



Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	1992/0393(COD) Procedure completed
Legal protection of databases Amended by 2016/0280(COD)	
Subject 3.50.15 Intellectual property, copyright	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs, Citizens' Rights		26/07/1994
		PPE PALACIO VALLELERSUNDI Ana	
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	1904	26/02/1996
	Economic and Financial Affairs ECOFIN	1863	10/07/1995
	Competitiveness (Internal Market, Industry, Research and Space)	1851	06/06/1995

Key events			
06/07/1992	Committee referral announced in Parliament, 1st reading		
09/06/1993	Vote in committee, 1st reading		Summary
09/06/1993	Committee report tabled for plenary, 1st reading	A3-0183/1993	
21/06/1993	Debate in Parliament		Summary
23/06/1993	Decision by Parliament, 1st reading	T3-0369/1993	Summary
23/11/1993	Vote in committee, 1st reading		
02/12/1993	Decision by Parliament, 1st reading	T3-0681/1993	Summary
21/09/1995	Committee referral announced in Parliament, 2nd reading		
20/11/1995	Vote in committee, 2nd reading		Summary
13/12/1995	Debate in Parliament		Summary
14/12/1995	Decision by Parliament, 2nd reading	T4-0615/1995	Summary
26/02/1996	Act approved by Council, 2nd reading		Summary
11/03/1996	Final act signed		
11/03/1996	End of procedure in Parliament		

Technical information	
Procedure reference	1992/0393(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amended by 2016/0280(COD)
Legal basis	EC before Amsterdam E 066; EC before Amsterdam E 100A; EC before Amsterdam E 057-p2
Stage reached in procedure	Procedure completed
Committee dossier	JURI/4/06915

Documentation gateway					
Legislative proposal		COM(1992)0024 OJ C 156 23.06.1992, p. 0004	30/01/1992	EC	Summary
Economic and Social Committee: opinion, report		CES1313/1992 OJ C 019 25.01.1993, p. 0003	24/11/1992	ESC	Summary
Committee draft report		PE204.504/A	22/04/1993	EP	
Committee draft report		PE204.504/B	10/05/1993	EP	
Committee opinion	ENER	PE202.936/DEF	25/05/1993	EP	
Amendments tabled in committee		PE204.504/AM1	28/05/1993	EP	
Committee opinion	ECON	PE205.213/DEF	08/06/1993	EP	
Committee report tabled for plenary, 1st reading/single reading		A3-0183/1993 OJ C 194 19.07.1993, p. 0004	09/06/1993	EP	
Text adopted by Parliament, 1st reading/single reading		T3-0369/1993 OJ C 194 19.07.1993, p. 0132-0144	23/06/1993	EP	Summary
Modified legislative proposal		COM(1993)0464 OJ C 308 15.11.1993, p. 0001	04/10/1993	EC	Summary
Reconsultation		COM(1993)0570	10/11/1993	EC	
Committee final report tabled for plenary, 1st reading/single reading		A3-0364/1993 OJ C 342 20.12.1993, p. 0002	23/11/1993	EP	
Text adopted by Parliament confirming position adopted at 1st reading		T3-0681/1993 OJ C 342 20.12.1993, p. 0015-0030	02/12/1993	EP	Summary
Committee draft report		PE207.257	01/03/1994	EP	
Council position		07934/2/1995 OJ C 288 30.10.1995, p. 0014	10/07/1995	CSL	Summary
Commission communication on Council's position		SEC(1995)1430	18/09/1995	EC	Summary
Committee draft report		PE214.307/A	12/10/1995	EP	
Committee draft report		PE214.307/B	24/10/1995	EP	

Amendments tabled in committee		PE214.307/AM1	16/11/1995	EP	
Amendments tabled in committee		PE214.307/AM2	16/11/1995	EP	
Committee recommendation tabled for plenary, 2nd reading		A4-0290/1995 OJ C 339 18.12.1995, p. 0005	20/11/1995	EP	
Text adopted by Parliament, 2nd reading		T4-0615/1995 OJ C 017 22.01.1996, p. 0135-0164	14/12/1995	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(1996)0002	10/01/1996	EC	Summary
Follow-up document		SWD(2018)0146	26/04/2018	EC	
Follow-up document		SWD(2018)0147	26/04/2018	EC	

Additional information

European Commission

[EUR-Lex](#)

Final act

[Directive 1996/9](#)
[OJ L 077 27.03.1996, p. 0020](#) Summary

Legal protection of databases

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Legal protection of databases

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Legal protection of databases

The JURI Committee adopted the report by Mr Garcia Amigo by eight votes to one, with one abstention, making significant amendments to the Commission's initial text in some areas. - the Committee extended the scope of application of the Directive to data stored and accessible via non-electronic means; - it introduced the notions of: * 'database author': 'the person who has taken the initiative and responsibility for the establishment of the database, and the choice or arrangement of the facts, works or other matters contained therein'; * 'database rightholder': 'the database author or the legal or natural person who has legitimately acquired the right to prevent unauthorised extraction from a database from the author'; - it replaced the notion of the 'right to prevent unfair extraction' by that of the 'right to prevent unauthorised extraction' for re-utilisation for commercial purposes; - it defined 'commercial purposes' as 'any use, whether private or collective, for the conduct of an economic activity or a transaction against remuneration' and 'non-commercial purposes' as 'any use a) private and not collective, or b) performed for teaching, research or humanitarian aid purposes, on a non-profit basis'. - it stated that protection by copyright is granted to all rightholders satisfying the conditions laid down in national legislation or in international conventions on copyright applicable to literary works. The inclusion of any work or matter in a database continued to be subject to the authorisation of the copyright holder. The inclusion of references or analytical summaries drawn up specially for this database did not require the authorisation of holders of copyright in respect of such works. - it set the right to prevent unauthorised extraction from the content of a database at 15 years (10 years in the Commission proposal).?

Legal protection of databases

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Legal protection of databases

The European Parliament adopted the report by Mr Manuel Garcia Amigo (PPE, E) on the legal protection of databases. It rejected, by 178

votes to 128, with one abstention, the extension of the scope of application of the Directive to non-electronic databases as requested by the JURI Committee. It also adopted part of amendment 24 of the JURI Committee according to which 'the right to prevent unauthorised extraction of the content of a database shall last from its creation for a period of 15 years (10 in the Commission proposal) from 1 January of the year following: a) the first occasion on which it was made available to the public or b) any substantial amendment of the database'. It rejected, however, the end of the amendment which added a point c): c) the date of introduction of any data input into a regularly updated database, notwithstanding the provisions of Article 9(4). According to the latter, in the version adopted by Parliament, 'insubstantial amendments do not entail a new period of protection of the base by the right to prevent unauthorised extraction of content (unfair extraction in the Commission's version)'. Parliament took up the definitions approved by the JURI Committee (database author, database rightholder, commercial purposes, insubstantial amendments, substantial amendments). Parliament accepted the amendment of the JURI Committee according to which 'copyright protection is granted to all rightholders, whether natural or legal persons, satisfying the conditions set out in national legislation or in international conventions on copyright applicable to literary works'. It also agreed with the JURI Committee in calling for the inclusion of any work or matter, with the exception of references or analytical summaries, in a database to continue to be subject to the authorisation of the copyright holder. The provisions on the right to prevent unauthorised extraction and re-utilisation of a database also applied to databases created prior to the entry into force of this Directive. Lastly, as regards licences granting a right of re-utilisation of the content of a database when the latter had been made available to the public by a number of bodies (public authorities, enterprises holding a monopoly by virtue of an exclusive concession granted by a public body), Parliament excluded from these bodies 'enterprises possessing a de facto monopoly in the field of the creation or compilation of data input into databases'.

Legal protection of databases

In its modified proposal, the Commission introduced a fundamental modification proposed by the European Parliament. This modification concerns the extension of the period of protection under the sui generis system: it has been increased from ten years, the period proposed by the Commission, to fifteen years. In addition, the Commission has made editorial changes relating to the following points: - the definition of the term 'database' must be clarified so that it expressly includes collections of data; - the term 'rightholder' must cover both the author, in other words the person holding any copyright in the database, and the creator of the database when a sui generis right exists in respect of its content but there is no copyright associated with the selection or disposal of that content; - the definitions of the terms 'substantial change' and 'non-substantial change' are clarified in so far as they relate to the period of protection; - the term 'unauthorised extraction' must be preferred throughout the text to 'unfair extraction'; - the conditions under which licences allowing use of the content of a database must be granted are defined more clearly in the text. The amendments rejected by the Commission related to: - a definition of a database including 'a substantial number of data, works or other material'; - a definition of the 'author' of a database such as to make him the person who takes 'the initiative and responsibility for establishing' the database; - a definition of 'non-commercial purposes' which included any use for the purposes of teaching, research or humanitarian aid, on a non-profit basis; - the additions suggesting that the legitimate user of a database could be restricted by contractual provisions in his ability to perform the acts necessary for the use of the database; - additional restrictions placed on the use of the database for private or personal purposes; - an obligation to protect the databases against unauthorised extraction under the provisions of the international treaties. ?

Legal protection of databases

The Council's common position took over the only amendment to the substance of the text proposed by the European Parliament concerning the extension of the term of protection of the sui generis right. The term of protection was thus increased from ten to fifteen years following the completion of the database. The Council also accepted the amendments concerning: - renewing the protection of the sui generis right where there was a substantial change to the contents of a database; - giving preference to the terms "unauthorised extraction and/or re-utilisation" throughout the text rather than "unfair extraction"; - doing away with the definition of a substantial part of a database; - authorising the inclusion of works and material in databases; - the minimum rights of the lawful user: the holder of the sui generis right was not permitted to prevent the lawful user of the database from extracting and/or re-using insubstantial parts of the database. The lawful user may not unreasonably prejudice either the legitimate interests of the holder of the sui generis right or the holder of copyright or a related right in respect of the works contained in the database; - the protection of rights acquired before the implementation of the directive; - the revision clause: the date of the first Commission report was brought forward to three years after the date of transposition of the directive (1 January 1998). The Council also: - grouped together all the articles relating to copyright protection in Chapter II and to the sui generis right in Chapter III; - extended the scope of the directive to cover databases in any form; - revised the definition of the term "database", including the word "data", as well as collections of works as used in the Bern Convention; - stipulated that protection under this directive did not apply to computer programs used in the making or operating of a database; - provided Member States with the freedom to determine who exercised rights of ownership in cases where a database was created by an employee in the execution of his duties; - enabled Member States to provide for exceptions for restricted acts: as regards reproduction for private purposes, no exceptions should be granted for electronic databases. Finally, the points on which the Commission's amended proposal and the Council's common position differed included the following: - doing away with the non-voluntary licensing arrangements for the sui generis right; - the restrictive list of optional exceptions relating to substantial parts of the contents of a database. ?

Legal protection of databases

The Commission felt that in general the common position represented a balanced compromise. However, it would have preferred the text to have maintained the non-voluntary licensing arrangements recommended in its amended proposal. It also regretted that the exceptions to copyright and the sui generis right were not completely harmonised. The Commission therefore stated that, in the context of the report required under Article 16 (revision clause), it would consider the possibility of a more thorough harmonisation of the exceptions to copyright and the sui generis right, particularly in light of the use made by Member States of the directive's provisions in this respect. ?

Legal protection of databases

The committee adopted the report by Mrs Ana PALACIO VALLELERSUNDI (PPE, E) at second reading (codecision procedure). The rapporteur presented the amendments, which, in her view, were almost all of "a technical nature". For the most part, the recommendation agreed with the common position adopted by the Council. The Commission representative stressed that the drafting of Article 6 of the common position was the result of a difficult compromise within the Council. In his view, it would be wise not to upset the balance that had been struck between: - the minimum rights of users of the databases (the users being parties to a contract); - the rights of the content providers, in other words, the authors; - the rights of the rightholders of the database. ?

Legal protection of databases

The rapporteur, Mrs PALACIO VALLELERSUNDI (EPP, E), stated that the common position incorporated Parliament's proposal to increase the duration (from 10 to 15 years) of protection under the "sui generis" right in question (Amendment No 24). It also clarified, to some extent in line with Amendment No 3, the concept of a "database". Finally, in accordance with Amendment No 26, it provided for the possibility of renewing protection in the case of any substantial change to the database. Even the minimum rights of legitimate users, demanded by Parliament, were for the most part incorporated in the common position. In conclusion, the rapporteur considered that Parliament, together with the other Community institutions, had demonstrated audacity and perseverance in the face of one of the greatest challenges of contemporary law in a cultural and economic area so vast that it certainly merited the definition of a "Gutenberg Galaxy". Commissioner Monti stated that he could accept the technical changes in the amendments adopted by Parliament at second reading. He, too, was certain that through this legislation the European Union would find itself ahead of its international partners.

Legal protection of databases

In adopting the report by Mrs PALACIO VALLELERSUNDI (PPE, E), the European Parliament approved the common position of the Council with purely technical amendments. It also asked that where there was use of a database for purposes of illustration for teaching or scientific research, the source should always be indicated. ?

Legal protection of databases

The Commission accepted all of the amendments adopted by the EP at second reading and amended its proposal accordingly. These amendments related mainly to: - the exceptions to copyright, making it compulsory to indicate the source when using a database for teaching or research, in accordance with the Berne Convention; - the provisions on acts that conflict with the normal exploitation of a database; - the provisions on exceptions to the "sui generis" right; - the rules determining the beneficiaries of protection under the "sui generis" right (replacing the term "beneficiary" with the term "rightholder"). ?

Legal protection of databases

The Council adopted unanimously, with an abstention by the Portuguese delegation, the Directive on the legal protection of databases. The Council approved all the amendments passed by the European Parliament in second reading; in accordance with Article 189b of the Treaty (co-decision procedure), it therefore amended its common position accordingly and adopted the Directive. Member States have to transpose it by 1 January 1998.?

Legal protection of databases

OBJECTIVE : To harmonise the provisions of the Member States with regard to the legal protection of databases, with a view to facilitating the functioning of the internal market. **COMMUNITY MEASURE :** Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases. **SUBSTANCE :** - For the purposes of the directive, "database" means a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means. - The directive, which concerns databases in any form, extends to databases on the one hand, a protection by copyright, and on the other hand, a protection by a new specific 'sui generis' right. - Databases which, by reason of the selection or arrangement of their contents, constitute the author's own intellectual creation shall be protected as such by copyright, though copyright shall not extend to the contents themselves. - The object of the new 'sui generis' right, which covers the contents of a database, is to ensure protection of any investment (which may consist in the deployment of financial resources and/or the expending of time, effort and energy) in obtaining, verifying or presenting the contents of a database. This right will give the maker of a database the option of preventing the unauthorised extraction and/or re-utilization of all or a substantial part of the contents of that database, without prejudice to the application of competition rules (abuses of a dominant position or agreements between database makers). - The protection afforded by this right shall run for fifteen years following the date of completion of the making of the database; - Member States shall be given the option of providing for exceptions to the 'sui generis' right, notably in the case of extraction for private purposes, for the purposes of illustration for teaching or scientific research, or for the purposes of public security. Such operations must not prejudice the exclusive rights of the maker to exploit the database and their purpose must not be commercial. - The 'sui generis' right may be extended to databases produced in third countries, on the basis of reciprocal agreements. - Finally, the directive contains a revision clause applicable three years after its entry into force. **DEADLINE FOR TRANSPOSITION INTO NATIONAL LEGISLATION:** 1 January 1998. ?