

## Portugal-Legal Framework

### Legal framework

The process of establishing SNIG (Sistema Nacional de Informação Geográfica) started in February 1986, with the publication of decision SEIC 2/86 of the Secretary of State for Research and Development. It created a task force -consisting of the representatives of the main actors in the GI area- whose mission was to study the creation of a national SDI and to propose to the Secretary of State the corresponding actions to be taken by the Government. As a result of the studies and activities carried out by this task force, the Portuguese SNIG was created in 1990 through Decree-Law no. 53/90. This law also established the CNIG (Centro Nacional de Informação Geográfica) as a governmental EC-INSPIRE: Spatial Data Infrastructures in Europe: State of play Spring 2011 Portugal K.U.Leuven (SADL) 18 research centre with the mission of coordinating and implementing the SNIG (CNIGwebsiteis no longer online). Since its inception, the SNIG was intended to become the focal point of geospatial data distribution and accessibility in Portugal. It was conceived as a fully distributed system consisting of nodes that serve data or metadata online, and was launched on the Internet in May 1995.

In 2001 the Portuguese government -in order to improve the efficiency of the public administration- decided to create the Instituto Geográfico Português (IGP) by merging CNIG with IPCC (Portuguese National Geodetic, Mapping and Cadastre Agency). The IGP was created in January 2002 and its organic law published by the Decree-Law no. 53/2002. The transposition of the INSPIRE directive was embedded in the revision of the existing law 53-90 on the SNIG (DL - Decreto-Lei n.º 180/2009, 7 August 2009, <http://dre.pt/pdf1sdip/2009/08/15200/0513205139.pdf>).

The same Decree-Law nr. 180/2009 created the National Registry for Geographic Information and provided the set-up of the Advisory Council of the National Geographic Information System (CO-SNIG) responsible for the coordination of the INSPIRE implementation.

It should be noted that Azores and Madeira are autonomous regions developing their own SDs: IDEiA (Azores) and IRIG-Madeira.

Public-private partnerships (PPP's)

No information available.

For the SDS of Portuguese maritime heritage, cooperation has been established with private and public, local and national bodies, in particular collaboration arrangements with the Centre for

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Overseas History (CHAM/UNL), the Labour and Business Sciences Institute (ISCTE) and the Tropical and Scientific Research Institute (IICT).

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

Article 268 of the Constitution determines that citizens shall enjoy the right to have access to administrative records and files, subject to the legal provisions with respect to internal and external security, investigation of crime and personal privacy. Law no. 65/93 (Lei de Acesso aos Documentos Administrativos) of 26 August 1993 (as amended by Law no. 8/95 of 29 March 1995 and by Law no. 94/99 of 16 July 1999) provides for this access to government records. The law is overseen by the Commission for Access to Administrative Documents (Comissão de Acesso aos Documentos Administrativos), an independent parliamentary agency. This Commission can examine complaints, give opinions on access, and decide on classification of systems (<http://www.cada.pt>). EC-INSPIRE: Spatial Data Infrastructures in Europe: State of play Spring 2011 Portugal K.U.Leuven (SADL) 19 Directive 2003/4 on access to environmental information has been transposed into Portuguese law by Law 19/2006 of 19 June 2006 (<http://www.cada.pt/uploads/7f000001-a20b-9451.pdf>). Directive 2003/98 on the re-use of PSI was transposed by Law 46/2007 of 24 August 2007

([http://ec.europa.eu/information\\_society/policy/psi/docs/laws/portugal/pt\\_transposition\\_law.pdf](http://ec.europa.eu/information_society/policy/psi/docs/laws/portugal/pt_transposition_law.pdf)).

### Legal protection of GI by intellectual property rights

The Portuguese Copyright Act (Code of Copyright and Related Rights no. 45/85) dates from 17 September 1985 and has been revised since. It practically lists the same works eligible for protection as the Berne Convention. This includes geographical maps and illustrations and works related to geography or other sciences. The general description of the copyrighted material is: intellectual creations in the area of literature science and art. Collections of data are not specifically mentioned. The law only speaks of works such as anthologies and encyclopaedias. It is however doubtful whether GI datasets fall within the scope of the copyright act, since they are a collection of facts and not a collection of works. For GI in the form of digital maps, it may be argued that since paper maps enjoy protection, the same should apply to digital maps. Photographic work (e.g. aerial photograph) only qualifies for copyright protection if the selection of the object to be photographed and/or the way in which it is made, results in a personal artistic creation. Photography that is the basis for map production will in general not meet these demands. This does not necessarily mean that the map that results from the photography is not protected. The law on the production of products of cartography (Law no. 193/95 of 28 July 1995) states explicitly that copyright law applies to cartographic information. Notwithstanding

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copyright protection (for which originality is one of the requirements), article 14 sub 2 of this new law states that it is forbidden to use, supply to others, reproduce, divulge or commercialize cartographic products or the corresponding technical data without permission of the entity of which it is the property. It is clear that this law aims to give producers of GI additional protection besides copyright. By Decree Law 122/2000 of 4 July 2000 the EU Directive on the protection of databases was implemented into Portuguese law. The 2001 directive on copyright in the information society has also been transposed into Portuguese law.

### Restricted access to GI further to the legal protection of privacy

The system for access to personal information is regulated by both the Constitution (articles 37, 48 and 268 of the Constitution) and the law. Law no. 67/98 on the Protection of Personal Data of 26 October 1998 implements Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The supervisory authority is the National Data Protection Commission (Comissão Nacional de Protecção de Dados - <http://www.cnpd.pt>). The EC-INSPIRE: Spatial Data Infrastructures in Europe: State of play Spring 2011 Portugal K.U.Leuven (SADL) 20 applicability of the above privacy legislation to the processing of GI depends largely on the interpretation of the concept of “personal data”. The 2002 Directive on privacy and electronic communications has been implemented in Portuguese law.

### Licensing framework

Data sharing arrangements exist between public authorities and they differ accordingly their object and conditions like - data-sharing and collaboration agreements between public authorities e.g within the Regional Geographic Information Infrastructure (IRIG), the Regional Directorate for Geographic Information and Regional Planning Madeira has collaboration agreements with all the Municipalities and a large number of regional and national GI producers; - agreements in which information production costs are shared;- licences to use information; - information sharing arrangements with private bodies;

- data-sharing arrangements through Geo Web Services; e.g. Agriculture and Fisheries Financing Institute has Data-sharing arrangements via Web Services with the Vine and Wine Institute, with the Management Authority of the Rural Development Programme for the Mainland and with various insurers (harvest insurance);

- information exchange arrangements on certain themes;

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- data model definition arrangements;
- application transfer arrangements;
- GI and tool transfer arrangements

Data from the IGP can be requested by filling out a standard form provided on the website (<http://www.igeo.pt/Frameset-egeo.htm>). Sometimes when the ownership of the data is shared between IGP and another public organization, the use by third parties is regulated by a pre-established protocol. For the Soil and Soil Capacity of Use Maps (1:25 000), public authorities have to sign a Term of Responsibility, emitted by the Direcção-Geral de Agricultura e Desenvolvimento Rural (DGADR), to be able to use that cartography. DGADR has different levels of charging for different users (e.g. public authorities with cooperation agreements, university and research, private companies, students).

UN-GGIM Knowledge Base

<http://ggim.un.org/knowledgebase/KnowledgebaseArticle51534.aspx>