 presupposes that information guaranteeing the transparency of public administration be disclosed by the public institutions that possess that information.

Article 5 requires the free and general access to public documents, without requiring any justification for inquiry or access. As such, any citizen has the right to know what information exists and administrative entities must provide direct access, independent of the integration of documents into archives during regular operation.

As per Article 6, there are several exceptions to the right of access of public entity documentation. Whenever possible, documents should be available for partial disclosure if the parts subject to access restriction can be expunged. Though the restrictions are limited, they permit public entities to scrutinize the public information requests, which limits the application of the European directives. Restrictions of access include the following scenarios:

- a. Documents that contain information that could incur risk for national interests;
- b. Documents protected by authors' or related rights, such as those in the possession of museums, libraries, and archives, or protected by intellectual property law (e.g., in the areas of literature, arts, industry, or science);
- c. Administrative documents in the process of preparation;
- d. Audits, inspections, inquiries, and contents of investigations prior to the deadline of initiating disciplinary proceedings;

- e. Personal documents requested by a third party without a written authorization of the data owner or without a demonstration of a direct, personal, legitimate, and constitutionally protected interest of sufficient relevance that justifies access;
- f. Administrative documents that contain commercial or industrial secrets or regarding the internal operation of a company requested by a third party without written authorization or without a demonstrates a direct, personal, legitimate, and constitutionally protected interest of sufficient relevance that justifies access; and
- g. Documents that protect other legally relevant interests if their distribution will affect the effectiveness of their supervision, will jeopardize the operational capacity or the security of the facilities or personnel of the military, information services, security forces, criminal police, diplomatic and/or consular representation or will cause serious harm to goods or patrimonial interests of third parties that is greater than the interests protected by the right of access to this information.

Article 11 mandates that public entities must actively disclose environmental information. This information should be collected and organized in such a way that facilitates its regular update and availability via internet accessible databases.

As per Article 28, the Access Commission of Administrative Documents (CADA) ensures the fulfilment of legal obligations regarding administrative function. The Commission analyses any complaints regarding a public institution's lack of response, denial, partial satisfaction, or other decision limiting the access to administrative documents, overseeing the compliance to the legal rights of the citizens.

Public entity documentation can be accessed in several ways: via free electronic or in-person consultation of the specific services, via reproduction (photocopy, visual, audio, or electronic), or via a certificate.

3.2.4 Transposition of the Directive (EU) 2019/1024 of the European Parliament and Council from 20 June 2019

On the 14th of July 2021 meeting of the Commission for Constitutional Matters, Rights, Liberties and Warranties, the Directive (EU) 2019/1024 of the European Parliament and Council from 20 June 2019, regarding open data and reuse of information in the public sector, was transposed to the Portuguese national law. This was the third change in Law N° 26/2016 of August 22, changed by laws N°s 58/2019 of August 8, and 33/2020 of August 12.

Article 2, referring to the general principle of data openness, states that the entities that are subject to the rules and principles of open administration should assure that the documents that they produce should be made available to support future availability to citizens and social organizations. The National Data Strategy framework elaborates and applies plans progressive goals for open data availability milestones, as well financing programs and metrics for the assessment of results.

According to Article 3, the documents and open data should be traceable, accessible, interoperable, and reusable.

The obligations of the entities covered are defined in Article 4, where they should assure the disclosure of available and accessible data, documents, and connected metadata inventories and search capabilities. All the information should be organized and indexed in the dados.gov portal (<https://dados.gov.pt/pt/>), facilitating the search of documents or data available for reuse. The covered entities should also designate a person responsible for the fulfilment of the open data related laws, that is responsible for both the organization and promotion of the

obligations of active disclosure of the information to which it is linked the entity referred in article 1, as well as the following of the processing of reuse requests and establish the necessary articulation in the exercise of the competences of the Commission for Access of Administrative Documents. These rules are optional for parishes with less than 10000 voters.

Regarding the National Open Data Catalogue in Article 5, the dados.gov portal is constituted as the central open data catalogue in Portugal. It aggregates, references, publishes and allocates the open data from different organizations and sectors from Local, Regional and Central Public Administration, working as well as and indexer portal of content allocated in other sectorial or decentralized portals or open data catalogues. The open data made available in dados.gov should permanently maintain standards of update and quality, so that any included data may be reused with reliability by applications. In the event that the producing entity does not provide open data via its own system, the data should be included and updated as appropriate in dados.gov portal.

According to Article 6, the associated metadata should always be included and updated in the dados.gov portal, to facilitate the search and traceability of open data, whether that data is included in the portal in a producing entity's own platform.

Addition to Law 26/2016 of August 22

Article 19º-A: Dynamic data. The entities of Public Administration will make dynamic data available for reuse immediately after the collection through an adequate API (Application Programming Interface) and, when justifiable, through downloading in block. In the case of immediately available dynamic data that may exceed the financial and technical capabilities of the public organization, justifiable and reasonable deadlines may be applied, so long as they do not prevent the exploration of their social and economic potential. The open data made available through an API should be registered in data catalogues made available in dados.gov portal.

Article 23º-A: Fees due by reuse. The fees charged by reuse may not exceed the marginal costs supported with the collection, production, reproduction, availability and disclosure of documents or data. This also applies to the anonymization of personal data to protect confidential commercial information, as well as the charges associated with shipping when the data are made by mail. When the available document is the material result of an administrative activity for which an entity is owed fees, the reasonable fees may be applied, considering the direct and indirect costs of investment and the quality of the service within the scope of the applicable legislation. When the document or required data are from a library, including libraries of higher education institutions, a museum or an archive, the fees may also include the costs of collection, production, preservation as well storage and acquisition of rights. This can be added with a reasonable return of investment, considering the direct and indirect costs of investments and the quality of the service. The value of fees should be determined by collection under usual scenarios and practices. The conditions of reuse and taxed fees should not unnecessarily restrain the possibilities of reuse. This is to prevent the required entity from discriminating equivalent reuse categories, such as cross-border reuse or the limitation of competition. The entities can reduce or exempt the required fee for reuse by entities with or without profit, as long it supports activities of recognizable social interest. The public entities that are forced to generate revenues to cover a substantial part of their costs related with the performance of their public service missions and public companies may apply fees greater than the marginal costs. The calculation formulas are fixed accordingly with the following criteria: commutativity, harmonization, and sustainability. The public sector organizations that are forced to generate revenues to cover a substantial part of their costs related with performance of their public service missions appear in the list

published in dados.gov portal. The calculation formulas of the applicable fees are disclosed in dados.gov portal, in which a simulator is provided to calculate those fees. The public entities that reuse the documents are only subject to fees and the legal conditions in the framework of their activity of private management.

Article 27°-A: High value datasets. The following thematic categories of datasets are considered of high value: i) Geospatial; ii) Earth Observation and Environment; iii) Meteorological; iv) Statistical; v) Companies and company propriety; vi) Mobility. Also considered as datasets of high value are the thematic categories that could be added by the Commission in accordance with the chapter V of Directive (EU) 2019/1024 and Council of June 20 of 2019, to reflect the technological evolution of the market. The datasets identified by the Commission should be made available without costs, readable by machines, accessible through API's and provided in the form of download in block, when justifiable. The availability without charge is not applicable to the high value datasets in the possession of public companies, libraries (including university libraries, museums, or archives), or public entities that are forced to generate revenue to cover a substantial part of their costs related with the performance of their public service missions, when doing so would have a substantial impact in the respective budget, until two years after the implementation of the Commission act.

Article 27°-B: Research data. Research data may be reused for commercial or non-commercial goals, in the following circumstances: when financed by public funds; when the researchers, the researching institutions, or the funding institutions have made them available through an institutional or thematic repository, other data infrastructures, or open access publications; and/or when published through dados.gov portal. The researching and funding institutions should assure the disclosure of the research data, the definition of intellectual propriety rights, the protection of confidentiality and security of any personal data or commercial interests, as well as the transfer activities of knowledge, striking a balance of maximum openness without compromising private information. Access to research data should be promoted with open access politics and assure that data is traceable, accessible, interoperable, and reused. The reuse of research data of the present article is free.

Final and transitory dispositions

The application of the reuse regime is subject to monitoring by the Access to Administrative Documents Commission until December 2024. The monitoring should include: i) the increase level in reuse of public sector documents, specially by small and medium companies; ii) high value datasets impact; iii) the effects of the applicable principles to the fees and reuse of legal and administrative official texts; iv) the reuse of documents in possession of entities that are not from the public sector; v) use and availability of APIs; vi) the interaction between the rules of data protection and the possibilities for reuse; and vii) other possibilities to improve the functioning of the internal market and support the economic and labour market development.

3.2.5 INSPIRE Directive

As stated in the previous section, geospatial data are considered high value datasets. Indeed, more than the geographic representation, is also important that the information can be spatially organized, accessed, and explored. The evolution of information technologies allows the integrated manipulation of geographic information from different sources. This supports the productions of statistical information for monitoring dynamic phenomena in applications as diverse as technological and environmental risks, criminality, epidemics, or environmental factors. In this sense, the European Parliament and the Council approved the

Directive nº 2007/2/CE of March 14, that establishes the Infrastructure for Spatial Information in Europe (INSPIRE). Accordingly, with this Directive the Portuguese infrastructure of geographic information should guarantee:

- i. The prioritization of storage, availability, and maintenance of geographical data;
- ii. The coherent combination of geographical data of several sources in the country and all European Union, shared by different users and applications;
- iii. The sharing of data between public authorities, independently of their administration level;
- iv. The availability of geographical data in conditions that do not restrict is generalized use; and
- v. The identification of the location of available geographical data, its assessment of adequacy for a certain end, and the knowledge of their use conditions.

The INSPIRE Directive was transposed to the national law through the Decree Law nº 180/2009 on August 7. The Portuguese geographic information infrastructure is managed by the National Geographic Information System (SNIG), that provides access metadata and to sets of geographic services and data that are produced or maintained by public authorities.

In accordance with the Article 15 to support the operations of SNIG, the portal includes a network of services that encompass the sets of services and geographical data. This should provide to the users the following services:

- a. Search services that support the query of geographic datasets, based on the content of corresponding metadata, and the visualization of the metadata content;
- b. Visualization services, that allow at minimum the visualization, navigation, alteration of the scale of visualization, and the panning or overlap of relevant metadata content;
- c. Downloading services, that support the access and download of entire or partial copies of geographic data sets;
- d. Transformation services, that support the transformation and interoperation of geographic data sets; and
- e. Services that support requests to geographic data services.

Article 20 addresses the exceptions and limitations in the access to services and geographic datasets, namely if such access compromise any of the following aspects:

- a. The confidentiality of public authority procedures;
- b. International relations, public safety, or national defence;
- c. Judicial functioning, the right to an equative trial or the possibility to public authorities realize inquiries of disciplinary or criminal nature;
- d. The confidentiality of commercial or industrial information, as per any applicable laws of national or community origin to protect a legitimate economic interest, including public interest in maintaining the statistical confidentiality and fiscal secrecy;
- e. Intellectual proprietary rights;
- f. Confidentiality of personal data or files regarding a singular person, except if this consents the disclosure of information, as per any applicable national or community laws;
- g. The interests or protection of any person that has rendered voluntarily the requested information, without being subject to the legal obligation to render it, except if he or she consent to the disclosure of the information in cause;
- h. The protection of environmental goods to which that information concerns, such as the location of rare species.

3.2.6 Other national policies and legislation related with open data

Resolution of the Council of Ministers no. 30/2020

In this resolution, the Council of Ministers approved the Action Plan for Digital Transition and the measures and strategic actions that integrate it, transposing Directive (EU) 2019/1024 of the European Parliament and Council of 20 June 2019 about open data and reuse of information in the public sector to the national law. It describes the pillars and catalysts that support the plan, including the Circular Data Economy. The measures assigned to this catalyst include the reduction of legislative and bureaucratic barriers to the free flow of data without compromising security measures, such as the information classified and aligned with the EU Regulation 2018/1807 from the European Parliament and Council. The resolution outlines the development of a guide for the ethical use of data, sharing of the available information (Open Government Data), publishing of the same in a structured way to allow their integration (Linked Open Government Data), and the adoption of Big Data technologies.

Resolution of the Council of Ministers no. 55/2020

The Strategy for Innovation and Modernization of the State and Administration Public 2020 - 2023 includes the exploration of technology with the following focuses: i) reinforce technology global governance; ii) improve interoperability and services integration; and iii) manage the data ecosystem with transparency and security. These are materialized through transversal and sectorial measures, unifying all Government in a common purpose. Objective 10 regards ecosystem data management with security and transparency. It states that the use of data to improve the analytical capability, inclusively and ethically supported by artificial intelligence, is essential to informed decision making. Confidence in such a system requires the development of safety systems in each step of digital transformation that will yield the maximum guarantee of information (i.e., permanent verification of integrity properties, availability, authenticity, and confidentiality). This guarantee should be articulated with a policy of promotion of open data, that allow the reuse of data and information, to satisfy the internal needs of the services functioning or the relation with citizens and companies, to provide services or execute public policies, without effort and with a minor operational cost. The measures for this goal include:

- i. Defining and developing data governance mechanisms of Public Administration and maintaining the respective catalogues and primary source systems, to internal and external share;
- ii. Creating a generic mechanism that allow to citizens be informed of primary sources of personal data in Public Administration and updating and managing access authorizations to that data;
- iii. Reinforcing dados.gov service as a transparent portal in Public Administration and stimulate its use with additional value, connected data, real time data and advertising of persistent identifiers to referred data in official documents.

Resolution of the Council of Ministers no. 91/2012

The National Digital Interoperability Regulation was approved by Law nº 36/2011 on June 21. It establishes the adoption of open standards in the State's computer systems as essential to guarantee technical and semantic interoperability in Public Administration during its interaction with citizens or companies and for the provision of content and services.

Decree-Law No. 156/2019 of October 22

This decree-law regulates the creation and maintenance of a system for the collection, registration, and analysis of data on science and technology. Accordingly, with the nº 3 of article 13, the public data contained in the observatory for scientific and teaching employment are official data that can be used by institutions and bodies within the sectors of science, technology, and higher education for the purposes of analysis, statistics, planning, and evaluation of institutions.

3.3 Legal and regulatory framework to open data collection in Lisbon

3.3.1 Deliberation 155/CM/2016

The city of Lisbon established its open data policy in 2016, along with the Letter of Principles of Open Data Policies that outline a potential for increased citizen involvement, transparency, economic development, and municipal service efficiency. The city of Lisbon is obliged to update a schedule of open data releases annually, indicating which data will be released, when, and in what formats. All municipality services, city parishes, and municipal companies are encouraged to release their data.

The datasets made available by the different entities should adhere to the following assumptions:

- Quality of data and metadata: The information contained in the metadata should be current, complete, and expressed clearly. It should be made available with its source, without any aggregation or modification;
- Free data accessibility: Data will be available via the internet at no cost to the user. Formats should be commonly used and machine readable. Formats should also support the development of third-party applications, websites, or platforms by any person or entity. No registry or restrictive procedures should prohibit, limit, or monitor access of the data. The free access should not be subject to any legal constraints or to the query of its objective and eventual use;
- Open formats readable by machines: The data files will be made available in non-proprietary formats, be platform-independent, and be accessible by any person without the need to resort to any proprietary software. The chosen formats should be easily searchable by code and allow a machine or informatic system read the data contained in the file. These formats should allow ease of use and edition of data, promoting interoperability between different data sets. When possible, datasets should be provided in multiple formats (e.g., csv, xlsx, xml, json, geojson);
- Free reuse of data: Provided data should be usable, reusable, and freely distributed. Users should be permitted to cross this data with other sources of information and generate combinations with other datasets; and
- Licensing: Data should be published in the Lisboa Aberta open data portal (<http://lisboaaberta.cm-lisboa.pt/index.php/pt>). Data will be covered by an open license that clearly states the author (or the supplier entity in the absence of respective authors' rights) and expressly permits users to reuse, modify, and share the derived work. The datasets published in the portal will be largely licensed under the Create Commons CC Zero Attribution 1.0 license, which does not require any authorization if the work credits the original creation (or any user license that comes to substitute it).

3.4 Legal and regulatory framework to open data collection in the Provincial Council of Badajoz

In this section is presented the regulatory framework on open data collection in the Provincial Council of Badajoz and his integration in the Spanish national law.

3.4.1 Law 18/2015 of July 9

In this law were defined the legal dispositions about the obligation of Spanish public administration authorize the reuse of documents that with transparency constitutes one of the pillars of open government. In this context it must be made available to citizens and companies the possibility to access to several types of information:

- i. Environmental;
- ii. Geographic;
- iii. Touristic;
- iv. Cultural;
- v. Sports;
- vi. Leisure;
- vii. Transportation;
- viii. Territorial;
- ix. Housing;
- x. Administration;
- xi. Legal;
- xii. Economic;
- xiii. Business;
- xiv. Employment; and
- xv. Technologic.

The information must be provided:

- i. Without costs or with a small tax;
- ii. In electronic format readable by machines; and
- iii. In a complete way and be globally adjusted to the accomplishment of data protection regulations with personal character, and that always do not infringe any other regulation or law

The main goal is to create added value services by: i) private companies: services for commercial purposes that contribute to generate value for citizens; ii) public administration: horizontal services useful for citizens and for the administration; iii) by interested agents in promote transparency in public administration: initiatives of analysis and evaluation of public management.

References

[Directive 2003/4/CE of January 28](#) - Public access to environmental information

[Directive 2003/98/CE of November 17](#) - Re-use of public sector information

[Directive 2013/37/EU of June 26](#) - amending Directive 2003/98/EC on the re-use of public sector information

[Directive \(EU\) 2019/1024 of June 20](#) - Open data and the re-use of public sector information

[Law 65/93 of August 26](#) - Regulates the access to documents of the Administration

Law 46/2007 of August 24 – Regulates the access to administrative documents and their reuse

Law 26/2016 of August 22 – Approves the access to administrative and environmental information and reuse of administrative documents

Directive 2007/2/CE of March 14 - Establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)

Law 180/2009 of August 7 – Approves the regime of the National System of Geographical Information

Resolution of the Council of Ministers no. 30/2020 – Approves the Digital Transition Action Plan

Resolution of the Council of Ministers no. 55/2020 – Approves the Strategy for Innovation and Modernization of State and Public Administration 2020 – 2023

Resolution of the Council of Ministers no. 91/2012 – Approves the National Regulation for Digital Interoperability

Law 156/2019 of October 22 – Regulates the creation and maintenance of collection, registry and data analysis on science and technology

Deliberation 155/CM/2016 – Approves the letter of principles of open data policy of Lisbon municipality and the action plan for the fulfilment by Lisbon Municipality of open data policy

CML 2017. Open Data plan for the city of Lisbon 2017. Available on: <https://www.am-lisboa.pt/documentos/1518708612HgV0U0xw3Xh14IH2.pdf>

Law 18/2015 of July 9 – About the reuse of public administration information