

Austria-Legal Framework

Legal framework

The Surveying Act and the Metrology Act form the legal basis for the activities of the BEV as a federal agency. The emphasis of the Acts is on cadastral activities. The coordinating role BEV is playing for the federal NSDI-initiatives has no formal legal basis but is the result of a within-government agreement. In July 2005, a Decree was issued implementing a central Address Registry (Addressregisterverordnung). The Decree organizes the technical aspects, the competences and rights of use and the division of costs between the federal level (BEV) and the municipalities. The municipality is the official “owner” of the data, while the BEV handles the administration and the distribution. For this, the BEV receives about 10% of the revenues .

The Federal Environmental Agency was founded as a separate state-owned corporation by the Umwelkontrollgesetz, which lays out its responsibilities and entered into force on January 1st, 1999. The Austrian government’s approach is to implement INSPIRE:

(i) without modification of any competencies and responsibilities between federal government (“Bund”) and provincial governments (“Länder”);

(ii) to stay with the decentralized data ownership and distribution; and

(iii) to implement only what is strictly legally required (“no golden plating”). The current situation is that a federal implementation law was adopted by the Austrian Parliament and is in force, 5 of the 9 Provinces have an SDI legislative act in force and 2 Provinces have it published. In March 2010, the Geodateninfrastrukturgesetz – GeoDIG was published in the Federal Law Gazette I No. 14/2010, transposing the INSPIRE directive. It entered into force on 2 March.

<http://www.lebensministerium.at/article/articleview/82373/1/29640>

The law only provides a minimal transposition of the directive, without any additional measures to extend the impact of the law on the Austrian SDI (Runder Tisch GIS e.V., INSPIRE, Fundamentals, Examples, Test Results EC-INSPIRE: Spatial Data Infrastructures in Europe State of play Spring 2011 Austria K.U.Leuven (SADL) 15

The provincial legislation:

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- in force:

- the Vorarlberg Landes-Geodateninfrastrukturgesetz (L-GIG): Entry into force:14/04/2010;

- Kärntner Informations- und Statistikgesetz (Carinthian Information and Statistics Act) -Entry into force: 01/09/2010;

- Tirol: Tiroler Geodateninfrastrukturgesetz, Legal act: Entry into force: 03/09/2010;

- Burgenländisches Geodateninfrastrukturgesetz - Bgld. GeoDIG - Burgenland Spatial Data Infrastructure Act: Entry into force: 28/01/2011;

- Steiermark: Steiermärkisches Geodateninfrastrukturgesetz 2011 – StGeoDIG – Styrian Spatial Data Infrastructure Act 2011: Entry into force: 01/05/2011;

- published:

- Wiener Geodateninfrastrukturgesetz – WGeoDIG (Spatial Data Infrastructure Act –

Vienna) - Publication: 31/08/2010;

- Oberösterreich Geodateninfrastrukturgesetz: Publication date: 17/12/2010;

Public-private partnerships (PPPs)

The project flood risk identification HORA in Austria (www.hora.gv.at) is the result of collaboration between the 'Lebensministerium' and the private sector: Life Assurance Association Austria. It is a nationwide Risk Identification System for natural disasters with the current focus on earthquakes and flooding. The project of a cooperation between public and private sector covers more than 25.000 river miles in 4 years costing about two million euros. HORA meets the requirements set by the European Commission in 2006, Directive on the assessment and management of floods requiring flood risk mapping, predictive assessment methods for flood risks, information and public participation and implementation and reporting schedules.

Policy and legislation on access to public sector information(PSI)

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Article 20 of the Federal Constitution obliges the federal, provincial and municipal administration to give information on matters relating to their scope of activity, unless they are under a legal duty to maintain secrecy. This obligation is made operational by federal and provincial legislation. The Auskunftspflichtgesetz is a Freedom of Information law that obliges federal authorities to answer questions regarding their areas of responsibility. However, it does not permit citizens to access documents, just to receive answers from the government on the content of information. If an interest can be shown, then the individual requesting information can obtain copies of the documents under the Code of EC-INSPIRE: Spatial Data Infrastructures in Europe State of play Spring 2011 Austria K.U.Leuven (SADL) 16 Administrative Procedures or the Data Protection Act. The nine Austrian Provinces have laws that place similar obligations on their authorities.

As far as environmental information is concerned, the Federal Law on Environmental Information adopted in 1993 implements the European Union Directive 90/313/EEC on the freedom of access to information on the environment for information held by the federal government. It was amended to implement Directive 2003/4 in the course of 2004-2005 (Bundesgesetz über den Zugang zu Informationen über die Umwelt Umweltinformationsgesetz – UIG, BGBl. Nr. 495/1993 as amended BGBl. I Nr. 6/2005. The changes entered into force in February 2005. By decree of the Austrian Federal Minister of Economic Affairs of 24 June 1997 everybody is granted direct access to the cadastre and the land registry database via the public services of Telekom Austria AG, Datakom Austria AG, IBM Network Services and Bundesrechenzentrum GmbH. Directive 2003/98 on the re-use of public sector information has been transposed on the federal level and in the Länder. At the same time as the introduction of the federal legislation on re-use (Informationsweiterverwendungsgesetz), the Surveying Act (Vermessungsgesetz) was changed. The new §48 concerns the delivery of geodata and their use for other purposes. In accordance with this act, BEV has introduced new conditions on standard charges and use of the data on 1 January 2006. These general conditions can be downloaded from

http://www.bev.gv.at/aktuelles/pdf/standardentgelte_nutzungsbe.pdf

<http://www.bev.gv.at/aktuelles/pdf/agb.pdf>

Act of 18 May 2011, the law on the duty to provide information, documents, re-use, privacy and national statistics is amended Legal act: state law, number: 60/2011; Official Journal: National Law Journal (LLG), number: 60/2011 Date, Publication: 05/07/2011, Entry into force: 01/08/2011; Reference:(MNE (2011) 54950)

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Legal protection of GI by intellectual property rights

The Austrian Copyright Act (Urheberrechtsgesetz) dates from 9 April 1936 and has been amended several times since then. Paragraphs 73 to 76 of the Copyright Act provide for special protection for photographs. Whilst original photographs are subject to normal copyright regulation, all non-original photographs are also protected for thirty years after production or publication. Paragraph 7 of the Copyright Act stipulates that laws, decrees, judicial decisions and the like are not subject to copyright. In addition, all works of public entities produced exclusively or mainly for official use, cannot be subject to copyright. The latter provision should however be interpreted restrictively. EC-INSPIRE: Spatial Data Infrastructures in Europe State of play Spring 2011 Austria K.U.Leuven (SADL) Paragraph 7 of the Copyright Act also explicitly states that topographic works produced by the Bundesamt für Eich- und Vermessungswesen can be subject to copyright. This is the case if they are original, destined for publication, and produced by the Bundesamt. Austria was one of the four countries that managed to implement European Directive 96/9/EC concerning the legal protection of databases in time, i.e. by 1 January 1998. The most recent amendment dates from 2003 and adapts the Copyright Act to the 2001 Directive on copyright in the information society.

Restricted access to GI further to the legal protection of privacy

The Austrian Data Protection Act (called Datenschutzgesetz) was enacted in 1978, creating the Data Protection Commission and the Data Protection Council. It is concerned with all personal data, but does not specifically recognise the concept of “sensitive” data. However, personal information may not be sold and public authorities are required to institute a system of control and sanction for infractions. There were however a number of differences between the Austrian DP Act and the European Directive, but these were for the most part addressed by the Austrian Federal Chancellery in a bill presented to Parliament in 1999, which was passed into law with effect from 1 January 2000. This Bundesgesetz über den Schutz personenbezogener Daten (Datenschutzgesetz 2000) applies to all processing by automatic means. Seven Länder have also adopted new data protection laws to implement the Directive. The Austrian legislation is fully compliant with Directive 2002/58 on privacy and electronic communications.

Licensing framework

A licensing framework is in use for BEV products. Since 2008, almost all products are available on-line on the BEV portal. A distinction is made between different shops (see http://www.bev.gv.at/portal/page?_pageid=713,1576213&_dad=portal&_schema=PORTAL)

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BEV Shop Light: the user does not have to register for this and he can anonymously obtain access to Austrian Map Fly 5.0 and national maps BEV Shop: without registration, the user can search and order predefined products, such as Orthophotography or 1:1.000.000 vector maps.

BEV Shop Plus: the user has to register to obtain further means to search data. All products of BEV are offered in different formats, such as aerial images, orthophotography, topographic maps, and administrative boundaries. EC-INSPIRE: Spatial Data Infrastructures in Europe State of play Spring 2011 Austria K.U.Leuven (SADL) 18 MyBEV Shop: registered users can see the products and searches they have queried. BEV Shop APOS: registered users can download data from all APOS reference stations. BEV WebGIS: registered users can query and obtain attributes of selected objects in different themes. General conditions for obtaining and using the data can be found on the website

http://www.bev.gv.at/portal/page?_pageid=713,1606946&_dad=portal&_schema=PORTAL

An overview of standard licensing charges and conditions is available at
<http://www.bev.gv.at/pls/portal/url/ITEM/890D310A325C50CCE040010A1F210D3>

By the end of 2009, over 3.000 users were registered on the BEV-portal. During 2009, almost 80.000 orders of products took place, an increase of 30% in comparison to 2008. Most orders took place via the download service, only a limited number were delivered by CD or e-mail (BEV, BEV Leistungsbericht 2009,

<http://www.bev.gv.at/pls/portal/url/ITEM/8A3E44FD3D063647E040010A1F216F91>

UN-GGIM Knowledge Base

<http://ggim.un.org/knowledgebase/KnowledgebaseArticle51517.aspx>