

European Union Public Licence

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The European Union Public Licence (EURL) is a free software licence that was written and approved by the European Commission. The licence is available in 23 official languages of the European Union. All linguistic versions have the same validity. Its latest version, EURL v1.2, was published in May 2017. Revised documentation for v1.2 was issued in late-2021. Software, mainly produced by European administrations, has been licensed under the EURL since the launch of the European Open Source Observatory and Repository (OSOR) in October 2008, now part of Joinup collaborative platform.

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1. History

EURL was originally intended to be used for the distribution of software developed in the framework of the IDABC programme,^[1] given its generic scope it was also suitable for use by any software developer. Its main goal is its focusing on being consistent with the copyright law in the Member States of the European Union, while retaining compatibility with popular free software licences such as the GNU General Public License. The first IDABC software packages mentioned are CIRCA groupware,^[2] IPM^{[3][4]} and the eLink^[5] G2G, G2C, G2B specification software.

2. Comparison to Other Open Source/Free Software Licences

EURL is the first open source licence to be released by an international governing body. A goal of this licence is to create an open-source licence available into 23 official languages of the European Union,^[6] and that is sure to conform to the existing copyright laws of the Member States of the European Union.

The licence was developed with other open-source licences in mind and specifically authorizes covered works to be re-released under the following licences, when combined with their covered code in larger works:

Explicit license compatibility	Added in version
GNU General Public License (GPL) v. 2 & v. 3	GPL v3 added in EURL v1.2
Open Software License (OSL) v. 2.1, v. 3.0	EURL v1.0
Common Public License v. 1.0	EURL v1.0
Eclipse Public License v. 1.0	EURL v1.0
CeCILL v. 2.0 & V 2.1	EURL v1.0
Mozilla Public License v. 2	EURL v1.2
LGPL v2.1 & V3	EURL v1.2
LiLIQ-R & LiLIQ-R+	EURL v1.2
GNU Affero General Public License (AGPL) v. 3	EURL v1.2

Many other OSI-approved licences are compatible with the EURL: JOINUP publish a general compatibility matrix between all OSI-approved licences and the EURL.^[7]

An overview of the EURL licence and on what makes it different has been published in OSS-Watch.^[8]

In 2020, the European Commission publishes its Joinup Licensing Assistant,^[9] which makes possible the selection and comparison of more than 50 licences, with access to their SPDX identifier and full text.

3. Versions

EUPL v1.0 was approved on 9 January 2007.^[10]

EUPL v1.1 was approved by the European Commission on 9 January 2009. EUPL v1.1 is OSI certified as from March 2009.^[11]

EUPL v1.2 was published in May 2017.^[12] EUPL v1.2 is OSI certified in July 2017.^[13]

3.1. Version 1.2

The EUPL v1.2 was prepared as from June 2013^[14] its decision process started in 2016 and ^[15] released on 19 May 2017. A principal objective of the EUPL v1.2 is to update the appendix of compatible licences to cover newer popular licences such as the GNU GPLv3 and AGPLv3.^[15]

According to the EUPL v.1.1, the European Commission may publish other linguistic versions and/or new versions of the EUPL, so far this is required and reasonable, without reducing the scope of the rights granted by the Licence. Future upgrades will not be applicable automatically when software was expressly released "under the EUPL v.1.1 only".^[16]

New provisions cover the Application service provider loophole of software distribution: Distribution and/or Communication (of software) includes providing on-line "access to its essential functionalities".^[17]

A specificity of the EUPL v1.2 is that, at the contrary of the GPL, it is compatible with all other reciprocal licenses listed in the EUPL appendix. Compatibility means that after merging the covered code with code covered by a compatible license, the resulting (combined) derivative work can be distributed under the compatible license.

Another specificity of the EUPL is that it is interoperable, without any viral effect in case of static and dynamic linking.^[18] This currently depends on European and national law, according to the Computer Programs Directive (Directive 91/250 EEC or 2009/24). Recital 10 of this Directive defines interoperability and recital 15 states that for making two programs interoperable, the code needed can be copied, translated or adapted. For example take program A (new original code just written) and program B (a program licensed by a third party), the developer/licensor of A, who is also a legitimate holder or recipient of B may reproduce in A the needed code from B (e.g. the APIs or the needed data structures from program B) without copyright infringement and without authorization from the copyright holder of B. The licensor of A can do and distribute this without being bonded by conditions or limitations imposed by a licence of program B. This must stay compatible with the normal use of program B and cannot prejudice the legitimate interest of the copyright holder of B.

Unlike the "articles", the directive "recitals" are not transposed as such in national laws. However, recitals are part of European law: they are serving for understanding the scope and rationale of the law, and will be used by the court for interpreting the law, as the case may be. While recitals in EU Directives and Regulations are not considered to have independent legal value, they can expand an ambiguous provision's scope. They cannot restrict an unambiguous provision's scope, but they can be used to determine the nature of a provision, or to adapt it to new circumstances.

3.2. Is the EUPL "Strong Copyleft"?

It is important to make a distinction between the various flavours of the "Strong Copyleft" concept. According to the GPL/AGPL licensor vision, this means some restrictions and conditions regarding interoperability (due to the theory that linking other software with the covered code creates a combined derivative) and regarding compatibility (since no derivative could be licensed under another license, which may create incompatibilities). The EUPL vision that is depending on the EU law is all the contrary: linking makes no derivatives and when merging source code licensed differently is a necessity, the resulting derivative can be licensed under a compatible license. For some of those, the copyleft is known to be "weaker" (i.e. the MPL), but this has no impact because according to the EUPL the compatible license will prevail when its provisions conflict with those of the EUPL. Since none of the compatible license prohibits the strong reciprocity implemented by the EUPL (obligation to publish and share the source code of derivatives, even distributed through a network) the copyleft resulting from the EUPL can be considered as strong. For this reason, the German lawyer Niklas Plutte created for the EUPL the new category of "Interoperable copyleft licence".^[19]

4. Member States Policies

As from 2010, EU member states adopt or revise policies aimed to encourage – when appropriate – the open source distribution of public sector applications. The EUPL is formally mentioned in some of these policies:

- Malta

- Spain
- Estonia: Ministry of Economic Affairs and Communications, Department of State Information Systems. Information Society Yearbook 2009.
- Slovakia
- France: Décret n° 2021-1559 of 1 December 2021, amending the Code of Relations between the Public and the Administration, Article D323-2-1, *et seq.*^[20]

References

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2. CIRCA groupware <http://ec.europa.eu/idabc/en/document/6540.html>
3. IPM technical architecture http://www.ec.europa.eu/yourvoice/ipm/ipmoss_en.htm
4. IPM EUPL <http://ec.europa.eu/idabc/en/document/6541.html#achieve>
5. eLink <http://ec.europa.eu/idabc/en/document/4171/5644>
6. - European Union Public License https://joinup.ec.europa.eu/community/eupl/og_page/eupl-text-11-12
7. Matrix of EUPL compatible licences https://joinup.ec.europa.eu/community/eupl/og_page/eupl-compatible-open-source-licences
8. The EUPL - An Overview by Rowan Wilson, last updated 9 September 2012 (EUPL v1.1 only) <http://oss-watch.ac.uk/resources/eupl>
9. "Joinup Licensing Assistant". <https://joinup.ec.europa.eu/solution/joinup-licensing-assistant/joinup-licensing-assistant-jla>. Retrieved 31 March 2020.
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11. "Introduction to the EUPL licence | Joinup" (in en). <https://joinup.ec.europa.eu/page/introduction-eupl-licence#section-4>.
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15. "Public Consultation on the draft EUPL v1.2". <https://joinup.ec.europa.eu/community/eupl/topic/public-consultation-draft-eupl-v12>. Retrieved 3 December 2015.
16. "Understanding the EUPL v1.2 | Joinup". <https://joinup.ec.europa.eu/news/understanding-eupl-v12>.
17. See Article 1 of the EUPL 1.2 last subpoint, definition of 'Distribution' and 'Communication'.
18. License compatibility in the case of static and dynamic linking. <https://joinup.ec.europa.eu/collection/eupl/eupl-compatible-open-source-licences#section-3>
19. "Open Source Software Recht: Große FAQ mit vielen Praxistipps". <https://www.ra-plutte.de/open-source-software-recht-grosse-faq-tipps>. Retrieved 31 March 2020.
20. Schmitz, Patrice-Emmanuel (3 December 2021). "The EUPL is a 'Legal Licence' in France". Joinup. <https://joinup.ec.europa.eu/collection/eupl/news/eupl-french-administrations>.

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