

Diritto d'autore, rights retention e secondary publication rights

CNR E OPEN SCIENCE: PER UNA SCIENZA APERTA E CONDIVISA

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ERA Study

- Mapping of literature, OS policies, EU and national copyright and data legislation
- Surveys with researchers, RPOs, publishers (commercial and institutional)
- Impact assessment
- Policy options



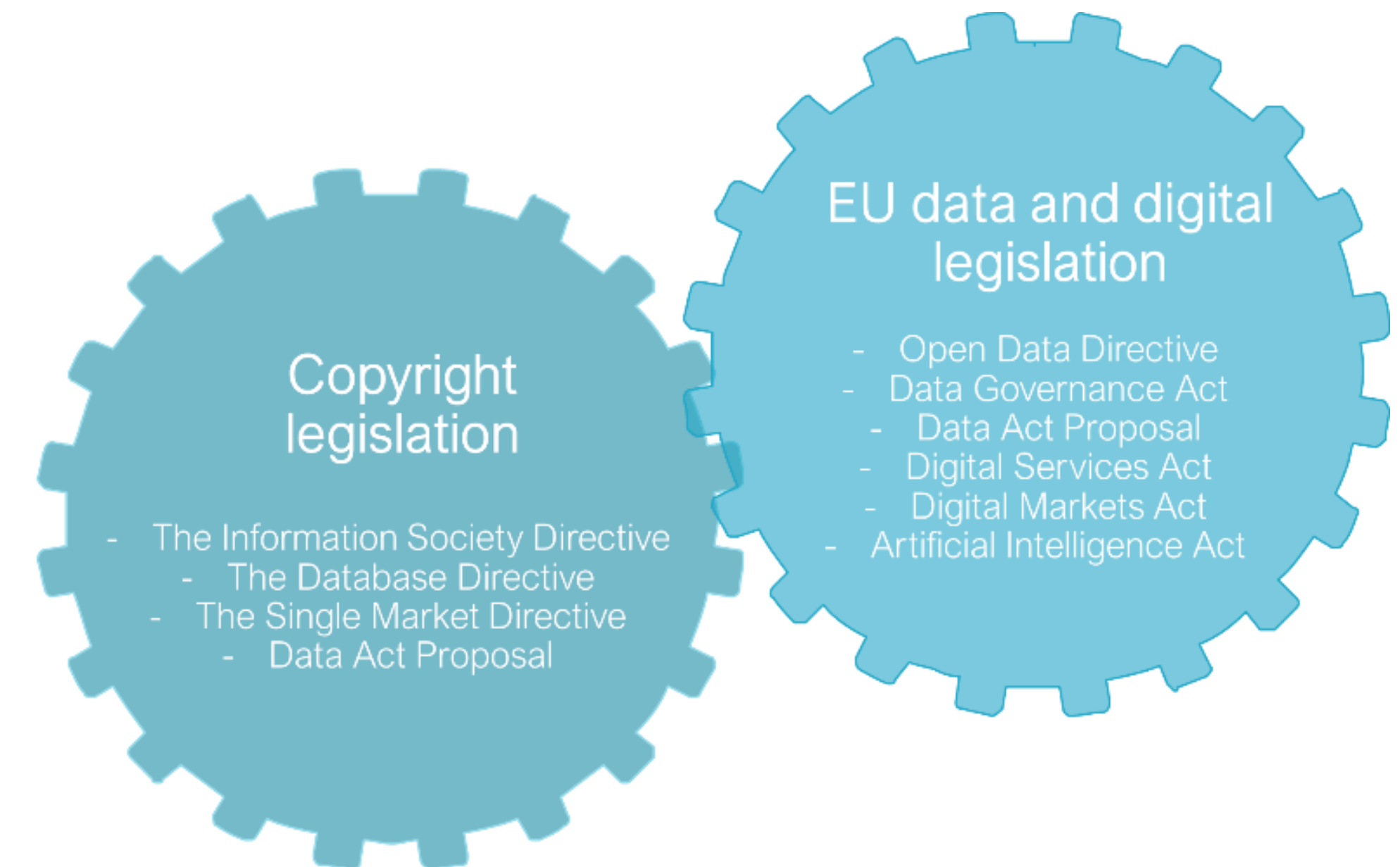
available at <https://data.europa.eu/doi/10.2777/633395>

Scope of the study: legislative and regulatory frameworks

Study's main objective → to assist the EC in the delivery of the main outcomes of priority action 2 of the European Research Area Policy Agenda 2022-2024 (“Propose an EU copyright and data legislative and regulatory framework fit for research”)

Two main outcomes:

- 1. Identifying regulatory barriers and challenges to access and reuse of publicly funded R&I results and of publications and data for scientific purposes**
- 2. Proposing legislative and non-legislative measures to improve the current EU copyright and data legislative and regulatory frameworks to make it fit for scientific research, open research data and ERA.**



Problem:

transfer of copyright to publish in certain journals

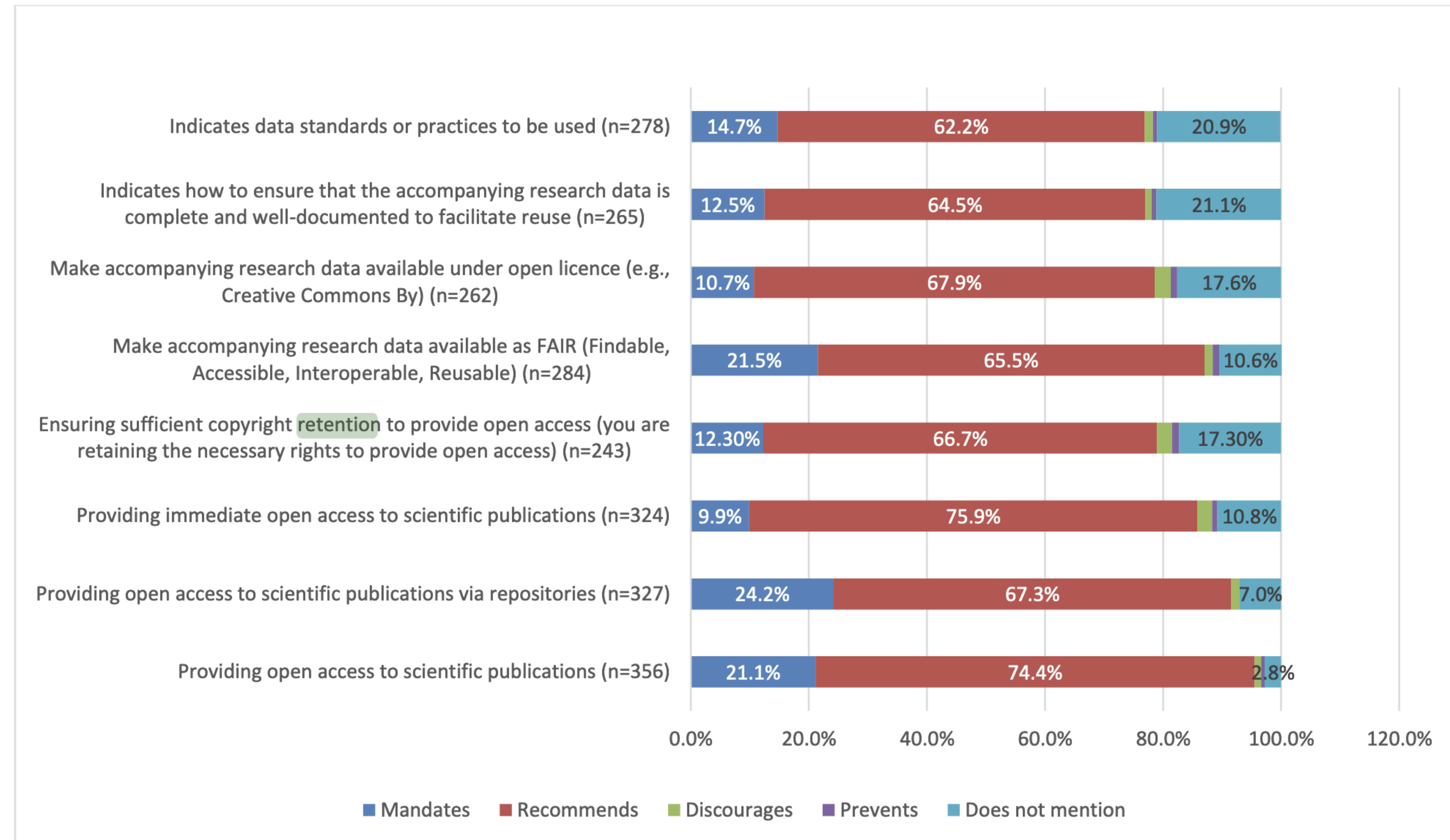
- Solutions:
- Don't transfer it ---> rights retention strategies
- Get it back ---> secondary publication rights

Table 39. Number of survey responses and response rates

	Completed responses	Partial responses *	Total number of responses (completed and partial)	Invites sent (valid)**	Response rate (completed)	Total response rate (with partials)
Researchers' survey	934	28	962	13 874	6.7%	6.9%
<i>Copyright legislation</i>	895	27	922	13 874	6.5%	6.6%
<i>Data and digital legislation</i>	896	4	900	13 874	6.5%	6.5%
RPO survey	564	19	583	4 827	11.7%	12.1%
<i>Copyright legislation</i>	533	17	550	4 827	11%	11.4%
<i>Data and digital legislation</i>	441	9	450	4 827	8.5%	9.3%
Scientific publishers' survey***	105	23	128	848****	12.4%	15.1%
<i>Copyright legislation</i>	103	19	122	848****	12.1%	14.4%
<i>Data and digital legislation</i>	100	13	113	848****	11.8%	13.3%

Survey description pp 882-893 of the report (Annex 5). Table at p. 890.

Figure 81. Open Access provisions in institutional policies



As the question allowed for multiple choices, the overall number of researchers is not specified. However, Table 79 indicates the total count for each of the options.

Table 79. Open Access provisions in institutional policies

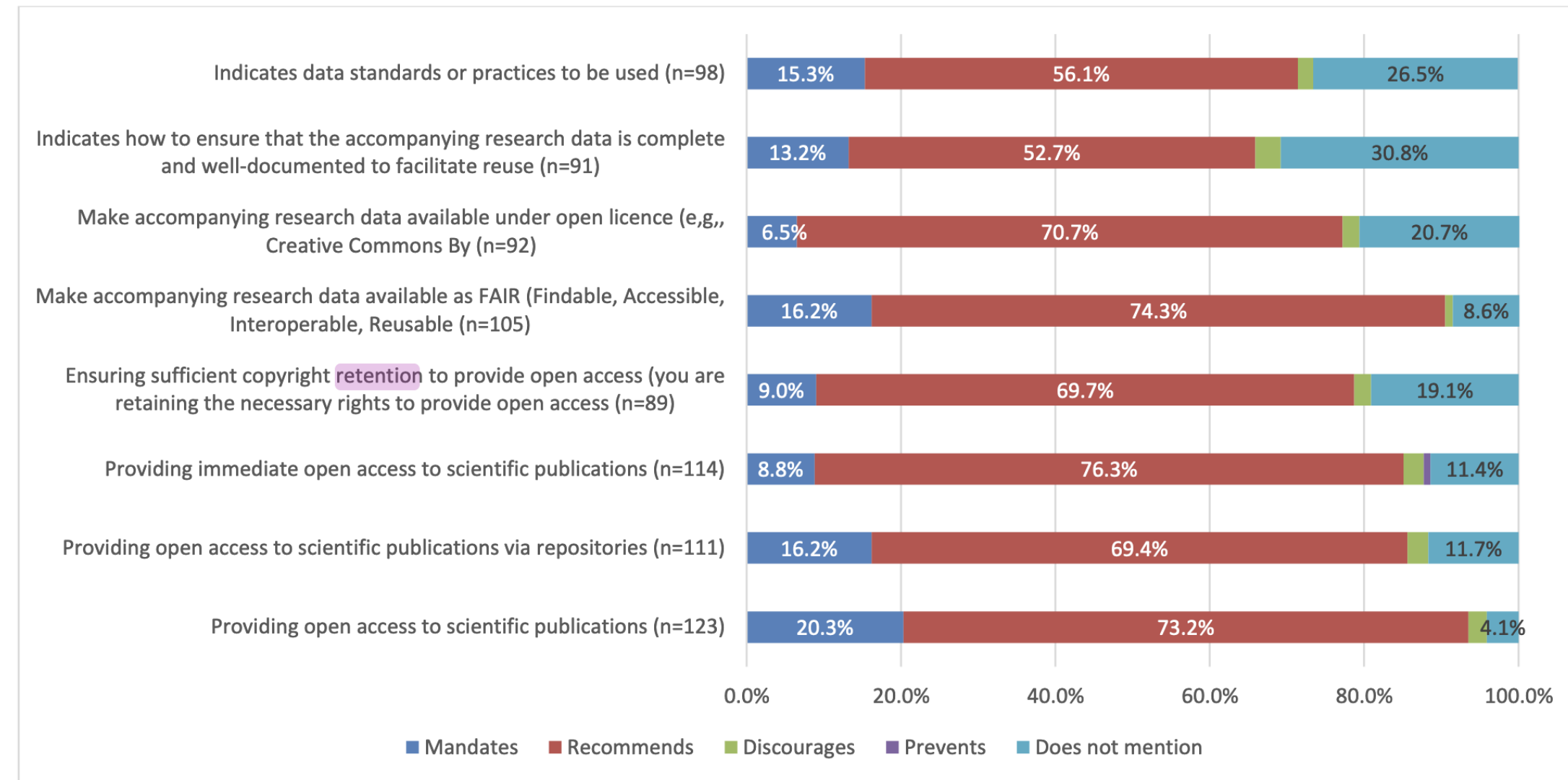
	Mandates	Recommends	Discourages	Prevents	Does not mention	Total
Providing Open Access to scientific publications	75 (21.1%)	265 (74.4%)	4 (1.1%)	2 (0.6%)	10 (2.8%)	356
Providing Open Access to scientific publications via repositories	79 (24.2%)	220 (67.3%)	5 (1.5%)	0 (0.0%)	23 (7.0%)	327
Providing immediate Open Access to scientific publications	32 (9.9%)	246 (75.9%)	8 (2.5%)	3 (0.9%)	35 (10.8%)	324
Ensuring sufficient copyright retention to provide Open Access (you are retaining the necessary rights to provide Open Access)	30 (12.3%)	162 (66.7%)	6 (2.5%)	3 (1.2%)	42 (17.3%)	243
Make accompanying research data available as FAIR (Findable, Accessible, Interoperable, Reusable)	61 (21.5%)	186 (65.5%)	4 (1.4%)	3 (1.1%)	30 (10.6%)	284
Make accompanying research data available under open licence (e.g. Creative Commons By)	28 (10.7%)	178 (67.9%)	7 (2.7%)	3 (1.1%)	46 (17.6%)	262
Indicates how to ensure that the accompanying research data are complete and well-documented to facilitate reuse	33 (12.5%)	171 (64.5%)	3 (1.1%)	2 (0.8%)	56 (21.1%)	265
Indicates data standards or practices to be used	41 (14.7%)	173 (62.2%)	4 (1.4%)	2 (0.7%)	58 (20.9%)	278

Source: Compiled by the study team using data from the researchers' survey, the question in the survey was, "To the best of your knowledge, does your institution's Open Access policy mandate, recommend, discourage or prevent any of the following provisions?"

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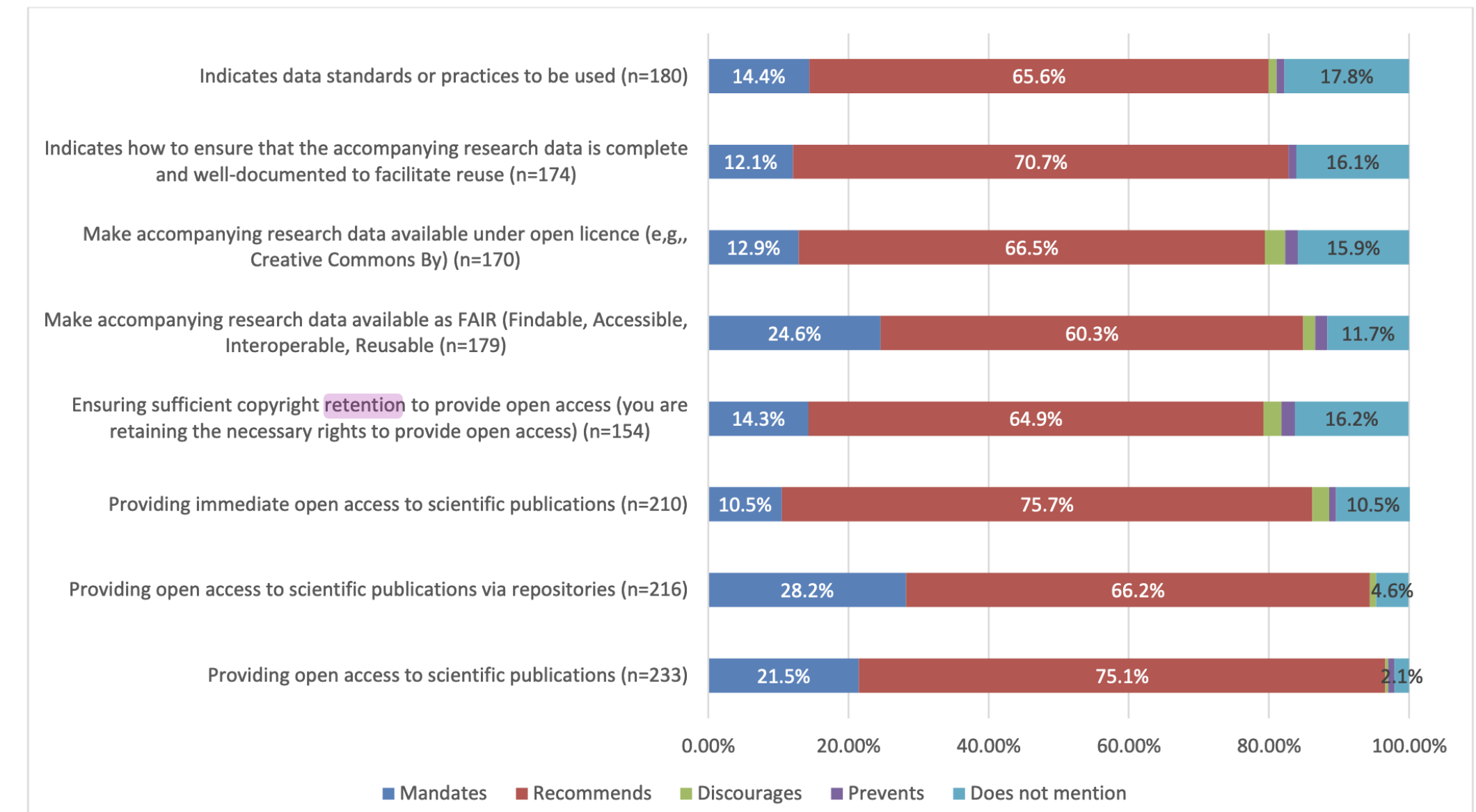
Survey description, Table at p. 938.

Figure 83. Open Access provisions in institutional policies (SPR countries)



Source: Compiled by the study team using data from the researchers' survey, the question in the survey was "To the best of your knowledge, does your institution's Open Access policy mandate, recommend, discourage or prevent any of the following provisions?"

Figure 82. Open Access provisions in institutional policies (non-SPR countries)



Source: Compiled by the study team using data from the researchers' survey, the question in the survey was "To the best of your knowledge, does your institution's Open Access policy mandate, recommend, discourage or prevent any of the following provisions?"

Survey description, Table at p. 940.

SPR in 6 Member States

FEATURES	DE (2013)	NED (2015)	AT (2015)	FR (2016)	BE (2018)	BG (2023)
Source	UrhG, §38	AW, Art.25fa	UrhG, §37a	CPI, Art. L.533-4	CDE, Art.XI.196	Bulgarian Copyright Act, Article 60
Subject matter	<ul style="list-style-type: none"> Scientific contributions Appeared in collections periodically published at least 2 times a year 	<ul style="list-style-type: none"> Short works of science No limitation as to venue of first publication 	<ul style="list-style-type: none"> Scientific contribution by member of staff of research institutions Appeared in collections periodically published at least 2 times a year 	<ul style="list-style-type: none"> Scientific writing (<i>écrit</i>) Published in a periodical issued at least once a year 	<ul style="list-style-type: none"> Scientific article Published on a periodical (number of issues not specified) 	Scientific work
Requirements	Research publicly funded for > 50%	Research financed entirely/partly publicly	Research publicly funded for at least 50%	<ul style="list-style-type: none"> Research publicly funded for at least 50% Agreement of all co-author(s) required 	Research publicly funded for at least 50%	<ul style="list-style-type: none"> Research publicly funded, in whole or in part Publisher shall be informed about the publication of the manuscript by the author
Overrides contrary contractual clauses?	Y	Y	Y	Y	Y	Y
Version limitation	Only for AAM version	No limitation	Only for AAM version	Only for AAM version	Only for AAM version	No limitation
Content of SPR	Right to make the contribution available to the public	Right to make the work available to the public free of charge	Right to make the contribution publicly accessible	Right to make available the contribution free of charge in an open format, by digital means	Right to make the manuscript available to the public free of charge	Right to make the work or parts thereof available to the public
Embargo	1 year after 1 st publication	After a reasonable period	1 year after 1 st publication	6 month (science, technology and medicine) or 1 year (humanities and social science) after 1 st publication	6 month/1 year after 1 st publication, but can be shorter (if so provided by contractual licensor) or longer (by law)	None
Use limitation	Non-commercial purposes	No limitation (type of use not specified)	Non-commercial purposes	Non-commercial purposes	No limitation (type of use not specified)	Non-commercial purposes
Mention of source	Mandatory indication of 1 st publication	Mandatory indication of 1 st publication	Mandatory indication of 1 st publication	Not required	Mandatory indication of 1 st publication	Not required

Why an EU-wide Secondary Publication Right?

- Empowering scientific authors and rebalancing bargaining powers in publishing contracts
- Ensuring greater availability of publicly-funded research
- Not an E/L but a right subject to specific conditions to strike a balance between conflicting interests

- **Harmonized and EU-wide** to provide one single legal framework which could
 - increase researchers' awareness
 - facilitate collaborative cross-border endeavors
 - avoid fragmentation of contractual practices in the internal market and European Research Area

SPR-01: broad range of scientific output covered

SPR-02: relaxing public funding requirement (50% or less)

SPR-03 cover version of record (VOR)

SPR-04: minimise embargo periods (none or 6 months)

SPR-05: no limit to non-commercial use



Useful resources

Full study: <https://data.europa.eu/doi/10.2777/633395>

Press release: https://research-and-innovation.ec.europa.eu/news/all-research-and-innovation-news/enhancing-research-accessibility-and-reuse-new-study-outlines-strategic-measures-2024-05-16_en

Blog: <https://www.law.kuleuven.be/citip/blog/new-study-improving-access-to-and-reuse-of-research-results-publications-and-data-for-scientific-purposes/>

Thank you!



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