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Portuguese Parliament

Law n. 36/2011

From the 21st June

On the adoption of Open Standards in the Information Systems of the State

The Assembly of the Republic, in accordance with paragraph c) of Article 161 of the Constitution, enacts the following:

Article 1

Object

The present act establishes the adoption of open standards for digital information in the Public Administration, promoting technological freedom of the citizens and organizations and interoperability of the State information systems.

Article 2

Scope

The present act is applicable to:

- a) Organs of sovereignty;
- b) Services of the Central Public Administration, including public institutes and the decentralized services of the State;
- c) Services under the Regional Public Administration
- d) Public Companies

Article 3

Definition

1 - For the purposes of the present act, "open standard" is considered to be the technical manner in which to publish, transmit and store information in digital format fulfils cumulatively the following requirements:

- a) Its adoption derives from a transparent decision process, available to the participation of all interested parties;
- b) Its respective specifications document has been published and is freely available, with no restrictions to its copy, distribution and utilization;
- c) Its respective specifications document does not incite cover non-documented actions or processes;
- d) Its applicable Intellectual Property Rights, including patents, has been made available wholly, irrevocably and irreversibly to the Portuguese State.
- e) There are no restrictions to its implementation.

2- For the purposes of the present act, "interoperability" is considered to be the capacity of two or more systems, such as computers, media, networks, soft-

ware and other components of information technology, to interact and exchange data according to a defined method aimed at obtaining the expected results.

Article 4

Use of Open Standards

- 1- All processes of implementation, licensing and development of systems of information technology within the Public Administration have to use open standards, according to the regulation mentioned in Article 5.
- 2- Within the Public Administration, the adoption of Open Standards is mandatory in all text documents in digital format, which can be object of emission, exchange, archive, and publication.
- 3- According to this act, text documents in digital format submitted to the Public Administration by any individual or collective person, cannot be refused, ignored or returned on the grounds of using open standards.

Article 5

National Regulation on Digital Interoperability

- 1- The National Regulation on Digital Interoperability, hereinafter referred to as “The Regulation”, sets the rules and digital formats to be adopted by the Public Administration.
- 2- The Regulation covers the following domains:
 - a) Data formats, including character sets, sound and image formats (static and animated), audiovisuals, graphic data and pre-printing.
 - b) Document formats (structured and non-structured) and management of contents, including the management of documents;
 - c) Technologies of web interface, including accessibility, ergonomics, compatibility, and integration of services;
 - d) Protocols for streaming and transfer of sound and animated images in real time, including the transfer, distribution of contents, and peer to peer services;
 - e) Protocols for email, including access to contents, extensions and services of instant messaging;
 - f) Geographic Information Systems, including: cartography, digital records, topography and modelling.
 - g) Rules and protocols for communication in information technology networks.
 - h) Security rules for networks, services, applications, and documents;
 - i) Rules and protocols for integration of information technology systems, exchange of data, and orchestration of trading processes within interdepartmental integration.
- 3- It is the competence of the “Agency for Administrative Modernization” the elaboration of the Regulation, being it mandatory the cooperation with other departments of the Public Administration.
- 4- The Regulation is presented within 90 days after the present act has entered into force and submitted to a process of public discussion for a period of 30 days.
- 5- The Regulation establishes the deadlines for the adoption of the open

standards there defined.

- 6- The Regulation is approved by resolution of the Council of Ministers and must be object to revision within a period of not more than 3 years or whenever justified by the evolution of open standards.

Article 6 **Exceptions**

- 1- If the use of open standards mandated in the text of the present act is impossible, the entities referred to in the paragraphs a) and c) of Article 2, must inform the Presidency of the Council of Ministers.
- 2- If the use of open standards mandated in the text of the present act is impossible, the entities referred to in the paragraphs b) and d) of Article 2 must request a prior and binding opinion to the Presidency of the Council of Ministers, explaining this impossibility together with an evaluation of the defended alternative.
- 3- The opinion, as described in the previous paragraph, must include the verification of whether there is any open format of documents, information, or data to be handled and or produced and also analyse whether:
 - a) There is, in progress any development project for an open solution ;
and
 - b) If the format or protocol proposed is based on a completely documented specification.
- 4- The communication and opinions, as described in the previous paragraphs, must be published in a portal to be created by the Government, and shall contain the modality and the reasons backing the claim of an exception, as well as the risks associated with the use of the chosen format.
- 5- The conditions of the claimed exception have to be periodically appreciated, within the scope and according to the revision procedure of in the Regulation described in the previous article.

Article 7 **Supervision and technical support**

- 1- It is the competence of the Agency for Administrative Modernization to follow, supervise, and coordinate the technical support for the implementation and execution of the present act.
- 2- In compliance to the previous paragraph, the Agency for Administrative Modernization presents and publishes in digital format the Digital Annual Report on Interoperability.

Article 8 **Period of Transition**

The entities referred to in Article 2 must comply with the the deadlines set for the adoption of open standards, as defined in the present act.

Article 9 **Public Procurement**

Any contractual act by the Public Administration that excludes open standards, as described in the present law, is null and void.

Article 10
Entry into force

The present act enters into force 90 days after being published.

Approved on the 6th of April of 2011

The President of the Assembly of the Republic, Jaime Gama

Promulgated on the 19th of May 2011

To be published.

The President of Republic, Anibal Cavaco Silva.

Approved on the 20th May 2011

The Prime Minister, Jose Socrates Carvalho Pinto de Sousa.