



NATIONAL RESEARCH
UNIVERSITY

International laboratory for IT&IP law,
National Research University Higher School of Economics

PUBLIC SECTOR INFORMATION IN RUSSIA

Moscow, 2019



REGULATORY LANDSCAPE

Constitution of Russian Federation

Art. 24 p. 2 – “The bodies of state authority and local self-government, their officials shall ensure for everyone the possibility of acquainting with the documents and materials directly affecting his or her rights and freedoms, unless otherwise provided for by law”;

Art. 29 p. 4 – “Everyone shall have the right to freely look for, receive, transmit, produce and distribute information by any legal way. The list of data comprising state secrets shall be determined by a federal law”.

INTERNATIONAL TREATIES:

Art. 10 of the European Convention on Human Rights (ratified 05/05/1998).



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FEDERAL LAWS:

- **Federal Law of 27.07.2006 N 149-FZ “On information, information technologies and protection of information”**
- **Federal Law of 09.02.2009 N 8-FZ “On the access to the information about the activity of governmental bodies and local self-government bodies”**
- **Federal Law of 22.12.2008 N 262-FZ “On the access to the information about the activity of the courts in the Russian Federation”**
- **Copyright law provisions in the Civil Code of the Russian Federation Part IV**

BYLAWS:

- **The Decree of the Government of Russian Federation of 10.07.2013 № 583 “On the organization of access to the publicly available information about the activity of governmental bodies on the Internet in open data format”**
- **The Decree of the Government of Russian Federation of 24.10.2011 № 860 “The rules for determination of the amount of fees for the provision of information about the activity of the governmental bodies”**
- **“Standard terms of use for open data” adopted by the Protocole of the Governmental Commission for coordination of the open government activity of 19.09.2016 № 6**



FEDERAL LAW OF 27.07.2006 N 149-FZ “ON INFORMATION, INFORMATION TECHNOLOGIES AND PROTECTION OF INFORMATION”

Definition of open data

- art. 7: “The information provided on the Internet in a format which allows to process it automatically without human intervention for purposes of re-use is the publicly available information disclosed in open data format”

Obligation to provide information about the activity of governmental bodies

- art. 8: “Governmental and local self-government bodies should provide access, including via the Internet, to the information about their activity in the Russian and state language of the corresponding republic within the Russian Federation in accordance with the federal acts, acts of the subjects of the Russian federation and normative legal acts of local self-government bodies. The person wanting to get access to this information should not explain the necessity of obtaining thereof”



FEDERAL LAW OF 09.02.2009 N 8-FZ “ON THE ACCESS TO THE INFORMATION ABOUT THE ACTIVITY OF GOVERNMENTAL BODIES AND LOCAL SELF-GOVERNMENT BODIES”

Definition of information about the activity of governmental bodies

- Art. 1: “information, including the documented one, either created by governmental bodies or by their subordinated organizations while accomplishing their public missions, or received by them.
Information about the activity of governmental bodies also includes the laws and other normative acts, and for local self-governments – normative acts establishing their structure and missions, other information related to their activity”

Obligation to provide information in Open Data format

- Art. 7: p.1: “The access to the information about the activity of governmental bodies may be provided verbally or in form of paper and electronic documents”
- p.2.1: “The publicly available information about the activity of governmental bodies is provided on the Internet in open data format”



REQUEST FOR THE INFORMATION

- Art. 18 of the Federal Law of 09.02.2009 N 8-FZ “On the access to the information about the activity of governmental bodies and local self-government bodies” provides the user with the right to request the information from governmental bodies and local self-governments about their activity. Electronic form is also available. The decision upon the request is to be given within 30 days after it has been registered. If longer period is needed, the user should be informed on it within 7 days after the registration.
- The request can not be anonymous. It should be in Russian language, containing the information about the user and an address for the answer (e-mail is also allowed), the delimitation of the information required and the governmental body from which the information is requested.
- The request could be given in a foreign language only if the governmental body has established the rules for its processing.
- If the governmental body is not competent to answer the request, it is obliged to transfer it to the competent one within 7 days after the registration of the request.



FEES FOR PROVIDING THE INFORMATION

- Art. 18 of the Federal Law of 09.02.2009 N 8-FZ “On the access to the information about the activity of governmental bodies and local self-government bodies” provides the user with the right to request the information from governmental bodies and local self-governments about their activity. Electronic form is also available. The decision upon the request is to be given within 30 days after it has been registered. If longer period is needed, the user should be informed on it within 7 days after the registration.
- The Decree of the Government of Russian Federation of 24.10.2011 № 860 “The rules for determination of the amount of fees for the provision of information about the activity of the governmental bodies” states that the fees are paid when the information exceeds 20 pages for A4 format, 10 pages for A3, 5 pages for A2 and 1 page for the bigger format than A2 (for paper forms) or 1 megabit (for electronic forms) .



OPEN DATA AND COPYRIGHT LAW

- art. 124 of Civil Code of Russian Federation: “the Russian federation, subjects of the Russian federation and municipal entities can be recognized as the holders of civil rights”.
- Art. 1259 of civil Code of Russian Federation states that official public documents as well as official emblems, flags and symbols are not protected by the copyright. Since there is no clear definition of official document, it can be understood in the broad manner. Thus, the majority of official communications on the web-site of governmental body might be considered as official documents.
- Database protection: Russian law protects databases like in the EU in two ways – through copyrights and sui generis related rights. Public entities can be the right holders of databases and there are no exceptions for public sector information.
- Some public entities use Creative Commons licenses on their websites. For example, Moscow open data web-site contains provisions that all the open data can be used on the terms of license Creative Commons Attribution 3.0. (<https://data.mos.ru/>) The website of the Government of Russia (<http://government.ru/en/>) also states that all the content is licensed under the Creative Commons Attribution 4.0.



STANDARD TERMS OF USE FOR OPEN DATA

- “Standard terms of use for open data” adopted by the Protocole of the Governmental Commission for coordination of the open government activity of 19.09.2016 № 6 state that open data provided by governmental bodies can be used without limitations in commercial and non-commercial legal purposes. Governmental bodies guarantee that open data is accurate, current, publicly available and the use of this data does not violate the rights of third parties. The user has to make attribution to the source of the data.
- HOWEVER: these standard terms are not strictly obligatory for governmental bodies and they do not cover all the copyright issues concerning the use of open data. Thus, the collisions between open data and copyright law are still relevant in the Russian Federation.



**THANK YOU FOR
ATTENTION!**



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