

Template Guidelines for Open Research Data (ORD)

16. January 2025

Preamble

In May 2020, the ETH Board adopted an “Open Research Data Position of the ETH Domain” and established an “Open Research Data Programme”. This programme consists of five measures. Measure four concerns the legal basis for Open Research Data (ORD). Three objectives are being pursued as part of this measure: (i) identification of the (federal) legal obstacles to making research data accessible as ORD by researchers or the institutions of the ETH Domain; (ii) clarification of the responsibilities of researchers and the institutions of the ETH Domain; (iii) development of ORD guidelines that can be used as a common reference in the institutions of the ETH Domain.

These template guidelines have been developed to achieve objective (iii). The institutions of the ETH Domain may incorporate the provisions of these template guidelines into their existing guidelines on research data management or use them to develop separate ORD guidelines within their institution.

The (federal) legal obstacles to making research data available as ORD and the ORD-related responsibilities of researchers and institutions in the ETH Domain (objectives [i] and [ii]) are explained in the report “Open Research Data, Rechtliche Grenzen und Gestaltungsmöglichkeiten” of 31. January 2025. This report showed that not all research data can be made available as ORD. Swiss law contains various restrictions, some of which are general, while others are domain-specific. The most important general restrictions are:

- (i) Data protection law: research data may contain personal data, i.e. data relating to an identified or identifiable person (data subject); such data cannot be published as ORD without the consent of the data subjects.
- (ii) Copyright law: research data may contain copyright protected subject matter such as text, images, video footage, source code, and the like; such data may only be published as ORD with the consent of the copyright holder.
- (iii) Protection of trade secrets: research data may consist of or contain trade secrets. Such data may only be published as ORD with the consent of the trade secret holder.

Domain-specific restrictions vary according to the field of research. They are laid down in the Goods Control Act, the Information Security Act, the Human Research Act, the Geoinformation Ordinance, and in the Nuclear Energy Act, to name but a few of the most important laws and regulations. These restrictions usually apply to research activities in general, and not specifically to the making available of research data as ORD. Researchers should therefore be familiar with the restrictions that apply in their field of research. However, they need to be aware that these restrictions may also apply to the making available of research data as ORD, and that there may be more stringent restrictions if research data are to be made publicly available.

These guidelines aim to facilitate and promote the making available of research data as ORD by providing a set of rules to be applied. Although data ownership vests in the respective institution of the ETH Domain (see report “Open Research Data, Rechtliche Grenzen und Gestaltungsmöglichkeiten”, B.2), ORD-related decisions should be made by the researchers and the research group leaders based

on the ORD strategy of the respective institution, after consultation with the relevant internal service units, if necessary.

Art. 1 Scope

¹ These guidelines apply to all members of [institution of ETH Domain] involved in scientific research, including doctoral students [consider: and students], and to all fields of research.

² They only apply to Research Data and not to Scientific Code. However, Scientific Code must be made available with Research Data if such data cannot be analysed or reproduced without the corresponding Scientific Code.

Art. 2 Definitions

¹ Research Data are all data that the relevant scientific community deems necessary for validating research findings.

² Metadata are data that provide information about data.

³ Open Research Data (ORD) are Research Data that are publicly available, accessible, and reusable at no cost.

⁴ Scientific Code means machine-readable instructions created in a research project to analyse Research Data, to reproduce research findings from a data set, or to perform experiments.

⁵ FAIR Principles are internationally recognised guidelines to improve the Findability, Accessibility, Interoperability and Reuse of Research Data.

⁶ Research Group Leaders are [to be defined by institution of ETH Domain].

Art. 3 Publication of Research Data

¹ Research Data should be made available as ORD.

² After consultation with the researchers who contributed Research Data or Scientific Code, Research Group Leaders decide whether Research Data, associated Metadata and Scientific Code will be made available as ORD and whether such Data and Code will be made available immediately or after a reasonable embargo period.

Art. 4 FAIR Principles, Repository, and License

¹ Research Data that is made available as ORD must be published according to the FAIR Principles.

² After consultation with the researchers who contributed Research Data or Scientific Code, Research Group Leaders decide on which repository the Research Data is made available and what data format should be used.

³ If the repository does not require the use of a specific license, Researchers and Research Group Leaders jointly decide on the license to be used. The use of the “Creative Commons Zero License” (CC0) or the “Creative Commons Attribution License” (CC-BY) is recommended.

⁴ Research Group Leaders ensure that the making available of Research Data as ORD is addressed in the data management plan. They consider whether Research Data made available as ORD should also be stored in an additional repository or storage medium to ensure long-term preservation of the Research Data and to avoid dependence on a single repository.

Art. 5 Restrictions

¹ Research Group Leaders examine whether applicable laws, third-party rights, or contractual obligations, such as data protection laws, copyright law (including in Scientific Code), confidentiality obligations, and domain-specific regulations, restrict or prohibit the making available of Research Data as ORD.

² This examination must be carried out prior to making Research Data available as ORD. In case of doubt, Research Group Leaders must consult with the relevant internal service units.

Art. 6 Responsibility

Research Group Leaders are responsible for ensuring that the researchers in their group comply with these guidelines.