



Arbeitsgemeinschaft der Vermessungsverwaltungen
der Länder der Bundesrepublik Deutschland



ECJ case 490-14: state of play, next steps

EuroGeographics PolKEN-meeting
Leuven, 7 May 2015



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Background

- A private map publisher has extracted information from official topographic maps of Bavaria to produce leisure maps, without paying the required licence fee (would have been about 700 € *per annum*).

Example: Verlag Esterbauer Radatlas Berchtesgadener Land 1:75,000 (right), compared to Topographic Map of Bavaria 1:50,000 (left)





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Objective of the legal proceedings launched by Bavaria

Objective of court case:

- to apply the legal protection of databases in the sense of EU Directive 96/9/EC against the unauthorized extraction and re-utilization of contents to official maps constituting graphical information storage media for geo-information. That is essential for topographic maps as well as for cadastral maps;
- i.e.: topographic maps, both analogue and digital, are to be considered as „database“ in the sense of Directive 96/9/EC.

→ This is an important issue for all official map-makers (i.e. all NMCA's)!



Action taken so far (1)

Bavaria (as Party to the proceedings) has submitted a detailed statement – the key points included:

- **Confirmation of the nature of a topographic map as „database“**
 - **in the light of Directive 96/9/EC and current ruling of ECJ;**
 - **taking note of the close relationship of a topo-map from the ATKIS-DLM-(digital landscape model) database from which it is derived;**
 - **following the systematic positioning of the elements of the map according to the coordinates and significance of each object; and**
 - **being based on the independently amended or deleted individual map elements in course of updating the map.**
- **The interest of the user of the official map, in particular for extraction of individual elements by way of digitising with the intention of re-use (here in a leisure map) was pointed out.**
- **Compliance of data base protection and licensing practice with EU legislation on authoritative geospatial information and its re-use.**



Action taken so far (2)

- **EU-Member States:**
 - **Supporting statement submitted to ECJ:**
AT, BE, DE, ES, IT, PL, PT
 - **Supporting statement through official communication channels to ECJ intended, but not realised by the deadline; support offered for possible oral proceedings:**
EL, FR, HU, NL, UK (GB, GB-North Ireland)
 - **No official statement envisaged: SE**
 - **Feedback to EuroGeographics: LU.**
- **Non-EU Member States from Europe: support expressed to EuroGeographics by AL, CH.**



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Action taken so far (3)

- **Sincere thanks for excellent support by EuroGeographics and its Member organisations**
- ***→ Are there any updates to the above list (namely on actions taken by EuroGeographics, i.e. statement to COM?)***



Closing of written proceedings

- **5 March 2015: ECJ files translations of statements to the Parties to the case, the COM and MS.**
- **7 statements from MSs, all supporting Bavaria's position**
- **Statement from respondent: short and weak. "A single map element, e.g. a church, has no information value at all."**
- **Statement from COM (legal service): adversary, but inconsistent: They accept a list of hotels with "GPS-coordinates" as a database (no. 25), but don't so with the representation of hotels in a map (no. 24). They accept an interactive electronic map including a tool for request of object information (no. 27). - Database directive requires neither a special tool for database request nor an electronic form (art. 1 para. 2).**
- **Statement of Bavaria anticipates the adversary arguments: e.g. COM no. 25 is anticipated by Bavaria no. 59.**



Next steps

Oral stage?

- An oral stage is not obligatory; at present it appears that an oral stage is **NOT** necessary, because all statements are in our favour, apart from the COM's statement.
- All arguments are produced. AdV/Bavaria don't see new arguments, that had to be considered.
- An oral stage could be scheduled by the ECJ if it deems important aspects not yet clarified, or on request by any MS that did not file a written statement: This could apply mainly to FR and UK.
→ are FR and UK still prepared to support the case, if need be, by requesting an oral stage through the appropriate channels?
- AdV/Bavaria suggest to first check in close coordination with interested EU MSs whether an oral stage is really useful at this point.
- Final date for requesting an oral stage: 26 May 2015.



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Gracias

Tänan

Tack

Merci

Thank you

Kiitos

Tak

Děkuji vám

Dǎkujem vám

Aċiū

Сағ олун

Danke

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Dank u

Paldies

Grazie

ευχαριστο

Dziękuję

Mulțumesc

Obrigado

Köszönöm

Благодаря

Hvala