

Free/Open Source Licences

EUPL and GPLv3 / a Comparison table



The EUPL is the Open Source licence created under the impulsion of the European Commission. A copyleft Open Source licence, it is specifically adapted to European law. It is the sole licence which has (presently) 22 linguistic versions of equal value. The OSI has recently certified its compliance with the “open source definition”.

1. Why was it developed? Was there a real need?

Historically the Commission and in particular the IDA/IDABC/ISA programme team has had a keen interest in open source software development. The EUPL project started when the Commission expressed the will to licence its own software under an open source licence. It rapidly emerged that none of the existing licences would have fully complied with the Commission’s requirements, in particular on linguistic diversity and on compliance with European law.

Indeed what the Commission, a European public authority, needed was a licence in full compliance with European law and able to provide translations in all official EU languages of the document. Keeping control of the licence’s evolution was also essential. Creating its own licence and controlling copyrights was therefore unavoidable. Following enquiries at the level of national and regional administrations, the Commission found support for this initiative.

However, creating a new licence is challenging. One of the first steps undertaken, was to introduce a specific “compatibility clause” in order to remove potential incompatibility problems with pre-existing and mainstream “strong copyleft” licences, such as GPLv2 for example.

2. Version 1.1 of the licence was published recently. Why this update?

In response to the comments and reactions received on v.1.0, the Commission provided some minor clarifications to avoid interpretation problems. Fundamentally however, no big difference between v.1.0 and v1.1 exist, only the drafting has been improved without affecting the spirit of the licence.

A clarification worth mentioning is the modification of article 1 to improve the management of on-line activities such as “Application Service Providers” (ASP) or “Software as a Service” (SaaS). These activities have been more explicitly included in the scope of the copyleft effect: the EUPL could therefore be described as an “affero-like” licence (AGPLv3).

3. Is the licence used a lot in the EU?

First of all, the EUPL remains a recent licence, and as such, its first main user was its initiator... in the present case: the European Commission. The first pieces of software distributed under the EUPL licence are administrative tools developed by IDABC. Other European authorities, Eurostat for example, have announced the release of software under EUPL. The EUPL is now progressively being used by national governments and local administrations such as the City of Munich (Germany) and the City of Trento (Italy). Today, around 30% of projects hosted on the www.OSOR.eu forge are licensed under the EUPL.

For the future we can reasonably expect a strong increase in the use of the EUPL licence amongst its first-line potential users, namely governments and administrations (including local authorities). However, the take-up of new working methods in public administrations is slow. It can also be reasonably expected that EUPL will increasingly be used in the framework of public procurement and initiatives subsidized by the EU. Private users have also showed interest in the EUPL and have taken it up. Official institutions (public sector, education, health etc.) remain the main users however.

4. Why is EUPL not compatible with GPLv3?

GPLv3 is not (yet) included in the compatibility list. EUPL and GPLv3 incubation processes took place more or less at the same time. EUPL v1.0 was adopted in January 2007 whilst GPLv3 was little bit later on (in June the same year). After the release of EUPL v1.0, the Commission focused on translating and clarifying the licence in order to release EUPL v.1.1 in 22 linguistic versions without changing its content. This phase corresponds more or less to the period where GPL communities started to debate whether to adopt GPLv3 (or even AGPLv3) for their projects.

Presently, it seems that both licences have reached a good maturity level. As a result the question of adding GPLv3 to the compatibility list is becoming recurrent. A strategy towards mutual interoperability between the EUPL and the GPL family (GPLv3, AGPLv3) could therefore being considered.

5. A Brief comparison between the two licences

EUPL V1.1	GPLV3
<p>1. Context</p> <p>The EUPL (European Union Public Licence) is a Free /Open Source (OSI approved) "copyleft" licence created by the European Commission.</p> <p>After a discussion draft published in 2005, the licence was approved by the College of Commissioners in January 1997.</p> <p>The licence has official value in 22 languages.</p> <p>Version 1.1 (update with clarifications) was released in January 2009</p>	<p>1. Context</p> <p>The GPL (European Union Public Licence) is a Free /Open Source (OSI approved) "copyleft" licence created by the Free Software Foundation.</p> <p>After a discussion draft published in 2006, the licence was released by FSF in June 1997.</p> <p>The aim of GPLv3 is to replace the GPLv2 (1991) which needed modernising (i.e. re software patents, licence compatibility, definitions lacking and the prevention of hardware restrictions on software modification ("tivoization")).</p>
<p>2. General impression, comprehensiveness</p> <p>Please download the EUPL licence (in your preferred language) from: http://ec.europa.eu/idabc/eupl</p> <p>Read the licence...</p>	<p>2. General impression, comprehensiveness</p> <p>Please download the GPLv3 licence from: http://www.gnu.org/copyleft/gpl.html</p> <p>Read the licence ...</p>

<p>Do you understand most of its provisions?</p> <p>The EUPL is organised in 15 articles</p> <p>The licence is relatively short (12,700 char) because provisions are general, limiting themselves to fixing principles.</p>	<p>Do you understand most of its provisions?</p> <p>The licence is organised in 17 articles</p> <p>The licence is relatively long (34,240 char.) as provisions are detailed, with the aim to address specific and technical issues.</p>
<p>3. Language</p> <p>The Licence has currently 22 linguistic versions.</p> <p>All linguistic versions have identical value.</p> <p>Parties can use the linguistic version of their choice.</p> <p>This is especially convenient in the public sector (where using the country's official language in contractual processes is recommended or, in some cases, compulsory).</p> <p>The licence can be produced in court "as is" in non-English speaking countries (no need for a sworn translator)</p>	<p>3. Language</p> <p>The licence has official value in English.</p> <p>If the authors' (or country) language is different (i.e. French, Spanish, Italian etc.), the author (or body, authority) which selects the GPLv3 will be "forever" (because of the copyleft obligation) committed to distributing the relevant assets under a foreign language provision (unless the FSF decides to release other official linguistic versions of the GPLv3, which is currently not the case).</p> <p>In case of litigation in a non-English speaking country (i.e. in France, Spain, Italy etc), the court will ask a "Sworn Translator" to translate the text or the GPLv3. (volunteer and unofficial translations found on the Internet will probably not be considered by the court, if there is a point of litigation or a need for licence interpretation) This represents a cost and a risk increased by the relative complexity of the GPLv3: translation will be repeated for each litigation. Depending on the translator's variable background and expertise, it is unavoidable that resulting translations will present some differences in each specific case.</p>
<p>4. Rights</p> <p>The licence gives rights defined in the 10 OSI principles / the 4 Free software freedoms. Rights and obligations are the same in the two licences, with the following differences:</p> <p>The EUPL covers SaaS (Software as a Service): if an internet service provider modifies the licensed software to distribute online services (as Google does), this is "software distribution".</p> <p>The EUPL ignores "Tivoisation" (term created after the EUPL publication). There is no specific provision about hardware providers implementing a protection against EUPLed software modification on their specific hardware. This means that, in case of litigation, the court will appreciate if the spirit of EUPL has been violated or not.</p>	<p>4. Rights</p> <p>The licence gives rights defined in the 10 OSI principles / the 4 Free software freedoms. Rights and obligations are the same in the two licences, with the following differences:</p> <p>The GPLv3 does not cover "Software as a service": if an internet service provider modifies the licensed software to distribute online services (as Google does), this is not "software distribution". However, it is allowed to switch from the GPLv3, to a variant, the Affero GPLv3 (AGPLv3) that covers SaaS (like the EUPL).</p> <p>The GPLv3 covers "Tivoisation" (this is a new term invented by the FSF, which is not used "as is" in the GPLv3) meaning that it prevents hardware providers to adapt free software in order to implement (and lock) a protection which will not allow modified software to run on their hardware.</p> <p>Note: This is still controversial: Many consider that "Tivoisation" is related to hardware protection (i.e. against theft, counterfeiting) and that the aim of this protection is not software appropriation or distributing closed software.</p>

<p>5. Freedom and Copyleft effect</p> <p>Free software freedoms are given by the licence.</p> <p>The licence is copyleft, meaning that once software is licensed under EUPL, it is “forever”.</p> <p>However, the EUPL has a compatibility list: when it is necessary for avoiding licence conflicts, developers have the freedom to change for another “similar” copyleft licence: GPLv2, Eclipse, OSL, CeCILL, Common Public Licence.</p> <p>This is the “interoperability” answer provided by the EUPL to solve the current proliferation of copyleft licences. The compatibility list will be extended if there is a need to do so.</p> <p>For example, you can merge GPLv2 software into EUPL software and – in order to avoid licence conflicts – you will licence the merged software under the provision of the GPLv2.</p>	<p>5. Freedom and Copyleft effect</p> <p>Free software freedoms are given by the licence, except the freedom to change for another licence: the licence is copyleft, meaning that once software is licensed under GPLv3, it is “forever”.</p> <p>This produce “licence conflicts” between the GPLv3 and other copyleft FLOSS licences. Because of that, the FSF urges its community of developers to not use other copyleft licences (as for example the EUPL).</p> <p>The only possible one-way switch is in direction of the AGPLv3, in order to cover SaaS (possibly, it would be possible to switch for future GPL versions: “GPLv3 or later”).</p>
<p>6. Other Obligation and warranties</p> <p>Are those of any FLOSS licence:</p> <ul style="list-style-type: none"> - communicate or provide access to source code - respect all existing copyright and trade marks - prominent marks in case of modification <p>Warranties consider European consumer protection and information practices:</p> <ul style="list-style-type: none"> - Information to the public regarding the licensor and contributors. - The original authors and each contributor warrant that they own copyright for their contribution. - Otherwise no warranty <u>because</u> the work is “in progress”. - Liability in case of wilful misconduct and/or damages to persons. - Liability in so far statutory product liability laws apply. 	<p>6. Other Obligation and warranties</p> <p>Are those of any FLOSS licence:</p> <ul style="list-style-type: none"> - communicate or provide access to source code - respect all existing copyright and trade marks - prominent marks in case of modification <p>There is a general “catch-all” exclusion of warranty and liability:</p> <ul style="list-style-type: none"> - NO WARRANTY to the extent permitted by applicable law - NO LIABILITY unless required by applicable law <p>Note: it is known that the above general exclusion may not be realistic and accepted by courts in Europe. See “applicable law” hereafter.</p>
<p>7. Applicable law</p> <p>Applicable law is designated: <i>law of the European Union country of the Licensor</i></p>	<p>7. Applicable Law</p> <p>Applicable law is not expressly designated. In case the disclaimer of warranty / limitation of liability provided cannot be given local legal effect, it is the “<i>local law that most closely approximates an absolute waiver of all civil liability</i>”</p>
<p>8. Venue (or competent court)</p> <p>Court is designated: <i>where the Licensor resides</i></p>	<p>8. Venue (or competent court)</p> <p>Court is not designated.</p>
<p>9. Complementary agreements</p> <p>Possible, if consistent with the licence (provision 9)</p>	<p>9. Complementary agreements</p> <p>Possible, if consistent with the licence (provision 7)</p>

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