

Sweden-Legal Framework

Legal framework

In 2006, the Swedish Parliament approved legislation that officially appointed Lantmäteriet as the coordinator for the Swedish NSDI and setup the Geodata Advisory Board. The Swedish Geodata Strategy was adopted as the central strategy document on the development of the Swedish NSDI. The implementation of the Swedish Geodata Strategy and the INSPIRE directive is embedded in other initiatives, such as the government's e-governance strategy. 8 action areas are identified as separate work packages in the Strategy:

- Co-operation in networks as a basis for the infrastructure, with priority given to the development of models for activities and agreements. The identification of areas of application that have a significant potential.
- The structuring of information, including the development of a basic framework containing descriptions of rules and methods for a service-oriented exchange of information and which describes geodata, defines the geodata sector and takes into account the requirements of the Inspire directive.
- The technical infrastructure, including the establishment of a geodata portal for a development environment, standardised interfaces and a national service catalogue.
- A national metadata catalogue, including a national programme for the creation of metadata.
- Geodetic reference systems and an accelerated transition to the new national reference system, Sweref 99.
- Research and development (R&D) and education including the formulation of a national R&D and education programme.
- Legislation, including an investigation of the possible need for changes and adaptation to Inspire.
- Financing and price-setting, including the development of financing and flexible pricing models and the implementation of cost-benefit analyses.

In the course of 2010, a number of legislative acts were adopted implementing the INSPIRE directive in Swedish law:

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- Act 2010:1767 on geographic environmental information.
- Act 2010:1768 amending Act 2009:400 on public access to information and secrecy;
- Act 2010:1772 amending Act 2000:224 on the Cadastre;
- Ordonnance 2010:1771 amending Ordonnance 2009:946 on the tasks of the National Land Survey;
- Ordonnance 2010:1770 on spatial environmental information.

Public-private partnerships

Some private companies (e.g. T-kartor, Liber) are data producers for certain parts of the NSDI and service providers for some forms of geographic information. Thus in Sweden private commercial firms are involved in building the NSDI in different ways. They can be contracted for development works or production works, but also as vendors. Normally, private commercial firms are making “value-added” products out of core data. For instance, Lantmäteriet supports the establishment of value added resellers (VARs).

Policy and legislation on access to and re-use of public sector information

Further to the Nordic tradition of open access to government files, the citizen’s right of access to government documents is seen as a fundamental aspect of Swedish society. It was first introduced in 1766 by a forerunner to the Freedom of the Press Act (FOI legislation) from 1948. The Freedom of the Press Act provides for access to documents kept by a public authority (e.g. the parliament, the government, state agencies and municipalities), including electronic documents. Access to documents is free of charge. The citizen also has a right to get a copy of the document or an extract from an electronic document. The fee for the copy should respond to the cost for producing the copy (marginal cost). There is no obligation to make available records for electronic data processing in any form other than printouts. Access can be denied only with reference to a specific clause in legislation demanding secrecy (the 2009 Secrecy Act). The purpose of request – commercial interests or not – is not relevant. In general private legal entities controlled by the crown with public tasks are not subject to the access regulations contrary to

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municipal entities, which are under the access regulations.

Directive 2003/4 on access to environmental information and Directive 2003/98 on the re-use of PSI have been transposed into Swedish law. The Swedish authorities originally believed that no changes to the legislation were necessary to implement Directive 2003/98. After the European Commission had sent a letter of formal notice to the Swedish government for the incorrect transposition of the PSI directive a new Act has been adopted in July 2010. However, many registers and databases remain subject to separate legislation regulating their re-use, often under cost recovery prices.

Legal protection of GI by intellectual property rights

The Crown claims copyright to GI produced by and for the National Land Survey. The Lantmäteriet administers the copyright on behalf of the Crown. The Crown also claims the database right on GI on real estate registers information in certain cases. The municipalities, the biggest producer of maps in Sweden, also claim copyright and sui generis protection to their maps and databases.

The current Swedish Copyright Act dates from 1960 (Law no. 729 of 30 December 1960, as last amended in 2009).

Article 49 of the Copyright Act provides for the protection of catalogues, tables or similar products that contain a large amount of items of information. Article 49 also details the sui generis protection for databases. The protection lasts for ten years after initial publication. The protection exists in addition to copyright. In addition to photographs being able to attract copyright (if original), all photographs are protected by an exclusive right of reproduction according to article 49a of the Copyright Act. This right subsists until 50 years after roduction.

Following article 9 of the Copyright Act, laws and other regulations, decisions by public authorities, reports by Swedish public authorities and translations of the aforementioned documents are not subject to copyright. The law specifically states that among others maps and drawings that form part of the documents listed in the first paragraph of article 9 are protected by copyright (if, of course, they meet the general criteria set for copyright rotection). Although works of public authorities other than those mentioned above may be subject to copyright, there is a general right for everybody to access and get a copy of them in accordance with the regulations in the Freedom of the Press Act (art. 26a). The documents can normally be used freely but there are a number of exceptions. Works that pertain to geographical information: maps, computer programmes, technical models, works which are the result of scientific research

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and works that are commercially exploited by public authorities may not be freely used (art. 26§ 3).

The 1993 Act on the Protection of Land Information contains provisions that limit the free production and distribution of certain types of GI. The purpose of this legislation is to regulate and control the use and dissemination of GI from national security-reasons. The production of aerial photographs is with the exception of smaller parts of the country free. Building databases with land information, dissemination of aerial photographs, certain maps and land-information in digital form is subject to approval of the authorities for reasons of national security.

Sweden has transposed the 2001 directive on copyright in the information society in May 2005.

Restricted access to GI further to the legal protection of privacy

On 24 October 1998 the Personal Data Act (1998:204) came into force and replaced the out-dated Swedish Data Act from 1973. The Personal Data Act is based on Directive 95/46/EC. Section 33 of the Act was amended in 1999 to implement the EU Directive on the transfer of personal data to a third country. Data protection applies to a large amount of government information, including the SPAR population database, certain types of statistics, certain types of real property information and geographical information (addresses, real estate unit number), vehicle registries and VAT files. Sweden has transposed the 2002 directive on privacy and electronic communications into national law.

Licensing framework

The pricing model for fundamental geographic data is based on decisions by Parliament and Government. The board of Lantmäteriet decides its own framework for pricing and licensing, based on the overall model and economic targets decided by Government. Lantmäteriet does not provide data directly to the users, but through resellers. However an increasing number of services are also directly available on Lantmäteriet's website. The viewing services are free of charge, but downloading data is charged for. Data can only be bought for private use. For any other type of use, the customer service has to be contacted. Under the National Geodata Strategy, a licensing strategy was developed that makes a distinction between different users and types of use. This should be incorporated in the development of a business model. Public bodies participating in INSPIRE are subject to general terms and conditions and pay an annual fee that is defined in advance based on number of agreed parameters. Any other data providers and users should buy licences for a particular volume of data, a specific type of data or a specific service. Developers of added-value products should purchase a refiner licence. They have to ensure that

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all end users have a licence before the launch of any new products, or purchase a licence through which the end user fee is paid in advance. Special conditions will apply for research and education, and for access by the general public.

UN-GGIM Knowledge Base

<http://ggim.un.org/knowledgebase/KnowledgebaseArticle51513.aspx>