

License That!

The European Union can show off with its own free, open source license. *By Matija Šuklje*

The European Union Public License (EURL) is an OSI-approved and FSF-compliant open source license written by the EU (see Table 1 for a definition of terms). Yes, I know, you're going to say, "Meh, another FOSS license. Don't we have enough already?" Usually, I'd agree – there are (too) many already – but there's a reason EURL is worth knowing.

Why Not Just GPL?

Being in compliance with both the FSF and OSI conditions for FOSS, the EURL [1] enables any user to use or run a licensed work for any purpose, obtain its source code, share and (re)distribute it, and modify the code. Basically, it grants you all the rights you would expect from a FOSS license.

It all started when the European Commission concluded that using the FOSS

model was an ideal way to develop software for the public sector (projects like OSOR [2] and IDABC [3]) – especially when considering a community of many governments working together. With that in mind, they set up some additional goals that needed to be met:

1. It had to be legally valid in all the EU official languages.
2. It had to consider all the diversities of the individual laws of each EU member state.
3. It had to be downstream-compatible with the most relevant FOSS licenses [4].

None of these criteria can be achieved with simply the GPL.

What's the Fuss?

The EURL is the first license in the world to be released by an international governing body and has some very unique features. For starters, it's released in all official languages of the EU (22 at the moment) and written and maintained to conform with the law of all EU member states (27 at the moment). This is big because most licenses are heavily US-centric, and it's always questionable as to whether interpretation of US legal terms will hold ground in other countries around the globe.

The elegant bit here is that the EURL's text uses abstract concepts and wording, which was tested to conform with both the EU laws and with all its member states [5]. In turn, this gives users a choice of language because they all have the same value (that of the original text).

TABLE 1: Glossary

Term	Definition
OSI	Open Source Initiative
FSF	Free Software Foundation
IDABC	Interoperable Delivery of European eGovernment Services to Public Administrations, Businesses, and Citizens
OSOR	European Open Source Observatory and Repository
European Commission	The executive body of the European Union
ECJ	Court of Justice of the European Communities (a.k.a. European Court of Justice) – the highest court in the European Union in the matters of European Community law
Licensor	The one who distributes or communicates a work under a license
DRM	Digital Rights Management

Because it tackles the problems with abstract yet clear concepts, it's a lot shorter (ca. three times!) and easier to understand than the GPL v3, for example. Also, it's a lot easier to extend to works other than software, if needed.

The problems of jurisdiction and applicable law are also very neatly solved by clauses that say:

1. If the licensor is the European Commission, the Belgian law applies, and the jurisdiction falls on the ECJ.
2. If the licensor is based in the EU, the law that applies is that of the licensor's country, and the jurisdiction also falls on the court of the licensor's country of residence.
3. If the licensor is not from the EU, the jurisdiction falls to the court of the licensor's country of residence, but it has to use the Belgian law.

This ensures that, whoever the licensor, there is no question as to whether the court will deem the license valid.

Sublicensing and license compatibility are other common problems addressed by the EUPL. Broadly speaking, licenses fall into two categories: the permissive (like BSD and MIT licenses), which lets you do whatever you want with the licensed work, and the copyleft (like GPL), which includes obligations as well to better protect the code and the project. For example, the BSD license lets you take the code and re-license under any terms you want, whereas the GPL forces you to publish any modifications under the GPL [6].

The EUPL solves this problem with a copyleft clause and by appending a list of downstream-compatible licenses. In

practice, this means if you want to merge code from a BSD project and an EUPL project, the new work must be under the EUPL, because the BSD license lets you re-license the code, whereas the EUPL's copyleft clause doesn't (because BSD is not on the list).

However, if you mix code from a GPL (v2) project and from an EUPL project, you could license the whole thing under the GPL (v2) because the GPL does not allow you to re-license, whereas EUPL explicitly mentions GPL (v2) as a compatible license. The main idea here is that the more permissive licenses are not protecting the project on the one hand, while the strict/"viral" copyleft licenses are restricting it on the other.

The EUPL is very clear in terms of ability to merchandise and of patents. The rights covered by the EUPL are royalty free, although it does allow additional agreements when it comes to supplementary services. As for patents, by using the EUPL, the licensor grants the licensee royalty-free usage rights to any of the licensor's patents to the extent necessary to use the rights granted by the EUPL. It does not mention DRM or "tivoization," though.

Warranty and liability are also covered very realistically by the EUPL. The authors and contributors warrant only that they own the copyright to their work and are liable for willful misconduct; otherwise, there is no warranty because the work is "in progress."

Conclusion

The EUPL is primarily intended for EU's own projects, so the direct effect of it will be on the development and collaboration between and with the code of EU governments.

The EUPL is a safe choice for your own project. Especially if you are new to the concept of FOSS, I would advise you to check out the EUPL because of its clarity and compatibility.

The biggest benefit of the EUPL, though, is that it shows how it is possible to write a solid FOSS license that covers many legal systems, is valid in a lot of languages, is clear and understandable, and offers a nice set of checks and balances.

Maybe in the future, we'll be able to agree on a similar global public license – I sure hope so! ■■■

INFO

- [1] EUPL license texts: <http://ec.europa.eu/idabc/eupl>
- [2] Open Source Observatory and Repository: <http://www.osor.eu/>
- [3] Interoperable Delivery of European eGovernment Services to public Administrations, Businesses, and Citizens: <http://ec.europa.eu/idabc/>
- [4] Study of compatibility mechanism of the EUPL: <http://ec.europa.eu/idabc/servlets/Doc?id=27472>
- [5] Comments on the EUPL: <http://www.osor.eu/eupl/introduction-to-the-eupl-project>
<http://www.technollama.co.uk/european-public-license>
<http://technollama.blogspot.com/2008/01/european-public-license.html>
- [6] Comparing EUPL with GPL v3: <http://www.eolevent.eu/sites/default/files/EOLE%202008%20E2%80%94%20Patrice-Emmanuel%20Schmitz%20%20E2%80%94%20GPL%20v3%20or%20EUPL%20-Alternative%20for%20Public%20Sector%20and%20their%20providers.pdf>
<http://linux.com/news/biz-os/legal/18749-freedom-and-choice-in-open-source-licensing-comparing-the-eupl-v11-and-the-gpl-v3>

LICENSE COMPATIBILITY

"Compatible Licenses" according to article 5 EUPL (v1.1) are:

- GNU General Public License (GNU GPL) v2
- Open Software License (OSL) v2.1, v3.0
- Common Public License v1.0
- Eclipse Public License v1.0
- CeCILL v2.0

The EUPL's compatibility list currently does not include GPL v3, but if demand were high enough, I think the European Commission would add it in the future. A few claim that EUPL and GPL v3 are incompatible by design, though.

THE AUTHOR

Matija Šuklje is a law student with a great interest in intellectual property, IT, and FOSS. He's been an active GNU/Linux user for over a decade and is the founder and coordinator of the FSFE Fellowship group Slovenia. More about him, law, FOSS, and tea can be found on his homepage: <http://matija.suklje.name>.

