



GEodata Openness Initiative for Development and Economic Advancement in Romania

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List With All the Legislative Acts that Regulate the Geodata Production and Dissemination in Romania

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<p style="text-align: center;">ABSTRACT:</p> <p>The document provides an overview of the Romanian and European legal framework that regulates the geographic information production and dissemination.</p>		
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1. INTRODUCTION

1.1 Purpose of the document

The main objective of the GEOIDEA.RO project proposal is to improve the scientific basis for the adoption of an open geodata model in Romania. It is our belief that publishing government geodata in Romania over the Internet, under an open license and in a reusable format can strengthen citizen engagement and yield new innovative businesses, bringing substantial social and economic gains.

The existing legal constraints must be identified before analyzing the impact of adopting open data access policies for geodata producers in Romania.

This document contains a list with the relevant actors and the legislative acts that regulate the geodata production and dissemination in Romania.

1.2 Abbreviations

Abbreviation	Meaning
AACR	Romanian Civil Aviation Authority
ANAR	Administration for Romanian Waters
ANCPI	National Agency for Cadastre and Land Registration
ANRM	Regulatory Authority for Mineral Resources in Romania
APIA	Agency for Payment in Agriculture
CNADNR	National Company of Highways and National Roads
CNGCFT	National Centre for Geodesy, Cartography, Photogrammetry and Remote Sensing
DDNIRD	Danube Delta National Institute for Research and Development
DTM	Directorate for Military Topography
EC	European Commission
EU	European Union
FOIA	Freedom of Information Act
GI	Geographic Information
GIS	Geographic Information System
IBIOL	Institute of Biology Bucharest
ICAS	Forestry Research and Management Institute
ICI	National Institute for R&D in Informatics
INIS	National Spatial Data Infrastructure Council

INS	National Statistical Institute
INSPIRE	INfrastructure for SPatial InfoRmation in Europe
ISO	International Organization for Standardization
MDRT	Ministry of Regional Development and Public Administration
MECC	Ministry of Environment and Climatic Changes
Meteo Romania	National Meteorological Administration
NGO	Non-governmental organization
OGC	Open Geospatial Consortium
PSGI	Public Sector Geo-Information
PSI	Public Sector Information
ROSA	Romanian Space Agency
WFD	Water Framework Directive
WMS	Web Map Service
WMTS	Web Map Tile Service

2. ROMANIAN PUBLIC BODIES IN CHARGE OF GEODATA PRODUCTION

Over the last twenty years, the geo-information sector in Romania witnessed a number of dramatic changes. Many challenges were related to EU initiatives like the Directive for an INfrastructure for SPatial InfoRmation in Europe (INSPIRE). A list with the most relevant geodata producers and maintainers is presented in the Table 1 (the table presents only the geodata producers responsible for INSPIRE implementation in Romania. A more comprehensible list of providers will be provided in the deliverable “Governmental geodata producers contact information database”).

Table 2:
Main Romanian geodata producers and maintainers.

Name	Acronym	Geodata topics covered (according with INSPIRE themes)
Romanian Civil Aviation Authority	AACR	Transport networks
Administration for Romanian Waters	ANAR	Hydrography
National Agency for Cadastre and Land Registration	ANCPI	Geographical names, Administrative units, Cadastral parcels, Transport networks, Hydrography, Elevation, Land cover, Orthoimaginery, Statistical units, Buildings, Land use, Utility and governmental services, Production and industrial facilities, Agricultural and aquaculture facilities, Area management/restriction/regulation zones and reporting units,
Agency for Payment in Agriculture	APIA	Orthoimaginery, Land use,
National Centre for Geodesy, Cartography, Photogrammetry and Remote Sensing	CNGCFT	Geographical names, Administrative units, Cadastral parcels, Transport networks, Hydrography, Elevation, Land cover, Orthoimaginery, Statistical units, Buildings, Land use
Danube Delta National Institute for Research and Development	DDNIRD	Protected sites, Elevation, Soils, Land use, <i>Species distribution</i>
Directorate for Military Topography	DTM	Geographical names, Administrative units, Transport networks, Hydrography, Elevation, Land cover, Orthoimaginery, Statistical units, Land use, Utility and governmental services, Production and industrial facilities, Agricultural and aquaculture facilities, Area management/restriction/regulation zones and reporting units,

Institute of Biology Bucharest	IBIOL	
Forestry Research and Management Institute	ICAS	Natural risk zones, Habitats and biotopes, Land cover, Land use
National Institute for R&D in Informatics	ICI	Geographical names
National Statistical Institute	INS	Population distribution – demography
Romanian Space Agency	ROSA	Orthoimaginery, Land cover, Land use
National Meteorological Administration	Meteo Romania	Energy resources, Environmental monitoring facilities, Atmospheric conditions, Meteorological geographical features
Ministry of Environment and Climatic Changes	MECC	Geographical names, Transport networks, Hydrography, Protected sites, Elevation, Land cover, Orthoimaginery, Soil, Land use, Environmental monitoring facilities, Area management/restriction/regulation zones and reporting units, Natural risk zones, Bio-geographical regions, Habitats and biotopes, Species distribution, Energy resources
Ministry of Regional Development and Public Administration	MDRT	Administrative units
National Company of Highways and National Roads	CNADNR	Transport networks
Regulatory Authority for Mineral Resources in Romania	ANRM	Production and industrial facilities, Area management/restriction/regulation zones and reporting units, Energy resources

3. LEGAL FRAMEWORK

This section provides an overview on the legal framework of the Romanian geo-information sector. The section is covering both the European context (mainly EU Directives) and the Romanian laws and regulations, which directly influence the sharing and reusing of geodata in Romania.

3.1 European Context

A number of EU directives and initiatives directly influence the sharing and reusing of geo-information in Europe and Romania. The most important ones (like the INSPIRE directive, the directive on public access to environmental information, the directive on re-use of public sector information, the directive on the protection of personal data, etc.) are presented below.

3.1.1 Directive for establishing an Infrastructure for Spatial Information in the European Community (INSPIRE Directive)

Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) was published in the official Journal on 25 April 2007. The INSPIRE Directive entered into force on 15 May 2007. The directive focuses on data sharing for 34 spatial data themes needed for environmental applications and covers the following aspects:

- Creation of metadata;
- Interoperable data and services specifications;
- Network services;
- Sharing mechanisms for data and services;
- Coordination and measures for monitoring and reporting.

The Member States are required to comply with the following principles when implementing INSPIRE:

- Data should be collected once and maintained at the level where this can be done most efficiently;
- Spatial data should be collected at one level of government and shared between all levels;
- Combine spatial data from different sources and share them between many users and applications (concept of interoperability);

- Spatial data needed for good governance should be available under conditions that do not restrict their extensive use;
- It should be easy to know what spatial data are available, to evaluate their fitness, and to know which conditions apply for their use.

The INSPIRE Directive states that "in every particular case, the public interest served by disclosure shall be weighed against the interest served by limiting or conditioning the access." However, spatial datasets, series or services covered by the INSPIRE Directive may be exempted from public dissemination in a number of conditions, the most important referring to datasets that are not in electronic format. These conditions are related to the protection of rare species by not disclosing the precise location, to confidential information where such confidentiality is provided for by law (e.g. personal information), to public security or national defence issues, to intellectual property rights infringements, and to information that can prevent any person to receive a fair trial.

The main types of Network Services relevant to the Directive are:

- **Discovery Services:** these consist of online metadata catalogue services, which are interoperable over the Internet. They make it possible to search for spatial data and services on the basis of the content of their metadata;
- **View Services:** these make data viewable as live layers over the Internet. The base specification of an INSPIRE View Service is ISO 19128:2005 (OGC WMS 1.3.0) international standard. OGC WMS 1.1.1 and OGC WMTS 1.0.0 are also accepted;
- **Download Services:** these allow copies of spatial datasets, or parts of such sets, to be downloaded and, where practicable, accessed directly;
- **Transformation Services:** these enable spatial datasets to be transformed with a view to achieve interoperability;
- **Invoke Services:** these allow spatial data services to be invoked (web processing services in OGC vocabulary).

At least the discovery and the view services should be publicly available, without any charge (Art. 19).

Where charges are required for datasets or services, e-commerce services must be available for easy payment. Charging and licensing of INSPIRE data and services must:

- Be fully compatible with the general aim of facilitating the sharing of spatial data sets and services between public authorities;
- Kept to the minimum required to ensure the necessary quality and supply of spatial datasets and services together with a reasonable return on investment;

- Respect the self-financing requirements of public authorities supplying spatial data sets and services;
- Be freely available for reporting obligations of institutions of the Community;
- Not compromise the course of justice, public security, national defense or international relations.

Transposition of the Directive in Romania

In 2010, the INSPIRE directive was implemented by Government Ordinance no. 4/2010 establishing the National Spatial Data Infrastructure (INIS - Ordonanța nr. 4 din 2010, privind instituirea infrastructurii naționale pentru informații spațiale în România). Through this order the coordinating body for INIS is established, i.e. the INIS Council (CINIS). In one of the annexes (4) the responsables for the coordinating and collaborating public bodies of the INIS Council are listed. Government Ordinance nr 4/2010 also defines the roles and tasks of each of the participating bodies.

3.1.2 Directive on public access to environmental information

Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC was published in the official Journal on 14 February 2003. Directive 2003/4/EC requires Member States to make actively available and disseminate environmental information. It guarantees the right of access to environmental information produced or received by a public authority, in order to achieve the widest dissemination. Although this Directive does not point directly towards geo-information, this kind of information is implicit included as the majority of environmental information are spatially related or are spatially linked.

The Directive requires Member States to make available environmental information to any applicant at his/her request and without the need of having to state an interest [Article 3 Directive 2003/4/EC]; provide access to justice in instances where access to the data is denied [Article 6 Directive 2003/4/EC]; provide free viewing of lists of environmental data [Article 5 Directive 2003/4/EC], stimulate electronic access to environmental data [Article 7 Directive 2003/4/EC]; and where a price is asked for data that price should not exceed a reasonable amount [Article 5 Directive 2003/4/EC].

Transposition of the Directive in Romania

Decision nr. 878 of 28 July 2005 "Hotărâre privind accesul publicului la informația privind mediul" (Hotărâre de Guvern) transposes Directive 2003/4/EC into Romanian legislation.

3.1.3 Directive for establishing a framework for Community action in the field of water policy (Water Framework Directive)

The Water Framework Directive (WFD - 2000/60/EC), published and entered into force in December 2000, is a legislative framework to protect and improve the quality of all water resources such as rivers, lakes, groundwater, and transitional and coastal water within the European Union. To achieve a “good status” for all European waters by 2015, a set of activities must be carried out, such as identifying individual river basins and assigning them to river basin districts, determining and characterizing groundwater and surface water bodies, establishing protected areas, setting up water status monitoring networks, reviewing the impact of human activity, analyzing economically the use of water, and ensuring public participation in the establishment of the river basin management plan.

The Water Framework Directive requires the European Commission to be provided with certain geographic information in the form of maps. As part of the Common Implementation Strategy for the WFD, a working group in GIS (GIS-GW) was formed to provide common guidance in implementing the GIS elements, presenting a set of best practices that can be optionally followed (Vogt, 2002). Taken to their full extent, the key points proposed by the GIS-GW should led to the creation of SDIs that address the GIS requirements of the WFD, according also with the INSPIRE initiative principles and objectives.

Transposition of the Directive in Romania

Law 107/1996 “Legea Apei” modified and completed by Law 301/2004, Law 112/2006 and Law 146/2010 transpose Directive 2000/60/EC into Romanian legislation.

3.1.4 Directive on the re-use of public sector information (PSI Directive)

Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information was published in the official Journal on 31 December 2003.

The Member States are required to comply with the following principles when implementing the PSI Directive:

- Charges for re-use have to be limited at a ceiling calculated on the basis of actual costs. Public sector bodies need to calculate charges per re-user in a way so that the total income from charging does not exceed the costs incurred to produce and disseminate the information, together with a reasonable return on investment.
- Public sector bodies are encouraged to apply lower charges or to apply no charges at all. On request, public sector bodies must indicate the method used to calculate charges.
- Conditions for re-use shall be non-discriminatory for comparable categories of re-use.

- Prohibition of cross-subsidies: If public sector bodies re-use their own documents to offer added-value information services in competition with other re-users, equal charges and other conditions must apply to all of them.
- Prohibition of exclusive arrangements: Public sector bodies may not enter into exclusive arrangements with individual re-users, excluding others. Such exclusive rights may only be authorized in exceptional circumstances if they are necessary to provide services in the public interest.
- Charges and other conditions for re-use have to be pre-established and published. If a request for re-use is refused, the grounds for refusal and the means of redress need to be explained.
- Requests for re-use shall be processed within a specific timeframe (20 days for standard cases).
- Licenses should not unnecessarily restrict possibilities for re-use or be used to restrict competition.
- Member States are encouraged to use standard licenses in digital format.

Although the PSI Directive does not address geodata specifically, it addresses PSI of which public sector geo-information (PSGI) is definitely a subset. In promoting the re-use of PSI and thus PSGI, the PSI Directive indirectly facilitates making geodata more accessible and usable by a wider cross-section of the society.

Transposition of the Directive in Romania

Law 109/2007 (Legea privind reutilizarea informațiilor din instituțiile publice) transposes Directive 2003/98/EC into Romanian law. Public authorities have the right to ask for a fee for commercial re-use of the PSI. This law did not fully meet the requirements of the transposition and on 26 March 2008 (213/2008) a new law was introduced that addresses these shortcomings.

Revision of the Directive

In June 2013, the European Parliament has adopted a revision of the Directive. The revised version brings a number of changes. The most important ones are outlined below:

- Introduces a genuine right to re-use by making reusable all content that can be accessed under national access to documents laws;
- Lowers the upper ceiling for charges on re-use applicable in standard cases to marginal costs, i.e. the costs incurred by the individual request for re-use (reproduction, provision and dissemination costs); exceptions are allowed in a limited set of cases;
- Expands the scope of application of the Directive to certain cultural institutions such as libraries (with the exception of university libraries), museums and archives, but making them

subject to a number of different rules that reflect that set of rules of the 2003 Directive, namely;

- There is no genuine right to re-use; only such documents the re-use of which has previously been allowed are re-usable;
- Cultural institutions can charge re-users based on the principle of full costs recovery, including a reasonable return on investment;
- Cultural institutions may engage in the award of exclusive exploitation rights if necessary to ensure digitization projects,
- Reinforces the obligation to be transparent on conditions and on charges applied to re-use;
- Invites Member State to make more documents available in machine-readable and open formats.

Member States now have two years to transpose the provisions of the revised Directive into national law.

3.1.5 Directive on the protection of individuals with regard to the processing of personal data and on the free movement of such data and Directive concerning the processing of personal data and the protection of privacy in the electronic communications sector

Directives 95/46/EC of the European Parliament and of the Council 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 was published in the official Journal on 23 November 1995 and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) was published in the official Journal on the 31 July 2003 provide the legal framework for processing personal data, often including location data.

Directive 95/46/EC did not result in full harmonization of privacy law in Member States; it only provides a certain bandwidth within which Member States may operate. Therefore, different interpretations of the explanation of, for example, the term personal data may exist among Member States, and different rules may apply to the use of personal data (Kap et al. 2003; Korff 2002).

Examples of how different European cadastres and/or land registrations address the privacy issue are provided in Van Loenen (2002). Some countries provide access through the name of the owner (showing all real property of the individual), others only allow access through the address of the real property.

3.1.6 European Convention on Human Rights (ECHR)

The European Convention on Human Rights (ECHR) (formally the Convention for the Protection of Human Rights and Fundamental Freedoms) is an international treaty to protect human rights and fundamental freedoms in Europe. It addresses privacy in article 8:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

3.1.7 Other relevant directives, programs and initiatives

A number of other European directives, programs and initiatives influence the regime of public sector information in general and can be extend to geodata in particular. The most important are:

- Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases;
- Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings;
- Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market;
- Shared Environmental Information System (SEIS) is a collaborative initiative of the European Commission and the European Environment Agency (EEA) to establish together with the Member States an integrated and shared EU-wide environmental information system.
- Copernicus, previously known as GMES (Global Monitoring for Environment and Security), is the European Programme for the establishment of a European capacity for Earth Observation.

3.2 Romanian legal framework

This section provides an overview of existing legislation concerning access to, availability of and sharing of public sector information in general and geodata in particular.

3.2.1 Constitution of Romania

Article 31 (1 & 2) of the Constitution (http://www.cdep.ro/pls/legis/legis_pck.frame) lays down the principles of the rights of unrestricted access to the information of public interest; the public

authorities, according to their competence, are bound to provide correct information to the citizens in public affairs and matters of personal interest. It is also provided that public and private media shall be bound to provide correct information to the public opinion (Alexandru 2004).

3.2.2 Government Ordinance no. 4 / 2010 establishing the National Spatial Data Infrastructure

This ordinance represent the transposition of the INSPIRE Directive in Romania. The Romanian National Spatial Data Infrastructure (INIS) was created as an effect of the Ordinance. Its coordinating body, the Council of the National Infrastructure for Spatial Information (CINIS) is led by the ANCP, the Romanian national mapping agency. ANCP also plays the role of INSPIRE national contact point. All the other data providers and the main Ministries are involved and contribute in a consistent manner: the Ministry of Administration and Interior; the Ministry for Environment and Forestry (actual Ministry of Environment and Climatic Changes); the Ministry of National Defence; the Ministry of Public Finances; the Ministry of Agriculture and Rural Development; the Ministry of Regional Development and Tourism (actual Ministry of Regional Development and Public Administration); the Ministry of Transports and Infrastructures (actual Ministry of Transports); the Ministry of Economy, Commerce and Business (actual Ministry of Economy); the Ministry of Education, Research, Youth and Sports (actual Ministry of National Education); the National Agency for Mineral Resources; the Ministry of Health; the National Institute for Statistics; the Special Telecommunications Service; the Ministry for Communications and Information Society (actual Ministry for Information Society); the Ministry for Culture and National Heritage (actual Ministry of Culture) and the Romanian Academy. Also the private sector is developing activities in the GI field, as data provider, application developer or developer of GI projects, and they have therefore an important contribution to the development of INIS (Vandenbroucke et al 2011).

3.2.3 Law 7/1996 on the cadastre and on real-estate publicity

Significant changes to the Law were enacted under Law 133/2012 (published in the Official Gazette no. 506 of 24 July 2012 and entered into force on 27 July 2012), and under Law 219/2012 (published in the Official Gazette no. 789 of 19 November 2012 and entered into force on 22 November 2012).

According to the Cadastre Law, information regarding the national geodetic network, official maps, general cadastre and real estate publicity are public information and represent a public property asset of the state and are administrated by the ANCP through subordinate units. Since 2005, such information may be consulted and are available to any legal or natural persons in exchange for a fee, except for information regarding national safety, which can be accessed only by certified bodies or persons (Art. 71). The ANCP approves the topographic contents of the maps, plans, atlases, guidebooks and other cartographic documents of public use (Art. 5f).

The data of the ANCPFI Fund is protected through intellectual property right. This is explicitly mentioned in the contracts. A study commissioned in 2006 by ANCPFI indicate that for some datasets it may be doubtful whether IPR can be claimed since the many datasets were developed during the Communist regime (Strategy and Implementation plan NSDI in Romania 2006).

3.2.4 Law 544/12 regarding the free access to the public information

The Law 544/12, along with the amendments (Law 371/2006 and Law 380/2006), regulates the access to public information held by authorities (Art 1: "the individual's free and unconstrained access to public information represents one of the fundamental principles of the relations between the individuals and the public authorities...").

According to the Law, any information regarding the activities or resulting from the activities of public authorities and/or institutions, irrespective of format or means of expression is assimilated with public information. The basic information that is available through this law includes (Alexandru 2004):

- Regulatory acts;
- Internal organization and working programme of the public institution or service;
- Name of management team and person in charge with information delivery;
- Contact address;
- Fax/telephone/e-mail, website address;
- Financial sources, budget and balance;
- Programmes and strategies;
- List of public interest documents;
- Locally produced documents;
- Annual activity reports;
- Complaint and press charges procedure.

Law 544/2001 specifically indicates that public information is free of charge; only the cost of the copying service for requested public documents shall be paid by the person who requested the information in the conditions of the law (Art. 9). Individuals are granted free access to the public information repositories of the public authority or institutions, for studies and research, for work assignments or for personal purposes, based on a personal written request. Copies of the documents

may be obtained on a fee basis (Art. 12). The media is granted free access to the public information for data collection and dissemination (Alexandru 2004).

3.2.5 Law 109/2007 on the re-use of public sector information

Together with the Law 213/2008, Law 109/2007 transposes the PSI Directive into Romanian law. According to a study made by ePSI Platform in 2011 (Dittrich 2011), despite the modern legislative framework the PSI re-use is still limited in Romania: “However, Public Sector Bodies in Romania face budgetary constraints and also a lack of human and physical resources. As result of budgetary constraints and qualified human resources, Romanian PSBs (especially at the local level) have strained institutional capacities. As with many other laws, implementation has thus proven to be the main bottleneck. While the proper legislative framework is in place, in practice implementation and law enforcement is often not satisfyingly realised.”

3.2.6 Law 8/1996 on copyright and neighbouring rights

The Law amended by Law No. 329/2006, covers direct and indirect rights related to original works of intellectual creation in the literary, artistic or scientific field, irrespective of the creation methods or form of expression. It explicitly protects three-dimensional works, maps and drawings in the field of topography, geography and science in general. The Governmental Ordinance 124 of 31 August 2000, amended and enforced by Law 213 of 19 April 2002 (http://www.cdep.ro/pls/legis/legis_pck.frame) regard the copyright and related rights protection of computer programmes (Alexandru 2004).

Copyright is assigned to the author and involves moral and patrimonial rights. Copyright protection covers the lifetime of the work, or the author and is generally extended to his/her heirs for an additional period of 70 years. The lifetime of software protection guarantee is 50 years after the death of the last co-author. Works of art are granted protection for a period of 25 years after the creation of the work. The copyright holder may entirely or partially transfer the rights to others, through an agreement, which stipulates the exploitation, duration and extension conditions of such transfer and the revenues to be received. Moral rights cannot be transferred (Alexandru 2004).

The following cannot be protected by copyright: ideas, theories, concepts, discoveries and inventions contained in a certain work, irrespective of the manner of their obtaining, writing, conveyance or expression; official texts of political, legislative, administrative or judicial nature and their official translations; the official symbols of the State and of the public authorities and organizations; payment means; news releases and press information; simple facts and data (Alexandru 2004).

The copyright holder’s consent is compulsory for any transformation of the copyright holder’s work which gives rise to derived works, as well as leasing of the work original and copies, leasing of works contained in an audio recording, of a computer program or of a work that can be used by means of a computer or any other technical device, even after their public release (Alexandru 2004).

3.2.7 Licensing framework

There does not exist an overall framework that specifies the use conditions for commercial use of public sector information (Strategy and Implementation plan NSDI in Romania, 2006).

3.2.8 Privacy

Art. 26 of the 1991 Romanian Constitution states:

§(1) The public authorities shall respect and protect the intimate, family, and private life.

§(2) Any natural person has the right to freely dispose of information on himself unless by this he causes an infringement upon the rights and freedoms of others, on public order, or morals.

Law no. 677 of 12 December 2001 on privacy and personal data protection together with a set of other sectorial regulations concerning data processing and protection (http://www.cdep.ro/pls/legis/legis_pck.frame) concerns personal data as part of a recording system or aiming at being recorded in one way or another and provides for the protection of the personal data in the larger context of the individual right to the protection of the personal, private and family life (Alexandru 2004).

The law makes provisions for personal data processing based on a prior, express and unequivocal approval of the individuals (Art 5); special provisions are foreseen for personal data processing concerning health, identity, criminal records or individuals in breach of law, personal convictions and the like (Art 7-11) (Alexandru 2004).

The public authorities are allowed to release personal data only when such data impair the exercise of a public office, or transfer personal data between departments only by law or make it public based on prior written agreement of the person in question (Alexandru 2004).

The protection of the individual is covered by provisions concerning the obligation of the private and public „operators” to inform the citizen on the operator’s/representative’s identity, the purpose of data processing, further destination of processed data, legal consequences when data is compulsory to give, the conditions of access to personal data to update, change or erase it and the right of opposition by complaining to the supervisory authority or by pressing legal charges against the decisions of the operator (Art 12-13) (Alexandru 2004).

Exceptions from the provisions of this law makes data processing with an exclusive journalistic, literary or artistic purpose, or in the case data have already been made public by the person in question or if data is closely related to the public role of a person (Art 11). (Alexandru 2004).

3.2.9 Liability

The Romanian Civil Code and the Civil Procedures Code rule on liability issues. Also Law 7/1996 and Order 646/2002 on cadastral data are relevant in this respect. In Romania, the one that provides the data is responsible for the data. For example, a claim for inaccurate data is typically directed at the source of the data.

The Labour Code rules on the relation between employee and employer. It assumes liability in the employee in instances of purposely making mistakes. For instance, a geodata producer may investigate to what extent its employee responsible for the data processing can be blamed for a mistake, for example because of bad intentions. If this is confirmed, the employee can be charged with professional misconduct (Strategy and Implementation plan NSDI in Romania 2006).

4. REFERENCES

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