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REPUBLIC OF SLOVENIA

# RE-USE OF PSI

  

# THE THEORY AND PRACTICE IN THE REPUBLIC OF SLOVENIA

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# Legal Basis for Re-use in Slovenia



Access to Public Information Act (The Official Gazette of the Republic of Slovenia No. 51/2006; APIA),

Decree on the provision of public information (The Official Gazette of the Republic of Slovenia No. 76/2005 and 119/2007; DPPI).



# Re-use of PSI in Slovene Legislation

- Re-use is the use of PSI:
  - by natural or legal entities;
  - for commercial or non-commercial purposes other than the initial purpose.
- The key element of re-use is its added value – formation of PSI market – increase of the productivity, employment and tax incomes.
- Re-users should increase the usability of the original information.
- Re-users should offer more than public sector within the framework of its public functions.





- Differentiated policy on charging for the re-use of commercial and/or non commercial purposes.
- PSI in electronic version whenever possible – no obligation for transformation into different form.
- The public sector can re-use its own information (and charge it to the users, too).
- The same prices and conditions must be applied both for the public body itself as well as for other parties on the re-use market.



# Exceptions of The Re-use:

- In case of an exception from the publicly accessible information held by public sector (personal information, business secrets, etc.) – Article 6 of APIA;
- Information protected by the intellectual property rights of third parties;
- Information held by bodies performing public services of public radio-television or bodies performing public service in fields of education, research and cultural activities;
- Information for which another Act stipulates accessibility only to authorized persons.





# Where to Find the Information to Re-use it

- Catalogues of public information (Article 8 APIA) – properly published.
- Transmission of information to the World Wide Web (Article 10 APIA).
- Ministry for public administration – runs The State Catalogue of Public Information.
- The bodies should help re-users to search for the information suitable for re-use.





# The Procedure

- Types of requests for PSI re-use:
  - informal (oral);
  - formal (written).
- Legal protection:
  - only if a formal request is filed.





- Contents of request for re-use:
  - Specification of the information the applicant wants to get acquainted with;
  - The way the applicant wants to get acquainted with the requested information (consultation on the spot, a transcript, a copy, an electronic record);
  - The purpose the applicant wants to re-use the information for (commercial or non commercial purposes);
  - The purpose does not make any difference; the difference only occurs, if a body decide to charge for the re-use of information.
- In case of charging the re-use: the body needs to issue a written decision.



- Absence of the decision of the body: the request is deemed as refused.
- The body may require a reference to the source of information (“Public Information of Slovenia”) and the name of the body.



# A Need of Change in Slovenia

- The way of thinking – the public sector does not own its PSI since creation of PSI is financed from the budget resources.
- Re-use is not only in the interest of private sector but
- The initiative for re-use must be on the potential re-users – private sector above all.
- There are benefits for all – private sector, public sector and users of the re-used information (added value of the PSI).





- The body may charge re-use, but is not obliged to do so – stimulating the bodies not to charge for re-use if possible;
- Simplifying the methods of calculation the price for re-use – it is almost impossible to calculate the price in accordance with DPPI.



# The Price of Re-use

- Non commercial re-use – only the material costs can be charged.
- Commercial re-use – chargeable in accordance with DPPI.
- DPPI:
  - The price can not exceed expenses of collecting, preparing, copying and dissemination of the information and usual income of the input.
  - It is almost impossible to calculate the price in accordance with DPPI – the provisions are complicated and impractical.





# IS RE-USE ACTUALLY NOT IN USE?

- A bit controversial, but a great deal of truth;
- Only few cases at the Information Commissioner;

## WHY?

- The definition of re-use – not known to the potential users?
- Re-use is not recognized as a business opportunity or opportunity for the budget to provide some extra income?
- The procedure is complicated?
- Is it impossible to calculate the price?





# Slovenian Information Commissioner's Practice

## Main reasons for appeal:

- The request is incomprehensible (the body couldn't tell if the request is upon access for PSI or re-use);
- The body used the re-use or/and PSI provisions incorrectly – the matter was not re-use and/or PSI;
- Charging for non commercial re-use;
- Charging for the information but not in accordance with the DPPI;
- Existence of the exceptions under Article 6 of the APIA (personal data, business secrecy...).





## Some Cases



- Case No. 1 - Snaga Public Company Ltd. vs Surveying and Mapping Authority of RS;
- Case No. 2 - Realis Ltd. vs Surveying and Mapping Authority of RS
- Case No. 3 - Speleological Research Society Ljubljana vs Surveying and Mapping Authority of RS
- Case No. 4 - Boža Plut vs. Public Guarantee and Maintenance Fund



# Snaga Public Company Ltd. vs Surveying and Mapping Authority of RS

- The applicant: Snaga Ltd. - a public service provider with the main activity of collecting and disposal of communal waste in the Republic of Slovenia;
- Required information: the supply of NA, OB and postal area information in the ASCII format, and the information about house numbers and streets in the ASCII format from the Register of Spatial Units;
- The purpose: non commercial;
- Essence: the body has charged for re-use (over 10.000 EUR);
- Conclusion: an exchange of information among the bodies for performing public tasks does not constitute re-use of public sector information.





# Realis Ltd. vs Surveying and Mapping Authority of RS

- The applicant: Realis Ltd. – private company;
- Required information: the supply of digital ortofolio 1:5000 (in black and white, for the whole area of the Republic of Slovenia), the Register of Spatial Units and house numbers (for the whole area of the Republic of Slovenia), and the register of place names, REZI 25 (for the whole area of the Republic of Slovenia);
- The purpose: commercial;
- Essence: the information to be supplied free of charge, because the body has already published all the requested information free of charge on the WWW (free web mapping of geographic information).
- Conclusion: the applicant has the right to re-use, but the body has the right to charge it in case impoverished free publishing of information on the World Wide Web.





# Speleological Research Society Ljubljana vs Surveying and Mapping Authority of RS

- The applicant: Speleological Research Society Ljubljana;
- Required information: the supply of the latest available versions of the basic topographic maps 1 : 5.000 in 1 : 10.000 – all layers, State topographic maps e 1 : 25.000 – all layers, Digital models of altitudes (25m metric mesh), Ortophoto 1:5000 – monochrome and colour, for the whole territory of Slovenia.
- The purpose: non commercial;
- Essence: The body stated that the requested data can be obtained to be re-used under conditions, determined by the Decree on Geodetic Data Issue Tariffs and not the ZDIJŽ or the DPPI.
- Conclusion: DPPI allows charging only the material costs of re-use of information for non commercial purposes.





# Applicant vs. Public Guarantee and Maintenance Fund

- The applicant: an individual;
- Required information: a currently valid list of recipients of foster care payment who are in debt to the Fund, and the sum these individuals owe to the Fund and a list of candidates the body is obliged to keep under the provision of the Provision of Foster Care Act;
- The purpose: non – commercial (for easier enforcement of the debts);
- Essence and conclusion: processing of personal data in the requested way would represent an unconstitutional, illegal and unjustified intervention into the privacy of an individual; the applicant should be authorised to access the information by law, or should have written request or consent from the individuals, whose personal data the applicant had requested - exceptions under Article 6 of the APIA – personal data and data accessible only to authorized persons.





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**Thank you for your attention!**



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