A Legal Approach to Assessing SDIs

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A legal approach to assessing SDIs

A legal methodology? Are you out of your mind?!?
A legal approach to assessing SDIs

- Three levels of legal assessment
  - Compliance
  - Coherence
  - Quality
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  - **Compliance**
  - Coherence
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- **Level 1: compliance**
  - Does X or Y follow the law?
  - Assessment of situation, behaviour, fact, as elements of an SDI
  - Criterion: the law
    - Three types of laws
      - Legislation specific to SDI: e.g. INSPIRE implementation
      - Legislation specific to data or information: e.g. access, re-use, copyright, personal data
      - General legislation: e.g. liability, contracts, procedure, ...

- Target group: SDI community
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- **Level 2: coherence**
  - Do the laws complement or contradict each other?
  - Assessment of the legal framework, as part of the SDI
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- **User**
- **Provider**

**Main Concepts:**
- **Access**
- **Re-use**
- **Sharing**

**Categories:**
- IPR
- Privacy
- Security
- Liability

**Relationships:**
- Competition
- Cooperation
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- Level 2: coherence
  - Do the laws complement or contradict each other?
  - Assessment of the legal framework, as part of the SDI
  - Criterion: common sense?
  - Target group: legislator
  - E.g. spatial data/PSI/environmental data
    - Overlapping categories
    - Access/re-use/sharing
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- Level 2: coherence
  - Incoherence can exist on different levels
    - In wording/ in spirit
    - Black-white contradiction/grey zone/gaps
  - Not always a legal problem,
    - Hierarchy of norms: constitution beats law beats royal decree
    - Lex specialis: smaller field of application beats bigger field of application
    - Lex posterior: recent rule beats older rule

Without coherence, full compliance is impossible
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- Level 3: quality
  - Is the result good or bad?
  - Assessment of the legal framework as the basis for the SDI
  - From law to policy…
  - Criterion: values of society?
    - Hierarchy of values
      - Constitutional or human rights prevail: privacy, freedom of speech, freedom of information, …
    - Values of the same level
      - Balance: depends on opinion of society, personal opinions
  - Target group: policy makers
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- **Traffic**
  - Compliance
    - Max. 90km/h
    - Always stop for red lights
  - Coherence
    - Always max. 90 km/h; 50 km/h on dirt roads
    - Always stop for red lights; never stop if endangering others
    - Always drive on the right; always drive on the left
  - Quality
    - Driver’s licence at 18?

- **SDI**
  - Compliance
    - Respect copyright
    - Answer request for access within 10 days
  - Coherence
    - Data is free; commercial use is charged
    - “Consultation” is free; view services can be charged for
    - No copyright on public data; copyright on public data
  - Quality
    - Should data be free?
Thank you!

Questions or remarks?