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EARTH OBSERVATION DATA IN EUROPE: LEGISLATIVE ACTS TOWARDS THE CREATION OF
A POLICY FOR THEIR PRODUCTION AND DISSEMINATION

Abstract

Satellite data production and dissemination in Europe has been regulated in a fragmented way, since very few European states have legislated on the matter. However, the European Union (EU) has taken an interest on that, since it was recognised on 2013 that earth observation is a key-element for the growth of its space industrial policy. Due to the switch from the initial operation phase of the Copernicus programme to its fully operational phase on April 2014, the EU has been quite active on the adoption of rules on satellite data dissemination; a new regulation (Reg. No 377/2014) “establishing the Copernicus programme and repealing Regulation (EU) No 911/2010”, as well as a proposal of a Directive on the dissemination of earth observation satellite data for commercial purposes have seen the light of day the last year. Moreover, Directives PSI (2003) and ISPIRE (2007) on the use and re-use of public sector information and data, including environmental data, are in force in the legal order the EU. The fundamental principle of freedom of access and free re-use of public data introduced by the Directives is likely to be applied to satellite data owned by public institutions.

A synthetic analysis of the aforementioned legal texts reveals a tendency of the EU to differentiate earth observation data according to criteria such as their technical characteristics, ownership or purpose of use (e.g. security and defence, climate change, disaster management, etc.) and to regulate each category differently, depending on its competences on the matter as well as on the synergies between EU law and national laws. Thus, three categories of satellite data are emerging, possibly indicating the nascence of an EU policy on satellite data dissemination: (a) public data, produced and owned by public actors, accessed on a free-of-charge basis; (b) data exploited for commercial purposes falling under the proposal for a Directive, submitted to the principle of free circulation within the internal market; and (c) sensitive data with special interest for security reasons, the dissemination of which is submitted to strict limitations, or even be restricted. The two first categories are regulated at EU level, whereas the third forms part of the hard core of State sovereignty and thus remains to be regulated by individual States.