

# Comments for next Ministerial Declaration on digital government

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## Background

The Free Software Foundation Europe (FSFE) is a non-profit organisation that empowers everyone to control technology. Software is deeply involved in all aspects of our lives; and it is important that this technology empowers rather than restricts. Free Software (also known as 'open source') gives everyone the rights to use, understand, adapt and share software. The FSFE helps individuals, businesses and organisations to understand how Free Software contributes to freedom, transparency, and self-determination. We enhance the rights of users and businesses by abolishing barriers to Free Software adoption, encouraging people to use and develop Free Software, and providing resources to enable everyone to further promote Free Software in Europe. The FSFE advocates for fair competition, interoperability of solutions, and choice for consumers.

The proposal for the next ministerial declaration by Lisbon Council calls on increased trust in building digital government: “[...] How can we re-build a climate of trust? And how can digital government help?”

In order to effectively achieve trust and international collaboration in governmental digital services, the e-Government must be truly "open". While open data and re-use of data is no doubt an important building block for e-services in public administrations, the e-services must be also **interoperable, transparent, and reliable**, according to the Digital Single Market strategy<sup>1</sup>, adopted by the European Commission in 2015.

Open Standards<sup>2</sup> that are implementable with Free Software, together with Free Software solutions and Open Data are the necessary prerequisite to Open Government. These principles have amongst others been also re-affirmed by the recently updated European Interoperability Framework<sup>3</sup> (EIF) which calls for public sector to not only use Free Software, but where possible, to contribute to the pertinent Free Software communities. Free/Open Source Software is also called "*an enabler of the underlying EIF principle on reusability*" in the new EIF, whilst Open Standards are preferred for European public service delivery.

The importance of Free/Open Source Software, that gives everybody the freedom to use software, study its source code, share it with others, and adopt that software of one's need is particularly evident in the efforts to increase trust in the services used and delivered by public sector. “Publishing the source code is a wide-spread trust-gaining measure in Estonia[.]”, according to Estonia's Information System Authority:

*Opening the source code enables third parties to verify whether or not the system does*

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1 European Commission, “[A Digital Single Market Strategy](#)”, COM (2015)195, 6 May 2015.

2 Open Standards: <https://fsfe.org/activities/os/os.en.html>

3 Annex to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, European Interoperability Framework - Implementation Strategy, COM(2017) 134 final, 23 March 2017 .

*precisely what has been pledged and that no backdoors or unpublished functionalities are present in the solution. It is especially important to open and publish the software in cases that have international interest involved.*

As such, the FSFE supports that approach, in particular promoted and implemented by numerous public administrations and governments all over the world, including Estonia who will be leading the EU Council presidency in the following months. For example, X-Road system, called the "backbone of e-Estonia" - secure integration solution for information exchanges is entirely publicly available for anyone to re-use under Free/Open Source Software licence.<sup>4</sup>

Another evident trust-gaining consequence of freely available source code of information systems is the availability of the source code for public audit. One of the most efficient ways to achieve that is to publish software as Free/Open Source Software, in order to guarantee that independent experts and overall public can inspect source code without any restrictions or administrative burden. Since 2013, the source code of all central servers of Estonia's voting system, as well as the software of the vote verification application, have been made freely available online.

In addition, Estonia's national interoperability framework (Tarkvara raamistik, 2012)<sup>5</sup> encourages public sector to publish its software solutions under Free/Open Source Software licences, and since then Estonia's key digital infrastructure pieces (such as eID, and government cloud) are already largely open or relying on Free/Open Source Software. As a consequence, Estonia has the most government repositories per capita, according to Github data<sup>6</sup>, hence opening up their governmental digital solutions for everybody to use and improve upon.

The FSFE calls the Estonian presidency of the EU to follow its own strong Free/Open Source Software policies in the next ministerial declaration on digital government, and to recognise the indispensable role of Free/Open Source Software in its development.

The FSFE, therefore, ask the Lisbon Council to include following suggestions to the next ministerial declaration.

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4 <https://www.ria.ee/en/the-source-code-for-the-x-road-center-was-published-as-foss.html>

5 Ministry of Economic Affairs and Communications, "Riigi infosüsteemi koosvõime tarkvara raamistik", 19 March 2012.

6 Emanuel Feld, "The Government GitHub Ecosystem", 27 April 2017, Accessible here: <https://emanuefeld.github.io/blog/2016/04/27/government-github-ecosystem.html>

## Once only

The proposal for the ministerial declaration on digital government suggests to:

*Gradually develop EU level standards for data interchange, possibly including unique identifiers at EU levels for basic data, in line with the European Interoperability framework 2.0.*

The FSFE suggests:

***Give preference to open standards, including for data interchange, as in line with the European Interoperability Framework. Open standards can only be called open if these allow implementations in Free/Open Source Software.***

When developing new standards for data interchange, it is important to avoid standard proliferation and base the newly developed solutions on already existing Open Standards. In line with the EIF, Open Standards are the preferred way for building interoperable, open, and re-usable solutions. Open Standards will empower European industries to compete on the global market in a most efficient way by avoiding the situation of vendor lock-in, and opening up competition for the majority of European IT actors, i.e. SMEs. In addition, it is essential to make sure that standards can only be called "open" if they allow their implementations with Free/Open Source Software.

The proposal for the ministerial declaration on digital government suggests to:

*Allow citizens and enterprises to access, edit and port their data owned by public administration, and EU institutions should do the same for all EU-level databases. Citizens should also have a right to algorithmic accountability and transparency, such that citizens can understand and challenge decisions based on algorithms.*

The FSFE suggests:

***Allow citizens and enterprises to access, edit and port their data owned by public administration in open standards and open formats and EU institutions should do the same for all EU-level databases. Citizens should also have a right to algorithmic accountability and transparency, such that citizens can understand and challenge decisions based on algorithms. Software developed by and for public administration has to be published as Free/Open Source Software in order to guarantee the algorithmic accountability and transparency.***

Users and businesses need to be able to extract their data from the service at any time without experiencing lock-in or being stuck in a specific technical solution. Open Standards for formats and protocols are necessary to guarantee this. However, without the source code of the programs used to deal with user data, this is impractical. This is why programs available to exploit exported data should be available under a Free/Open Source Software licence so that data can be transferred to a different provider without being lost.

Algorithmic transparency and accountability can only be achieved by being able to study the source code. The simplest way to ensure that everybody can verify the algorithm is to make the source code available under a Free/Open Source Software licence, to ensure its openness and maximum level of transparency.

## Open government

Ministerial Declaration on digital government suggests to:

*Continue the progress in opening up government data and services, moving from bulk data to standardised APIs. Besides closely monitoring the transposition of the PSI directive, there should be continuous pressure to extend its scope towards new entities and data, starting from extending the scope of Public Sector Information directive to data privately held, but of public interest, as proposed in Digital Single Market mid-term review.*

The FSFE suggests:

*Continue the progress in opening up government data and services, moving from bulk data to standardised APIs. Besides closely monitoring the transposition of the PSI directive, there should be continuous pressure to extend its scope towards new entities and data, **including software**, starting from extending the scope of Public Sector Information directive to data privately held, but of public interest, as proposed in Digital Single Market mid-term review. **PSI needs to be extended also to source code of public software that needs to be released as Free/Open Source Software.***

Continuous pressure in opening up government data and services shall be extended to software used as a building block of the governmental e-services. It is noteworthy to stress the case of France where "public interest data" also includes the source code of public software. Opening data does also mean the opening of rules and modules that produce that data, complements it and underpins public decisions. These algorithms and tools are important resource, as long as these are Free/Open Source Software and can be managed through open APIs. As such, the FSFE



supports the requirement that all publicly funded software is to be released as Free/Open Source Software.