Data protection and INSPIRE: an uncomfortable combination?

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EU data protection directive

• 'personal data': any information relating to an identified or identifiable natural person;

• An identifiable person is “one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity”

• to determine whether a person is identifiable, account should be taken of all the means likely reasonably to be used either by the controller or by any other person to identify the said person (recital 26 Directive 95/46/EC)
If personal data, Directive applies

- Personal data should be collected for *specified, explicit* and *legitimate purposes* and not further processed in a way incompatible with those purposes (Article 6(1)(b) EU Data Protection Directive).

If Directive applies then:
- Personal data must be kept in a form which permits identification of data subjects *for no longer than is necessary* for the purposes for which the data were collected or for which they are further processed (Art 6(e) EU Data Protection Directive).
Is geo personal data?
Just an aerial or personal data?
The Flemish data protection agency

- The satellite images contain images of parcels.
- These parcels are owned by natural persons and companies.
- Based on the parcel information, government can identify the natural person, for example through the Land registry.
- The processing of satellite images of the ownership of natural persons should be regarded as processing personal data.
Just an aerial or personal data?

- Aerial imagery of a level of detail of 1:50,000 or less: no personal data; i.e. 1:10,000 is personal data (AD 40/2006)

- Aerial imagery (identifying parcels owned by individuals) are personal data: should not be processed longer than necessary (AD 26/2006)
Address and building information

Source: http://bagviewer.geodan.nl/index.html
Land cover data

Courtesy of Ministry of Economic Affairs, the Netherlands
Case: Spatial Data Infrastructure
SDI of Flanders

• Goal: to optimise the collection, maintenance, exchange, use and reuse of GI and GI services

• Stakeholders of SDI-Flanders can use GI and GI services for the execution of tasks of public interest, including those regarding the environment
SDI of Flanders

• Flemish Data protection commission:
  • Many of the ‘INSPIRE’ data can be considered personal data
  • Lack of specific and well determined goals
  • Allowed use too abstract
  • Need and proportionality of the use of personal data for the realisation of SDI goals are difficult to assess.
  • This also applies to the assessment whether use is incompatible or not with initial purposes of data processing
Ease of linking to a person

• The assessment whether data should be considered personal data depends also on how easy it is to link data to a person (recital 26 of the EU Data Protection Directive).

• Data that today is considered not to be personal data may next year very well be personal data due to technological developments.
At the same time....
Building and Address dataset

- wfs
- wms
- tiling *
- Totaal

**Courtesy of Publieke Dienstverlening op de Kaart (PDOK)**
General Data Protection Regulation (draft)

(1) 'data subject' means an identified natural person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person;

(2) 'personal data' means any information relating to a data subject;

Right to be forgotten....
Conclusion

- Data Protection Legislation in Europe and INSPIRE may bite each other

- Is it possible to adhere to the data protection requirements and still fulfill the INSPIRE objectives?

- Does anonymous (geo-) data exist?

- At which level of (geo-) detail is anonymity guaranteed?

- Is data protection legislation in European Union still appropriate in 2014?
Geo Legal Interoperability Map of the World (GLIM)

- Exploring open licences for geodata worldwide (2014)
- Legal cases/ opinions about applicability of data protection/ privacy legislation to geo-data (2014)

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