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INSPIRE
Infrastructure for Spatial Information in Europe

Workshop on legal issues – 17 June 2010, Brussels

Questions and Answers on the implementation of the INSPIRE Directive 2007/2/EC

Title	Workshop on legal issues – Questions and Answers on the implementation of the INSPIRE Directive 2007/2/EC
Creator	European Commission
Date	19 June 2010
Subject	Written questions received from the Member States in preparation to workshop on legal issues 17 June 2010. Answers provided by the Commission.
Status	Final
Publisher	INSPIRE Consolidation Team
Type	Text
Description	
Contributor	
Format	PDF
Source	European Commission
Rights	Participants to the workshop – INSPIRE Committee – National Contact points
Identifier	INSPIRE WS legal issues - QA v 1.3.pdf
Language	En
Relation	
Coverage	

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1. Purpose of this document

This document collates the questions received from a number of countries, EU member states and EEA countries, in preparation of a workshop on legal issues related to the implementation of the INSPIRE Directive 2007/2/EC.

The workshop is organised in Brussels on 17 June 2010.

For each question a written answer is provided by the Commission.

The document is available as a 'non-paper', as it does not represent an official position of the Commission, and as such can not be invoked in the context of legal procedures.

2. Introduction

Number of questions per country

COUNTRY	#	COUNTRY	#
Austria	3	Latvia	1
Belgium	1	Lithuania	0
Bulgaria	0	Luxembourg	0
Cyprus	0	Malta	0
Czech Republic	1	Netherlands	1
Denmark	3	Norway	0
Estonia	4	Poland	6
Finland	0	Portugal	0
France	1	Romania	0
Germany	19	Slovakia	0
Greece	0	Slovenia	0
Hungary	0	Spain	0
Iceland	0	Sweden	3
Ireland	0	Switzerland	0
Italy	0	United Kingdom	0

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3. Austria - 3

Question:

1. Art. 4 (1)

Considering the purpose (Art. 1) of the Directive by looking at spatial data sets belonging to the theme "utility and government services", especially energy supply:

- Is the interpretation correct that (only) spatial data sets related to transmission lines for electricity which are covered by the Directive on the assessment of the effects of certain public and private projects on the environment are covered by the INSPIRE-Directive?

- Are there other requirements or reasons supporting the opinion that only spatial data sets of particular – larger - power lines are covered by the INSPIRE-Directive?

Considering Art. 4 (6) and the following question no. 3:

- Has the Directive to be applied to spatial data sets related to power lines of the lowest power grid level (f. e. power lines to residential buildings)? In this case it's a moot question whether the purpose of the Directive requires the application of the Directive to such specific spatial data sets.

Answer:

No. The INSPIRE scope and content is not limited or constraint by the EIA directive or by the 'dimension' of a particular utility and/or government service.

Article 4.6 narrows the scope of the spatial data sets down to those for which Member States have laws or regulations requiring their collection or dissemination. If for example, information on power lines is needed, by law, for conducting an environmental impact assessment, then such power lines would fall under the INSPIRE scope.

Question:

2. Art. 4 (2) and Annex III, theme 6. Utility and governmental services

In Austria spatial data sets sometimes are collections of subsets from public authorities operating at lower levels of government.

These collections have the same (environment-related) content as the sum of the subsets. Sometimes the collections have a few additional, only formal attributes, f. e. for the identification of the subsets.

Is the interpretation correct that, by reflecting the purpose (Art. 1) of the INSPIRE-Directive and the intention to keep the infrastructure well-organised and to avoid multiple maintenance of spatial data sets, such collections of data sets are considered to be reference versions?

Answer:

The Member States determine how they organise their infrastructure and data sets. If indeed up to date reference data sets exist at the higher levels of government which are based on sub-sets at lower administrative level, then these could well be considered by a Member State as the INSPIRE relevant data set. – This would be inline with the INSPIRE principle n°1: "spatial data sets are stored, made available and maintained at the most appropriate level" (recital 6).

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Question:

3. Art. 4 (6)

How is the term “public authority operating at the lowest level of government” to understand?
Is it possible that a public authority only referred to in point (9) (c) of Art. 3 is such a public authority?

Answer:

The type of public authority to which Article 4(6) refers can be any of the 3 types covered by the definition of public authority in article 3.9(c).

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4. Belgium - 1

Question:

It would be very useful to know the exact procedure that the Commission follows or can follow when a country has not yet transposed the Directive. What are the exact consequences? What is the procedure/are the actions taken?

Answer:

Failure to transpose within the delay = "a Member State fails to comply with EU law, the Commission has powers of its own (**action for non-compliance**) to try to bring the infringement to an end and, where necessary, may refer the case to the European Court of Justice. "

Under the non compliance procedure started by the Commission, **the first phase is the pre litigation administrative phase also called "Infringement proceedings"** The purpose of this pre-litigation stage is to enable the Member State to conform voluntarily with the requirements of the Treaty. There are several formal stages in the infringement procedure. The Commission may first have to carry out some investigation, namely when infringement procedures are launched further to a complaint.

Steps:

- 1) **The letter of formal notice represents the first stage** in the pre-litigation procedure, during which the Commission requests a Member State to submit its observations on an identified problem regarding the application of EU law within a given time limit.
- 2) If necessary: A **reasoned opinion** sets out the Commission's position on the infringement and to determine the subject matter of any action, requesting the Member State to comply within a given time limit. If not complied within given time limit -> 3).
- 3) **Referral by the Commission to the Court of Justice opens the litigation procedure.**
- 4) **Consequences:** Court may rule – request MS to take corrective measures and impose eventually financial penalties – **For more info on penalties and calculation method:**
http://ec.europa.eu/community_law/docs/docs_infringements/memo_05_482_en.pdf

The full explanation of the procedures can be found at:

http://ec.europa.eu/community_law/infringements/infringements_en.htm

NOTE: For status of INSPIRE: see **Recent Commission decisions** at
http://ec.europa.eu/community_law/infringements/infringements_decisions_en.htm - information per country

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5. Czech Republic - 1

Question:

Art. 14 point 2. sets rules for “very large volumes” of “frequently updated data”.

We would like to know:

- whether the member states had to define more specifically these provisions
- if yes how “very large volume” was defined
- if yes how “frequently updated data” was defined
- in practice which data sets member states consider as “very large volumes” of “frequently updated data”. Could they list some examples?

In our country we were obliged to define these provisions and the only data we consider as “very large volumes” of “frequently updated data” are the meteorological data sets.

Answer:

Member States do not have an obligation to define these provisions more specifically, but they may do so. "Very large volume" is not defined in INSPIRE . "Frequently updated" is not defined in INSPIRE. It is up to the interpretation of the Member States. With regard to the background of these provisions, they were introduced during the co-decision negotiations. Mostly, to cater for concerns which were raised by the meteorological - and cadastral services in some Member States.

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6. Denmark – 3

Question:

The Community is obligated to apply the rules of tender if the authorities require payment from the public authorities or institutions and bodies of the Community, CIB that use their spatial data sets and services.

What are the Commissions expectations in regards to the Member States obligations if the Community institutions are obligated to adhere to the rules of tender?

Answer:

If a public authority requires payment from a Community Institution or Body then this should be in-line with applicable EU legislation:

1) Article 10 of the EU Treaty:

Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks. They shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.

2) INSPIRE directive – Article 17 in general, Article 17.3 "... any such charges should and licenses must be fully compatible with the general aim of facilitating sharing...".

If a public authority in a Member States decides to react to a call for tender, then the Member State must ensure that 1) and 2) are respected. – If a public authority decides not to react to a call for tender and its data is required to *facilitate the achievement of the Community's tasks*, then the Community Institution or Body can point out to the Member State that they need access and use of the spatial data and services.

Question:

a) How is the Directive preamble 14 in keeping with the Commissions expectation to be able to request access to spatial data sets and services as of 15th May 2009?

The preamble 14 clearly states that the implementation should be progressive and that the "themes covered by this Directive should be accorded different levels of priority."

b) How can the Member States give the themes different levels of priority if an institution from the Community can request access to a spatial data set from, for example, annex III as of 15th May 2009?

Answer:

a) A preamble does not constitute a legal right or obligation. Implementation has to take account of priorities in policy areas, in particular where 'harmonised' data is needed.

b) The Annex I, II, III roadmaps were not established with regard to policy priority, but rather with regard to the technical feasibility and the logic to have first the spatial 'reference' data themes covered by the data specifications.

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Question:

How does the Commission expect the Member States to supply the INSPIRE spatial data sets and services until the INSPIRE spatial data sets are INSPIRE compatible? For instance, can the Member State just send a disc with the information?

Answer:

Member States are free to decide on form and format. What matters since 15/5/2009 is to meet the Data sharing obligations of Article 17.

Question:

In the guideline p. 12 about "reporting obligations" it is stated that "different conditions of use can apply to a single data set depending on whether it has been provided to the Community institutions and bodies under an environmental reporting obligation or if it has been provided under INSPIRE."

Why this difference?

The Community institutions and bodies should not be able to use the data supplied because of a reporting obligation to other purposes than the reporting.

Answer:

The use that can be made of a data sets depends on the condition under which it was acquired.

1) The use that Community Institutions and Bodies can make of the 'reported' data is related to Article 4 of the EU Treaty on European Union (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF>) on "the principle of sincere cooperation .. MS shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. **The MS shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.**"

2) Specific provisions on use of 'reported' data may be part of legal acts.

3) INSPIRE Article 17 specifies that the measures should enable public authorities (including Community Institutions and Bodies article 17.4) to gain access and ... use ... those sets and services for ... public tasks that may have an impact on the environment".

INSPIRE complements the specific 'reporting' obligations through its wider scope.

In addition, through the "Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies" the Community Institutions and Bodies has obligations towards any 'natural or legal person', through the EEA Regulation etc. Hence, a wide range of possible 'uses' are possible.

However, from a legal point of view, also a number of constraints may apply – for example because of allowed 'derogations' in certain legal acts.

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7. Estonia - 4

Question:

How to differentiate spatial data services and network services, according to which criteria?

Answer:

The Commission has produced a discussion paper titled "Towards Implementing Rules for the INSPIRE spatial data services" and distributed to the Member States contact points where the difference between spatial data services and network services is explored and will be further discussed during the workshop of the 22nd of June in Krakow before the INSPIRE conference. The following is indeed an extract of the current version of this document repeated below for your convenience. Like the spatial data sets, the spatial data services are resources made available through the European Infrastructure for spatial information of which the network services are building blocks.

The INSPIRE directive defines the 5 different types of network services required for the set-up of the infrastructure and the network services regulation details the technical specifications a network service must satisfy.

Consequently a service satisfying all the network services relevant provisions in the INSPIRE Directive and satisfying all the provisions of the network service regulation is "an INSPIRE conform network service". Access through the INSPIRE geo-portal of Art. 15 to the network services in the Member States is established only through INSPIRE conform network services.

Member States may have currently services in place which have one or more of the functionalities listed in Art. 11 of INSPIRE Directive. However, these services may not yet be conform to the INSPIRE Network Service Regulation. For the purpose of monitoring and reporting (Commission Decision 2009/442/EC) such services are considered "non-conform network services". They will have to conform to the INSPIRE Network Service Regulation by the implementation deadlines set in this Regulation in order to become also accessible through the INSPIRE geo-portal.

Question:

Article 4 (4) of the Directive stipulates that this Directive does not require collection of new spatial data.

- a) How to proceed with the attributes mentioned in the draft regulation of the Commission "...the interoperability of spatial data sets and services (Annex I)"(no remark "voidable" in the table), which are not collected in the Member State to any of the data sets?
- b) What to do in (hypothetical) case, when some spatial object type does not exist in some Member State, but is mandatory (not auxiliary)?

Answer:

a) INSPIRE does not require collection of new data. The "non-voidable" attributes are considered the most critical. Without these attributes, a spatial object of that type can be considered meaningless. They are therefore assumed to be always available for existing spatial data or easy to generate from existing attributes (e.g. the inspireId attribute). If the data is 'newly' collected or updated through data collection, then the attribute should become available in electronic format.

For example, a CadastralParcel spatial object needs to have a geometry, an inspireId, the national cadastral reference and some label (which can be derived from the national cadastral reference). If, e.g. the national cadastral reference is missing, the spatial object is useless for cadastral purposes

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b) The ISDSS Regulation does not oblige Member States to make all spatial object types included in a theme available (with the notable exception of Cadastral Parcels, which includes some requirements on which spatial object types shall be made available under certain conditions). Instead, it requires Member States to use (some of) the specified spatial object types for making data related to the theme available.

For example, if no information on the road surface category is available in a MS, no data have to be made available using the RoadSurfaceCategory spatial object type.

Question:

In the draft regulation of the Commission "...the interoperability of spatial data sets and services (Annex I)" in the attribute table in the column "voidability" many data types are marked with "voidable". Does this mean that when these data are not collected in the Member State, there is no need to collect these in the future?

Answer:

Yes, unless specified by other legal acts.

Question:

Article 7 (3) of the Directive stipulates that Member States shall ensure that all newly collected and extensively restructured spatial data sets and the corresponding spatial data services are available in conformity with the implementing rules referred to in paragraph 1 within two years of their adoption. The view services with which data shall be ready by May 2010?

Answer:

The availability of a "view" service is not constrained by the availability of data specifications. One condition has to be met however, according to Article 11.1 - Network services shall be established and operated for spatial data sets and services for which metadata have been created".

For Annex I and II the metadata has to be created by 3 December 2010.

For datasets meeting these conditions, discovery and view services need to be operational by 9 November 2011. The type of 'view' will be in a form left to the Member State to decide until the spatial data sets are requested to be harmonized also from a viewing perspective.

For Annex III, the metadata has to be created by 3 December 2013. Hence, "view" services are obligatory after this date.

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8. France - 1

Question:

Interested to know, for the countries who have already transposed the directive, what are the modifications introduced into the national legislation. And why?

Answer:

The Commission can at this stage not answer to this question. A considerable number of countries have not yet transposed the directive and/or communicated their measures to the Commission. The appropriate procedures have been launched.

This could be the subject to a dedicated workshop, or a circulation of summary answers by all: Q: "What & why" modifications/approach with regard to national legislation.

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9. Germany

Question:

To fulfil the obligations with respect to the INSPIRE View Service, is it necessary to publish the URL of the resource used to create the layer, or is it sufficient to provide an interactive viewing application in the web that hides the URL of the resource from the user ?”

Answer:

For each layer, the network services Regulation requires the provision of the Unique Resource Identifier (attribute 1.5 in the part B of the metadata regulation) of the resource used to create the layer. The IOC TF is currently updating the view technical guidance document where a recommendation for this requirement will be included.

Question:

INSPIRE Directive, Art. 3 Nr. 3

What is exactly meant by “spatial dataset”?

- identifiable collection of spatial objects related to a certain spatial data theme, like cadastral parcels (as part of a widespread real estate cadastre information system)
- identifiable collection of spatial objects related to a certain feature type, e.g. CadastralBoundary (defined by the implementing rules for data specification)
- identifiable collection of spatial objects of various feature types and several spatial data themes recorded coherently (like the whole of the real estate cadastre information system)
- or ...

What is exactly meant by a “spatial dataset series” in opposite to a “spatial dataset”?

Answer:

See the following definitions in the INSPIRE Directive and Metadata Regulation:

'spatial data' means any data with a direct or indirect reference of a specific location or geographical name. (INSPIRE Directive, Article 3.2)

'spatial data set' means an identifiable collection of spatial data. (INSPIRE Directive, Article 3.2)

'spatial data set series' means a collection of spatial data sets sharing the same product specification. (Metadata Regulation, Annex, Part A.1).

Thus 'spatial data set series' can e.g. be data collected according to the same product specification at different moments in time or for different geographical extents.

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Question:

INSPIRE Directive, Art. 3 Nr. 5

Are datasets with indirect spatial reference (e.g. linked to addresses or postal codes) also subject to the INSPIRE Directive or is a direct spatial reference (by coordinates) a precondition?

If yes: is the indirect spatial reference of a spatial dataset mandatorily to be related on other datasets that have to be provided according to INSPIRE (part of spatial data themes like coordinate reference systems, geographical grid systems, geographical names, administrative units, cadastral parcels, ...), or is it also possible to refer to any indirect spatial reference?

Answer:

Yes, see the definition in Article 3.2:

'spatial data' means any data with a direct or indirect reference of a specific location or geographical name.

Additional Commentary:

Most spatial object types actually have a direct spatial reference (geometry) as a non-avoidable attribute. Again, arguably spatial object types such as ProtectedSite or CadastralParcel do not make much sense without this direct spatial reference (geometry).

If a dataset (say on protected sites) exists in a MS that is missing the geometry information, it should be combined with another dataset (that should exist somewhere in the MS) that provides this information.

Links to other spatial data sets (e.g. admin units or geographical names) are only required where an association role exists between spatial object types of these themes (e.g. between Address and CadastralParcel)

[Note that the base classes HydroObjkect (HY) and TransportObject (TN) do not have a non-avoidable geometry attribute – but most of their concrete subclasses do.]

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Question:

INSPIRE Directive, Art. 4 para. 2

Are the subsequently mentioned cases:

- identical copies derived from the reference version of a spatial data set (which needs not to be provided for INSPIRE),
- or
- new reference versions (which must be provided for INSPIRE), only because a spatial data set has been obtained from another authority, if:
 -
 - the obtained data set is being upgraded by objects and attributes which are not subject of INSPIRE?
 - the obtained data set is being reduced by deleting objects and attributes not needed by the purchasing authority?
 - the geometry of the obtained data set is being manipulated by repeatable automatic generalisation methods (e.g. Douglas-Peucker algorithm)?
 - the geometry of the obtained data set is being manipulated by complex automatic generalisation methods (e.g. cartographic schema transformations)?
 - two existing spatial datasets held by the same authority, which are being provided already for INSPIRE separately from each other, are being merged without change of content but change of structure?
 - datasets obtained from two or more different authorities are being merged without change of content but with change of structure?
 - a dataset obtained by an other authority has not been modified in a way relevant to the INSPIRE data model
 - a superior authority has obtained an identical copy of a dataset from a subordinated authority on the lowest level of government (whereas the subordinated authority is not obligated to provide its reference version, because the collection or dissemination is not required by law, according to Art. 4 para. 6)?

Answer:

If data has been 'manipulated', if the data sets are modified – then they are not 'identical copies'. They may be considered sub-sets of an existing 'reference' set, possibly also with other attribute data not relevant to INSPIRE scope. However, they are only 'new reference' data sets if they have 'unique' data relevant to INSPIRE scope.

It is up to the Member States to decide if they consider certain types of operations as 'extensive re-structuring'.

For the last bullet, even if not required by law, the Member State may still decide that a data set is relevant for INSPIRE – for purposes of public tasks which may have an impact on the environment. It is not a new data set, but a MS may well call it one of its reference data sets.

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Question:

INSPIRE Directive, Art. 4 para. 6

Must the collection or dissemination of spatial data be regulated to be in digital form (in order that authorities at the lowest level of government are obligated to provide them), or is it sufficient that Member State law regulates the collection or dissemination of corresponding information in analogue or in any other form?

Answer:

The situation is different for 'collection' and 'dissemination'

Collection: This is up to the Member States to decide.

Dissemination: under INSPIRE through services in digital form. But also other directives (public access to environmental information, Aarhus convention) apply.

Question:

INSPIRE Directive, Art. 5

How to collect metadata, if geodata is a part of more than one Annex theme (e. g. ATKIS-Basis-DLM)?

How to use metadata in data specification, if geodata is a part of more than one Annex theme?

Answer:

Both Topic category and Keyword allow more than one value so if a data set is relevant to more than one annex, it is possible to express all the relevant themes.

Similarly, one can report conformance to more than one data specification.

Question:

INSPIRE Directive, Art. 7 para 3

For a dataset identified for INSPIRE that however lacks attributes to conform to the data specifications, do these missing attributes have to be collected?

What does the term "newly collected spatial data sets" exactly describe:

- spatial data sets collected later than 15.May 2007 (Entering into force of the directive)?
- spatial data sets collected after the date the implementing rules on interoperability of spatial data sets and services will be entered into force?

Answer:

'Newly' collected means collected after the date of adoption of the implementing rule by the Commission. (note: that is before the date of entry into force).

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Question:

INSPIRE Directive, Art. 13 para. 3

There is a discussion going on in Germany concerning the subject "spatial data and data protection". Since modern GIS-tools can easily combine/intersect data sets some people fear that might create new information which can be related to a natural person – even though the input-data didn't relate to a natural person.

Is there a similar discussion in other MS or within the European Commission?

Answer:

A similar question has been raised during the State of Play workshop end of June 2010. Concerning the statistical information, there is a legal framework defining statistical confidentiality principles, but not addressing the issues related to "Data integration" and "Data matching". A first attempt to provide guidance has been released by UNECE (United Nations Economic and Social Committee), in a 2009 note "Principles on confidentiality and privacy aspects of statistical data integration", available here:

<http://www.unece.org/stats/documents/ece/ces/2009/3.e.pdf>

Information on the Commission activities related to this topic is available here:

http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm

Question:

INSPIRE Directive, Annex I

Is address data without spatial reference (neither direct nor indirect), e.g. from resident registers, also subject to the INSPIRE Directive? (Annex I, Nr.5)

Do buildings that are classified as a historical monument belong to "Protected Sites"? (Annex I, Nr. 9)

Answer:

No, as that would not fit the 'spatial data' definition of the directive (Article 3.2).

Yes; Protected sites – according to the Guidelines Annex I for Protected sites

"The INSPIRE Directive defines a Protected Site as an "Area designated or managed within a framework of international, Community and Member States' legislation to achieve specific conservation objectives" [Directive 2007/2/EC]. According to the International Union for the Conservation of Nature (IUCN) a Protected Site is an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means. Within the INSPIRE context, Protected Sites may be located in terrestrial, aquatic and/or marine environments, and may be under either public or private ownership. They may include localities with protection targets defined by different sectors and based on different objectives. Objectives for protection may include: the conservation of nature; the protection and maintenance of biological diversity and of natural resources and the protection of person-made objects including buildings, prehistoric and historic archaeological sites, other cultural objects, or sites with specific geological, hydrogeological or geomorphological value."

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Question: (INSPIRE implementing rules regarding network services)

There are two main types of download services (the simple pre-defined data set or pre-defined parts of data set, and the complex direct access download service including query capability) described in the "Draft Technical guidance for INSPIRE download Services". But who decides which one to choose?

Answer:

As requested in article 11 (d) of the INSPIRE Directive, the download services are first of all to enable spatial data sets to be downloaded, and where practicable, to be accessed directly. The proposed regulation that received a positive opinion from the INSPIRE Committee, at the end of last year is fully compliant with the INSPIRE article by specifying 2 parts, one mandatory for the download of spatial data sets that in the implementation by the Member States could be pre-defined, the other one, where practicable, for accessing directly the spatial data objects in the spatial data sets.

Question: (INSPIRE implementing rules regarding network services)

In viewing services which information should be returned for a GetFeatureInfo request on a WMS? All available features and attributes of a data specification? If not, when will the specification be amended accordingly?

Answer:

The network services regulation does not stipulate the adoption of a particular standard, nor does it requires an operation comparable to the GetFeatureInfo optional operation defined in ISO 19128.

Therefore the available features and attributes are not requested to be available and should a consensus be reached among the member States to request this operation as mandatory and to be included in the NS regulation, for example in the IOC TF, then the Commission will take due note of this request and could then propose additional technical specification following proposals and recommendations from the IOC TF and/or NS DT

Question: (INSPIRE implementing rules regarding network services)

Is it obligatory to provide data by network services (viewing and download services) in conformity to INSPIRE implementing rules on network services, while the obligation to provide data according to the INSPIRE data specifications will take effect later (two respectively seven years after entry into force of the implementing rules, cf. Art. 7 para. 3 of the Directive)?

If yes: In which way are the datasets to be provided, if the data models defined by INSPIRE are not yet ready developed respectively not yet legally binding?

Answer:

Yes, datasets are then provided in the format decided by the Member States according to the schedule of the network services regulation.

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Question: (INSPIRE implementing rules regarding data specifications)

a) Are all existing spatial datasets to be provided for INSPIRE, also if these datasets are definitely not transformable (e.g. raster graphics), or not transformable with adequate efforts (e.g. if the data is only in a rudimentary structure)?

b) If yes: Will it permanently be possible to provide them using the ordinary data models?

c) In order to understand data specifications completely and to feel at ease with them, it would be very helpful to have some test data for each theme (default encoding / GML). Are there any intentions to provide such test data?

Answer:

a) INSPIRE applies to electronic data, such as raster data. In theory, the data has to be made available according to the common model at a certain moment in time. If the existing data cannot be made 'conformant' because its format and attribute data are inadequate and missing, then it would not be 'feasible'. However, according to the directive, the 'feasibility' and 'cost' was taken into account for the data specifications implementing rule. The effort could be considered as a 'new data' collection (manual digitizing, attribute assignment etc.). The effort needs always to be weighted against the use that will be made of this data under the INSPIRE scope.

b) In any case is necessary to "share" them, even in their non-conformant form.

c) It is not currently planned to make GML example data available for all themes. However, such data might become available as a result of the testing exercises performed during the development of the Annex II/III data specifications or might be made available by certain Member States through the INSPIRE forum.

Question: INSPIRE M&R

At which level are spatial datasets and/or services to be included in the monitoring list and to be described with metadata? (dataset / feature type, service / layer)?

Answer:

The level requested is data sets in the first case and services in the second case.

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Question: INSPIRE M&R

The INSPIRE directive covers spatial data sets which “relate to an area where a MS has and/or exercises jurisdictional rights”, while the Monitoring Decision refers to the “Member States territory” (Art. 5). The Exclusive Economic Zone does not belong to the Member States territory, but the Member State exercises jurisdictional rights in that area. That means, data relating to the Exclusive Economic Zone fall within the scope of the INSPIRE directive, but they are not covered by the monitoring indicators.

How should this inconsistency be managed in the future?

Answer:

The area referred to in Art.5.2 a) the area which is to be covered by a given spatial data set (hereinafter relevant area), expressed in km², and the area referred to in Art. 5.2 b) the area which is covered by a given spatial data set (hereinafter actual area), expressed in km² are subject to INSPIRE Directive and can therefore at the most cover the area where a Member State has and/or exercises jurisdictional rights.

The "Member States territory" covered by the spatial data sets referred to in Art. 5.1 should be read as further detailed in Art. 5.2 and therefore as an area where a Member State has and/or exercises jurisdictional rights.

Question: INSPIRE M&R

Which area is to be assumed as relevant area for monitoring the coverage of a dataset, if that dataset covers an area larger than the territory of the member state (e.g. covering the Exclusive Economic Zone)?

Which value (“territory” or “area where a member state has and/or exercises jurisdictional rights”) should then be taken for the calculation of the geographic coverage indicator for Monitoring?

Answer:

The area referred to in Art.5.2 a) the area which is to be covered by a given spatial data set (hereinafter relevant area), expressed in km², and the area referred to in Art. 5.2 b) the area which is covered by a given spatial data set (hereinafter actual area), expressed in km²

are subject to INSPIRE Directive and can therefore at the most cover the area where a Member State has and/or exercises jurisdictional rights.

The "Member States territory" covered by the spatial data sets referred to in Art. 5.1 should be read as further detailed in Art. 5.2 and therefore as an area where a Member State has and/or exercises jurisdictional rights.

Question: INSPIRE M&R

Please explain, in which way „data specification of Annex I, II and III” should be used for identification of INSPIRE relevant data sets and services?

Answer:

The only reference to decide if a spatial data set falls under INSPIRE is the Directive itself, this means that the definitions of the spatial data themes given in the Annexes I, II, III are the only source to be used in order to decide if a spatial data set falls under INSPIRE

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Question: INSPIRE M&R

Please explain the difference between Spatial Data Services and Network Services (see INSPIRE Forum: http://inspire-forum.jrc.ec.europa.eu/mod/groups/topicposts.php?topic=11135&group_guid=8651)?

Answer:

The Commission has produced a discussion paper titled "Towards Implementing Rules for the INSPIRE spatial data services" and distributed to the Member States contact points where the difference between spatial data services and network services is explored and will be further discussed during the workshop of the 22nd of June in Krakow before the INSPIRE conference. The following is indeed an extract of the current version of this document repeated below for your convenience. Like the spatial data sets, the spatial data services are resources made available through the European Infrastructure for spatial information of which the network services are building blocks.

The INSPIRE directive defines the 5 different types of network services required for the set-up of the infrastructure and the network services regulation details the technical specifications a network service must satisfy.

Consequently a service satisfying all the network services relevant provisions in the INSPIRE Directive and satisfying all the provisions of the network service regulation is "an INSPIRE conform network service". Access through the INSPIRE geo-portal of Art. 15 to the network services in the Member States is established only through INSPIRE conform network services.

Member States may have currently services in place which have one or more of the functionalities listed in Art. 11 of INSPIRE Directive. However, these services may not yet be conform to the INSPIRE Network Service Regulation. For the purpose of monitoring and reporting (Commission Decision 2009/442/EC) such services are considered "non-conform network services". They will have to conform to the INSPIRE Network Service Regulation by the implementation deadlines set in this Regulation in order to become also accessible through the INSPIRE geo-portal.

Question: INSPIRE M&R

For Monitoring, is there an obligation to relate services to INSPIRE Annex Themes?

Answer:

Yes, as Article 2.1 says: Member States shall establish a list of the spatial data sets and spatial data services corresponding to the themes listed in Annexes I, II and III to Directive 2007/2/EC, grouped by theme and Annex, and of the network services referred to in Article 11(1) of that Directive, grouped by service type

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10. Latvia - 1

Question:

Does the European Commission plan to introduce a common framework for the unique identification of spatial objects in the Implementing Rules for Interoperability as it is described in the Art.8 para 2 point (a) of the INSPIRE directive? We would be interested to know possible timeframe as well as legal and technical implementation procedure.

At the moment only codes for spatial objects' classes are included in the Draft COMMISSION REGULATION implementing Directive 2007/2/EC of the European Parliament and of the Council as regards interoperability of spatial data sets and services (Ref.: D007474/02 in the Comitology Register) and in the Draft COMMISSION REGULATION amending Regulation (EC) No ... as regards interoperability of spatial data sets and services (amendment regarding code lists, but there are no rules for spatial object identification.

Answer:

The common framework for the unique identification of spatial objects is covered by the Identifier data type (ISDSS Regulation, Annex I, section 2.1), which is used by all spatial object types that carry an INSPIRE identifier (inspireId attribute) and whose value is based on existing local (national) identifiers.

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11. Poland - 6

Question:

Article 4(4) of the INSPIRE directive - request for legal and practical interpretation

The Directive says: " Directive does not require collection of new spatial data". How MS should understand this sentence mainly in the context of Implementing rules which say that data should be completed. If e.g. we do not have data sets falling under one of the themes of INSPIRE it means that we are not obliged to collect such data and we are not obliged with the deadlines set in the directive e.g. for metadata?

Answer:

If a data set does not fall under one of the INSPIRE themes then the directive has no effect. The Implementing Rule are coherent with article 4.4. Information can only be supplied if it is available. Metadata might not be available, but has to be created. Article 4.4 regards only the collection of 'spatial data'. In addition, article 7.3 requires that when data is newly collected or when data sets are extensively restructured, this should be done in such a way that they conform to the implementing rule. The implementing rules adopted are 'feasible and proportionate in terms of their likely costs'. Hence, and in particular for newly collected data, the non-voidable 'attribute' data should be collected in order to conform.

Question:

Con. Data sets : in case where from source data sets (which are already indicated in a required list of spatial data sets needed for monitoring) we will create derivative data sets which will be in conformity with the INSPIRE Implementing rules. Do we have to create and maintain metadata and services also for the source data sets ?

Answer:

All data sets falling under the INSPIRE scope have to conform.

Question:

Interpretation of art. 14(3) Data made available through the view services referred to in point (b) of Article 11(1) may be in a form preventing their reuse for commercial purposes. How we should understand availability to the public of free of charge of view services where there is a possibility by means of view services to download a piece of ortophotomap and use this for example for commercial purposes. Having in mind that the directive does not require the obligation of form of services which will prevent their reuse for commercial purposes.....

Answer:

It is up to the Member States to decide in which way they would apply this derogation. Typical practices could be Watermarks, degraded resolution etc. However, with regard to 'commercial purposes', we would recommend to also look at the PSI Directive 2003/98/EC on the re-use of public sector information. INSPIRE is 'without prejudice' to this directive. In line with Article 3 of the PSI Directive, public sector bodies should ensure that documents* that are re-usable (i.e. accessible for any use beyond the initial public tasks for which they were originally produced) can be re-used for commercial or non-commercial purposes

*'document' means: (a) any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording); (b) any part of such content;

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Question:

Monitoring and reporting – Legal interpretation of article 2(1) of the Decision regarding INSPIRE monitoring and reporting - MS shall establish a list of the spatial data sets and spatial data services corresponding to the themes listed in Annexes I, II and III - in situation where we do not have data specification for Annex II and III and we will not have them until 2012. In first monitoring and reporting some countries established a list of the spatial data sets and services only for Annex I. Clarification and common approach on that would be very welcome. Similar situation is with metadata (mostly for Annex II).

Answer:

The Decision does not specify that the "list of the spatial data sets and spatial data services corresponding to the themes listed in Annexes I, II and III" should only contain spatial data sets which conform to implementing rules on the data structure. The list only provides an indication of the spatial data sets currently present in the Member States. It is highly unlikely that this would only be the case for the Annex I data themes. It is important to consider that as from 15 May 2009 the 'sharing' of existing data is an obligation according to the conditions defined in article 17. The sharing obligation is totally independent from the technical implementing rules.

The only reference to decide if a spatial data set falls under INSPIRE is the Directive itself, this means that the definitions of the spatial data themes given in the Annexes I, II, III are the only source to be used in order to decide if a spatial data set falls under INSPIRE. A different issue is the conformity. For example as long as no data specifications for a certain spatial data theme have been adopted it is not possible to assess it's conformity to the Implementing Rules

Question:

What will be the consequences from the Commission side in case of delay by MS in implementation of Implementing Rules for metadata and interoperability of spatial data sets and services (mostly caused by late entry into force Implementing rules for Annex II and III)?

Answer:

If MS are late in implementing INSPIRE, then the normal procedure regarding infringements will be followed. MS can only be late with respect to the dates specified in the directive and those in the legal acts of the implementing rules.

The only reference to decide if a spatial data set falls under INSPIRE is the Directive itself, this means that the definitions of the spatial data themes given in the Annexes I, II, III are the only source to be used in order to decide if a spatial data set falls under INSPIRE

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Question:

Conc. Spatial data services – for MS would be very helpful to have detailed list of Spatial Data Services. For now we have the knowledge that Spatial data services include Network services (listed in the INSPIRE Directive art. 11) and others ??..... How we should interpret the Classification of spatial data services indicated in Metadata regulation (No 1205/2008 of 3 December 2008)?

Answer:

See previous answer on the criteria to decide between spatial data services and network services.

Article 11 of the INSPIRE directive does not indicate that network services are spatial data services.

The Commission started a consultation with the Member States contact points to refine the scope of the implementing rules for the spatial data services (Workshop organised on the 22nd of June in Krakow). For what concerns the list, at least one keyword from the classification of spatial data services in the metadata regulation is to be used for the description of all spatial data services available in the Member States.

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12. Sweden - 3

Question:

Data sharing between Member states (MS) in practice:

- a. When should agreements between MS be signed?
- b. Who should be authorized to sign the agreement on behalf of the member state? The government, all public authorities or a coordinating body? Should MS agree on that?
- c. Will the Commission undertake a coordinating role to help the MS with the agreements?
- d. Should the MS make a pre agreement about the principles of data sharing, between each other, on the basis of the implementing rules for data sharing?
- e. Should the MS try to draw up common terms for the agreements?

Answer:

- a) the obligation to share entered into force on 15 May 2009. MS had to lay down by then the measures to which article 17.1 refers. It is up to the MS to decide if these measures include 'signing an agreement'. INSPIRE is a directive, it therefore specifies the objective, but how this objective is met is up to the MS.
- b) this is up to the MS to decide.
- c) the EC will assess the measures laid down by the MS and will point out where such measures are insufficient to meet the objectives of the directive. If this is the case MS will be requested to take corrective actions – this is part of the verification process. If MS fail to take corrective action, then this could lead to an infringement. However, the EC supports implementation, to this end dedicated workshop(s) on this issue could be arranged.
- d) The implementing rules on data and service sharing concern only the provision of data and services from Member States to the Community institutions and bodies. A 'best practice' document has been produced by the drafting team on data and service sharing which looks at good practices in sharing in and between Member states. If such practices allow meeting the objective of the directive then we could recommend it.
- e) It is up to the MS to decide this, but it seems a good idea.

Question:

Data sharing and public procurement:

- a. Do the rules on data sharing according to the Inspire-directive have an effect on the obligation to carry out public procurements? (Should a private body or a municipality that is considered as a public authority according to article 3 (9), apply the law on public procurement when purchasing Inspire data sharing network services, or does article 17 Inspire stipulate an exception?)

Answer:

Member States determine the measures they see fit for reaching the INSPIRE objectives. The INSPIRE directive does not promote or exclude public procurement. However, if such a law would be considered to 'create a practical obstacle, occurring at the point of use' (article 17.2), then MS would best address this issue when adopting their measures for sharing as stipulated in article 17.1. Failure to share may eventually lead to complaints, infringement procedures including court rulings.

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Question:

Data sharing business model – how to achieve national legal and organizational interoperability. Best practice?

- a. Integrity, security and secrecy
- b. Obligations and responsibilities
- c. Financial co-ordination

Answer:

A 'best practice' document has been produced by the drafting team of the article 17.8 implementing rule on Community Institutions and Bodies access. Dedicated workshops could be organized around this topic to support implementation.

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13. The Netherlands - 1

Question:

The Directive requires that common Implementing Rules (IR) are adopted in a number of specific areas (Metadata, Data Specifications, Network Services, Data and Service Sharing and Monitoring and Reporting). These IRs are adopted as Commission Decisions or Regulations, and are binding in their entirety. The IRs enter into force on different dates. The difficulty for this is that this is not in the same order as a production process.

- a) How can we make services available without the desired data?
- b) How can we made metadata available without the data ?
- c) The implementation of view and download services is possible if the data is available conform the dataspecs.
- d) Metadata of services is possible after services are available.
- e) Metadata and monitoring and reporting on themes annex II are possible if dataspecs annex II are available.

Answer:

- a) MS must have services for which metadata has been created. This is the only condition which defines whether or not a service should be available. According to the implementation roadmap metadata must have been created by 3 December 2010 for Annex I and II data themes and by 3 December 2013 for Annex III.
- b) We believe it is safe to assume that a lot of spatial data is available in the Member States.
- c) From a network service perspective and for what concerns the spatial data sets and services there is currently no dependency with the availability of the harmonized version of the spatial data sets.

Until the harmonized version is available, access to the existing version is to be provided through the network services. For what concerns the spatial data services, due consideration is given to this issue by harmonizing the schedule for drafting and therefore adoption of the spatial data services regulation and of the invoke service regulation.

- d) For what concerns metadata, the dependency with the discovery service has been taken into account and translated into the request to have metadata produced before the availability of the discovery service.

For Annex I and II the metadata has to be created by 3 December 2010.

For datasets meeting these conditions, discovery and view services need to be operational by 9 November 2011. The type of 'view' will be in a form left to the Member State to decide until the spatial data sets are requested to be harmonized also from a viewing perspective.

For Annex III, the metadata has to be created by 3 December 2013. Hence, "view" services are obligatory after this date.

- e) As explained before, metadata and monitoring and reporting on themes annex II is not constrained through the availability of data specifications.